

CHAPTER 14B

UNDERGROUND STORAGE TANKS

Authority

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

Source and Effective Date

R.2003 d.197, effective April 20, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

Chapter Expiration Date

Pursuant to Executive Order No. 1(2010), the chapter expiration date is extended from April 18, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule is readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

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. 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Requirements for Underground Storage Tank Systems; and Subchapter 13, Underground Storage Tank Loan Program, were repealed; and Subchapter 4, Underground Storage Tank Systems Design, Construction and Installation; Subchapter 5, General Operating Requirements; Subchapter 6, Release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: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).

Chapter 14B, Underground Storage Tanks, was readopted as R.2003 d.197, effective April 20, 2003. As a part of R.2003 d.197, Subchapter 15, Financial Responsibility Requirements, was adopted as new rules, effective May 19, 2003. See: Source and Effective Date. See, also, section annotations.

Public Notice: Notice of intent to adopt interim rules: Underground Storage Tank Rules. See: 38 N.J.R. 3927(a).

Subchapter 16, Certification of Individuals and Business Firms for Unregulated Underground Storage Tank Systems, was adopted as spe-

cial new rules by R.2006 d.383, effective October 3, 2006 (to expire April 3, 2008). See: 38 N.J.R. 4748(a). The provisions of R.2006 d.383 were readopted without change by R.2008 d.322, effective September 30, 2008. See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 14B, Underground Storage Tanks, was extended by gubernatorial directive from April 20, 2008 to October 20, 2009. See: 40 N.J.R. 2474(a).

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 14B, Underground Storage Tanks, was scheduled to expire on April 18, 2010. See: 41 N.J.R. 4384(a).

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).

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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 and individuals and business firms regulated by N.J.S.A. 58:10A-21 et seq.

Amended by R.2008 d.322, effective November 3, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).
Inserted "and individuals and business firms".

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;
9. To establish financial responsibility assurance requirements for remediation of discharged hazardous substances and compensating third parties for bodily injury and property damage caused by a discharge from an underground storage tank system;
10. 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; and
11. To establish a certification program for individuals and business firms who provide certain services on regulated underground storage tank systems and unregulated

heating oil tank systems pursuant to N.J.S.A. 58:10A-24 and this chapter.

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.

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

In (a), added a new 9 and recodified former 9 as 10.

Amended by R.2008 d.322, effective November 3, 2008.

See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

In (a)9, deleted "and" from the end; in (a)10, substituted "; and" for a period at the end; and added (a)11.

7:14B-1.4 Applicability

(a) This chapter contains the requirements for the registration, operation, design, construction and installation, permitting, release reporting and investigation, remediation, and closure of underground storage tanks and underground storage tank systems that contain hazardous substances, as well as the requirements for certification of individuals and business firms performing services on underground storage tanks and underground storage tank systems and on unregulated heating oil tank systems.

(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 non-residential 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 (I), 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).

Special amendment, R.2006 d.383, effective October 3, 2006 (to expire April 3, 2008).

See: 38 N.J.R. 4748(a).

Rewrote (a).

Provisions of R.2006 d.383 were readopted without change by R.2008 d.322, effective September 30, 2008; and in (a), substituted "tank systems" for "tanks", effective November 3, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

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, "Closure of Underground Petroleum 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.

"Annual aggregate" means the total remediation costs incurred within a single year for all discharges from underground storage tank systems covered by a single financial instrument.

"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.

“Dispenser sump” means a liquid tight container designed to contain leaks from dispensers, pumps and associated fittings.

“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” means “farm” as defined in the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.

“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.

“Final remediation document” means a document defined as such pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-1.3.

“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.

"Licensed site remediation professional" means a person defined as such pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-1.3.

"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-5-97 Test for Penetration of 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 contained 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.

"Occurrence" means a discharge from an underground storage tank system.

"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.

“Petroleum marketing facility” means a facility where petroleum is produced or refined, or a facility that sells or transfers petroleum to other petroleum marketers or to the public.

“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.

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

“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 facil-

ity 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.

"Unregulated heating oil tank system" means any one or combination of tanks, including appurtenant pipes, lines, fixtures, and other related equipment, used to contain an accumulation of heating oil for on-site consumption in a residential building, or those tanks with a capacity of 2,000 gallons or less used to store heating oil for on-site consumption in a nonresidential building, the volume of which, including the volume of the appurtenant pipes, lines, fixtures and other related equipment, is 10 percent or more below the ground.

"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".

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

Added "Annual aggregate", "Dispenser sump", "Occurrence", "Petroleum marketing facility" and "Piping sump"; rewrote "Abandon in

place" or "abandonment in place"; in "Liquid", substituted "ASTM D-5-97" for "ASTM D-5-78" preceding "Test" and substituted "of" for "for" preceding "Bituminous".
Special amendment, R.2006 d.383, effective October 3, 2006 (to expire April 3, 2008).

See: 38 N.J.R. 4748(a).

Inserted definitions "Farm" and "Unregulated heating oil tank system".

Provisions of R.2006 d.383 were readopted without change by R.2008 d.322, effective September 30, 2008.

See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Added definitions "Final remediation document" and "Licensed site remediation professional".

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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 and (d) below shall sign and date the following certification or report:

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

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

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

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

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

(c) 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) and 16.4(e) 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."

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

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

(g) Any individual certified as a subsurface evaluator pursuant to N.J.A.C. 7:14B-13.2(a)4, who conducts or directs activities and prepares documents in accordance with N.J.A.C. 7:14B-7.2(b), 7.4 and 9.5, shall sign, date and submit to the Department the following certification:

"I certify under penalty of law that the work was performed under my oversight and I have reviewed the report and all attached documents, and the submitted information is true, accurate and complete in accordance with the requirements of N.J.A.C. 7:14B and N.J.A.C. 7:26E. I am aware that there are

significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines and/or imprisonment.”

(h) Any individual certified as a subsurface evaluator pursuant to N.J.A.C. 7:14B-13.2(a)4, who prepares documents pursuant to N.J.A.C. 7:14B-7.2(b), 7.4, 8 or 9.5 for another certified subsurface evaluator who conducted or directed onsite activities, shall sign, date and submit to the Department the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this report 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 in accordance with the requirements of N.J.A.C. 7:14B and N.J.A.C. 7:26E. I certify under penalty of law that the onsite work was performed by a certified subsurface evaluator. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines and/or imprisonment.”

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

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

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

In (b), rewrote the introductory paragraph; added (f) through (h).
Special amendment, R.2006 d.383, effective October 3, 2006 (to expire April 3, 2008).

See: 38 N.J.R. 4748(a).

In the introductory paragraph of (e), inserted second N.J.A.C. reference.

Provisions of R.2006 d.383 were readopted without change by R.2008 d.322, effective September 30, 2008.

See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In the introductory paragraph of (g), substituted “7:14B-7.2(b), 7.4, and” for “7:14B-8.5 or”; and in the introductory paragraph of (h), substituted “7:14B-7.2(b), 7.4, 8” for “7:14B-8.5”.

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

7:14B-1.8 General requirements

(a) The owner or operator of an underground storage tank system shall comply with the regulatory timeframes in this chapter or in the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C, and in the Technical Requirements for Site Remediation rules, N.J.A.C. 7:26E, when indicated, and shall:

1. Conduct all site investigation and tank closure activities required by this chapter using the services of an individual certified in subsurface evaluation and/or closure in accordance with N.J.A.C. 7:14B-13 when site investigation and tank closure activities were initiated, as determined pursuant to Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-2.2(a), prior to November 4, 2009; or

2. Conduct all site investigation and tank closure activities required by this chapter in accordance with the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-2.4, including using the services of a licensed site remediation professional, when site investigation and tank closure activities are initiated, as determined pursuant to N.J.A.C. 7:26C-2.2(b), on or after November 4, 2009.

Recodified to N.J.A.C. 7:14B-5.9 by R.2006 d.328, effective September 18, 2006.

See: 37 N.J.R. 2923(a), 38 N.J.R. 3821(a).

Section was “Use of regulated underground storage tank systems”.

Special New Rule, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Section was “Reserved”.

Readoption of special new rule, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 73) adopted, which concluded that a penalty of \$15,000 was warranted for a gasoline service station's failure to have current registration for its underground storage tanks ("USTs"); registration of USTs is absolutely essential if the system to prevent environmental damage from faulty USTs is to have any validity. N.J. Dep't of Env'tl. Prot. v. Excellent Care, Inc., OAL Dkt. No. EWR 00084-06, 2008 N.J. AGEN LEXIS 682, Final Decision (March 14, 2008).

Initial Decision (2006 N.J. AGEN LEXIS 420) adopted, which concluded that where the underground storage tank registration of respondent, a retail gas station operator, expired more than three years prior to the inspection date, respondent's failure to register its USTs was a moderately serious violation, and was moderately improper conduct; thus, a \$15,000 penalty was appropriate. N.J. Dep't of Env'tl. Prot. v. Egg Harbor Gas & Go, LLC, OAL Dkt. No. EWR 2907-05, 2006 N.J. AGEN LEXIS 780, Final Decision (August 21, 2006).

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:

New Jersey Department of Environmental
Protection
Division of Remediation Support
Bureau of Fund Management, Compliance &
Recovery
PO Box 028
401 East State Street
Trenton, NJ 08625-0028
Attn: UST Registration/Certification Section

(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).

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(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.

(d) Upon receipt of an amended New Jersey Underground Storage Tank Facility Certification Questionnaire pursuant to (a) above, the Department will remove an underground storage tank system from its registrant list when the Department receives a final remediation document.

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.

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Added (d).

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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 (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 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.
Amended by R.2003 d.197, effective May 19, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).
In (c), substituted "(a)" for "N.J.A.C. 7:14B-2.8(a)" in 1 and "(b)" for "N.J.A.C. 7:14B-2.8(b)" in 2.

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 \$150.00 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.
 Amended by R.2007 d.274, effective August 20, 2007.
 See: 38 N.J.R. 4600(a), 39 N.J.R. 3533(a).
 Substituted "\$150.00" for "\$100.00".

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 \$150.00 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.
 Amended by R.2007 d.274, effective August 20, 2007.
 See: 38 N.J.R. 4600(a), 39 N.J.R. 3533(a).
 In (b), substituted "\$150.00" for "\$100.00".

7:14B-3.3 Duplicate Registration Certificate charges

The fee for duplicate Registration Certificates will be \$35.00 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).
 Amended by R.2007 d.274, effective August 20, 2007.
 See: 38 N.J.R. 4600(a), 39 N.J.R. 3533(a).
 Substituted "fee" for "Fee" and substituted "\$35.00" for "\$25.00".

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 fees and oversight costs

(a) The owner or operator of an existing, former or proposed underground storage tank system shall pay all required fees and costs pursuant to this chapter and the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-4, as applicable, and 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	\$ 450.00
2. Review of the closure plan for an underground storage tank system	\$ 450.00
3. Review of the site investigation report	\$ 750.00
4. Review of the initial remedial investigation report	\$ 1,500.00

(d) The cost for the Department review of any remediation document not listed in (c) above shall be assessed pursuant to N.J.A.C. 7:26C-4.

(e) When required, the owner or operator shall submit oversight costs pursuant to the provisions found in the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-4.5 and submit payment pursuant to N.J.A.C. 7:26C-4.7. 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).
Amended by R.2007 d.274, effective August 20, 2007.
See: 38 N.J.R. 4600(a), 39 N.J.R. 3533(a).

In (c)1 through (c)4, updated the fee amounts; added new (d); and recodified former (d) as (e).
Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).
See: 41 N.J.R. 4467(a).

Section was "Program oversight cost fees." Rewrote the introductory paragraph of (a); and in (e), substituted "When required, the" for "The", "costs" for "cost fees", "Administrative Requirements for" for "rules for Department Oversight of", "N.J.A.C. 7:26C-4.5" for "N.J.A.C. 7:26C-9.3" and "N.J.A.C. 7:26C-4.7" for "N.J.A.C. 7:26C-9.5", and inserted "rules" following "Sites".

Administrative correction.

See: 42 N.J.R. 1862(a).
Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted with changes incorporated at 42 N.J.R. 1862(a).

7:14B-3.6 Payment for Department services

(a) The person responsible for conducting the remediation shall make all payments of fees and oversight costs required by this subchapter:

1. By either:

i. Certified check, attorney check, money order, or personal check made payable to "Treasurer, State of New Jersey"; or

ii. E-check or credit card after the Department posts a notice for either on its website at www.nj.gov/dep/srp/srra or in the New Jersey Register that the Department's portal for making payments by E-check or credit card is available.

2. Payments shall be mailed to the following address unless otherwise indicated on the first page of a billing invoice:

DEP/Bureau of Case Assignment & Initial Notice
PO Box 434
Trenton, NJ 08625-0434

(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).
Amended by R.2003 d.197, effective May 19, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).
Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).
See: 41 N.J.R. 4467(a).

Rewrote (a).
Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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 \$500.00.

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.2007 d.274, effective August 20, 2007.
See: 38 N.J.R. 4600(a), 39 N.J.R. 3533(a).
Substituted "\$500.00" for "\$350.00".

7:14B-3.8 Oversight cost review

To contest on oversight cost imposed pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-4, the contestor shall follow the procedures found in N.J.A.C. 7:26C-4.6.

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.
Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).
See: 41 N.J.R. 4467(a).

Substituted "Administrative Requirements for" for "rules for Department Oversight of", "rules at" for a comma following "Sites", "N.J.A.C. 7:26C-4" for "N.J.A.C. 7:26C-9.3" and "N.J.A.C. 7:26C-4.6" for "N.J.A.C. 7:26C-9.4".

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

7:14B-3.9 Payment of fees in installments

Any fee under this subchapter that is subject to N.J.A.C. 7:14B-15 shall be payable in installments in accordance with N.J.A.C. 7:14B-15.

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 and unregulated heating oil tank services

(a) The fee schedule for the certification of individuals and business firms pursuant to N.J.A.C. 7:14B-13 and 16 is as follows:

1. Nonrefundable examination application fee (see (c) and (d) below)	\$50.00
2. Certification for an individual (see (f) below)	\$375.00
3. Business firm certification (see (e) below)	\$50.00
4. Renewal of individual certification	\$375.00
5. Renewal of business firm certification	\$50.00
6. Amendment to individual certification card and certificate (see (g) below)	\$30.00
7. Replacement of certification card or certificate (see (h) below)	\$30.00
8. Duplicate certificate, as required by N.J.A.C. 7:14B-13.1(c).	\$15.00

(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 \$50.00 application fee per classification for which they apply. Each examination classification applied for after the initial certification shall require an additional nonrefundable \$50.00 fee to accompany the examination application.

(d) Individuals failing examinations shall pay an additional nonrefundable \$50.00 fee for each subsequent application for each classification.

(e) Business firms applying for certification shall pay a single \$50.00 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 \$50.00 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 \$375.00 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 \$375.00 certification fee.

(g) Issuance of a new certification card or certificate required as a result of amendment to certification, shall result in a \$30.00 fee to the individual.

(h) Issuance of a replacement certification card or certificate required as a result of loss shall result in a \$30.00 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).

Special amendment, R.2006 d.383, effective October 3, 2006 (to expire April 3, 2008).

See: 38 N.J.R. 4748(a).

Section was "Fees for individual and business firm certification in underground storage tank management services". In the introductory paragraph of (a), inserted second N.J.A.C. reference.

Amended by R.2007 d.274, effective August 20, 2007.

See: 38 N.J.R. 4600(a), 39 N.J.R. 3533(a).

Updated the fee amounts throughout.

Provisions of R.2006 d.383 were readopted without change by R.2008 d.322, effective September 30, 2008.

See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(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)1iv(1) above for the remaining life of the tank; or

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

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, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures" (obtained from: 333 Pfingsten Road, Northbrook, IL 60062);

2. Underwriters Laboratories of Canada CAN4 S615-1998, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products" (obtained from: 7 Crouse Road, Toronto, Ontario M1R 3A9, Canada); or

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

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

1. Steel Tank Institute "Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks" (obtained from: 570 Oakwood Road, Lake Zurich, IL 60047);

2. Underwriters Laboratories of Canada CAN/UCL-S603-1992, "Underground Steel Tanks"; CAN/UCL-G603.1 1992, "Galvanic Corrosion Protection Systems for Underground Tanks"; and CAN4-S631-M1984, "Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic System"; or

3. NACE International Standard RP-02-95, RP0285-2002, "Corrosion Control of Underground Storage Tank Systems by Cathodic Protection," 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, "External Corrosion Protection Systems for Steel Underground Storage Tanks," or the Association for Composite Tanks ACT-100, "Specification for the Fabrication of FRP Clad Underground Storage Tanks," incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)1iii above.

(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, "Non-Metallic Underground Piping for Flammable Liquids";

2. Underwriters Laboratories Standard 567, "Pipe Connectors for Petroleum Products and LP Gas";

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

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

(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 Storage Petroleum Systems" (obtained from Global Engineering Documents at 15 Inverness Way East, Englewood, Colorado 80122.)

3. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; 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-01-95, RP0169-96, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."

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

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

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

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

(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.

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

Rewrote the section.

Case Notes

Penalty of \$15,000 was appropriately assessed against a gas station operator for violating N.J.A.C. 7:14B-4.1(a)3(ii) by maintaining inoperable underground storage tank (UST) overfill devices; an inspection revealed that tank gauge sticks broken at both ends had been inserted into the fill ports of two of the three USTs, preventing the overfill devices from functioning properly. Although it was the operator's first offense, the severity of the violation weighed against reduction of the penalty from the midpoint (adopting in part, and rejecting in part, 2006 N.J. AGEN LEXIS 843). N.J. Dep't of Env'tl. Prot. v. Singh, OAL Dkt. No. EWR 2913-05, Final Decision (December 14, 2007).

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:

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 pursuant to N.J.A.C. 7:14B-8 and the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C.

(b) If an owner or operator chooses to upgrade an underground storage tank, a steel tank 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, "Interior Lining and Periodic Inspection of 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-02-95 RP0285-2002, "Corrosion Control of Underground Storage Tank Systems by Cathodic Protection," and Underwriters Laboratories Standard 58, "Standard for Steel underground storage tanks for Flammable and Combustible Liquids" (obtained from: 144 South Creek Drive, Houston, TX 77084-4906); 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-01-95 RP0169-96 "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

In (e), rewrote 1 and 3; in (f), substituted "RP-01-95 RP-0169-96" for "RP-01-69" in 4.

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In (a)3, substituted "pursuant to" for "for corrective action under", and inserted "and the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C".

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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

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

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

Added (d).

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-02-95 RP0285-2002, "Corrosion Control of Underground Storage Tank Systems by Cathodic Protection" 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

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.

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

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

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

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

In (a), rewrote 2ii.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 73) adopted, which concluded that a penalty of \$15,000 was warranted for a gasoline service station's failure to have records evidencing the required three-year inspection of the cathodic protection system for its underground storage tanks. N.J. Dep't of Env'tl. Prot. v. Excellent Care, Inc., OAL Dkt. No. EWR 00084-06, 2008 N.J. AGEN LEXIS 682, Final Decision (March 14, 2008).

Initial Decision (2007 N.J. AGEN LEXIS 152) adopted, which concluded that a \$15,000 penalty was not excessive for a gas station operator's failure to provide corrosion protection for the steel piping associated with three underground storage tanks (USTs), notwithstanding the operator's arguments that no environmental damage occurred, it had no prior violations, it moved quickly to remedy the situation, and there had been no recurrence. The operator did not install corrosion protection in 2002 when the piping failed testing, but acted only in 2005 after the matter was discovered by the Department and a delivery ban instituted. Corrosion of UST piping poses a distinct health threat. N.J. Dep't of Env'tl. Prot. v. Sun Power Gas, Inc., OAL Dkt. No. EWR 6065-06, 2007 N.J. AGEN LEXIS 540, Final Decision (May 10, 2007).

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, Liquified Petroleum Gas, and Product Pipelines";
3. American Petroleum Institute Publication 1631, "Interior Lining and Periodic Inspection of 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."

Amended by R.2003 d.197, effective May 19, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).
In (c), rewrote 3.

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 1-877 WARN DEP or 1-877-927-6337, and any other appropriate local or State agencies;
2. The name and telephone number(s) of the person responsible for the operation of the facility during an emergency;
3. The name and telephone number of any retained corrective action contractor; and
4. The procedures to be followed in the event of a leak or discharge of a hazardous substance, pursuant to N.J.A.C. 7:14B-7.3 and 8 and N.J.A.C. 7:26C-2, 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.

Amended by R.2003 d.197, effective May 19, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).
Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).
See: 41 N.J.R. 4467(a).

In (a)1, inserted "1-" twice; and in (a)4, deleted "pursuant to N.J.A.C. 7:14B-8" following "followed", inserted "or a discharge of a", and substituted "pursuant to N.J.A.C. 7:14B-7.3 and 8, N.J.A.C. 7:26C-2," for "or discharge from the facility".
Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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) 1iv 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. All remediation documents prepared or required pursuant to this chapter;
5. An installation checklist as required by N.J.A.C. 7:14B-4.1(a)5; and
6. Documentation of compliance with N.J.A.C. 7:14B-5.1(d).

(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
Division of Remediation Management and
Response
Bureau of Southern Case Management
PO Box 433
401 East State Street
Trenton, NJ 08625-0433

Amended by R.2003 d.197, effective May 19, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

In (a), added 6.
Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).
See: 41 N.J.R. 4467(a).

In the introductory paragraph of (a), substituted "or" for "of"; and rewrote (a)4.

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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.

7:14B-5.9 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).

Recodified from N.J.A.C. 7:14B-1.8 by R.2006 d.328, effective September 18, 2006.

See: 37 N.J.R. 2923(a), 38 N.J.R. 3821(a).

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 72) adopted, which concluded that where a gas station operator failed to renew the registration certificate for its Underground Storage Tanks (USTs), so that the registration expired in 2001 and that thereafter a trucking company and a gasoline wholesaler in 2004, without inquiring about whether the USTs were in compliance with the laws, scheduled and approved the trucking company's delivery of the wholesaler's motor fuels into the unregistered USTs, both the trucking company and the wholesaler violated N.J.A.C. 7:14B-5.9(b), since persons or entities that own or operate USTs and persons or entities who introduce hazardous substances, including petroleum products, into USTs are subject to the Underground Storage of Hazardous Substances Act's regulatory scheme. N.J. Dep't of Env'tl. Prot. v. R.A. Reiff, Inc., OAL Dkt. No. EWR 6541-06, 2007 N.J. AGEN LEXIS 322, Final Decision (March 30, 2007), aff'd per curiam, No. A-4262-06T3, 2007 N.J. Super. Unpub. LEXIS 2778 (App.Div. October 22, 2007).

Former N.J.A.C. 7:14B-1.8(b) (now N.J.A.C. 7:14B-5.9(b)) is not limited in application to only owners and operators of underground storage tanks (USTs). A motor fuel delivery business that pumped petroleum products into USTs with expired registrations was properly assessed a \$15,000 penalty for violating the regulation (adopting in part, and rejecting in part, 2006 N.J. AGEN LEXIS 247). N.J. Dep't of Env'tl. Prot. v. Arfa Enterprises, Inc., OAL Dkt. No. EWR 2905-05, 2006 N.J. AGEN LEXIS 675, Final Decision (May 15, 2006).

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) Each owner and operator of 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 shall complete the closure requirements of N.J.A.C. 7:14B-9 pursuant to a closure schedule that the Department has approved.

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

Deleted former (d); recodified former (e) as (d), substituted "Each owner and operator of any" for "Any" and substituted "pursuant to a closure schedule that the Department has approved" for "by that date".

Case Notes

Initial Decision (2006 N.J. AGEN LEXIS 420) adopted, which concluded that a gas station operator's failure to perform release detection monitoring every thirty days on its underground storage tanks as required by N.J.A.C. 7:14B-6.2, 7:14B-6.5, 7:14B-6.1, and 7:14B-6.6 was a moderately serious violation, and was moderately improper conduct, as the violation had the potential to cause substantial harm to human health and the environment. Thus, a \$15,000 penalty was appropriate. N.J. Dep't of Env'tl. Prot. v. Egg Harbor Gas & Go, LLC, OAL Dkt. No. EWR 2907-05, 2006 N.J. AGEN LEXIS 780, Final Decision (August 21, 2006).

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 by:

1. Monitoring tanks at least every 30 calendar days for releases using one of the methods listed in N.J.A.C. 7:14B-6.5(a)4 through 8 except that:

- i. Underground storage tank systems that meet the performance standards in N.J.A.C. 7:14B-4.1 or 4.2, and the monthly inventory control requirements in N.J.A.C. 7:14B-6.5(a)1, (a)2, or (b) may use tank tightness testing (conducted in accordance with N.J.A.C. 7:14B-6.5(a) 3); and

- ii. 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.

Amended by R.2003 d.197, effective May 19, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

In (a), rewrote 1.

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. 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.

Amended by R.2003 d.197, effective May 19, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

In (a)1, substituted "All" for "By December 22, 1998, all".

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.

4. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control shall meet the following requirements:

- i. The automatic product level monitor test shall detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and
- ii. Inventory control (or another test of equivalent performance) shall be conducted in accordance with the requirements of N.J.A.C. 7:14B-6.5(a)1.

5. Testing or monitoring for vapors within the soil gas of the excavation zone shall meet the following requirements:

- i. The materials used as backfill shall be sufficiently porous (for example, gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;
- ii. The stored regulated substance, or a tracer compound placed in the tank system, shall be sufficiently volatile to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;
- iii. The measurement of vapors by the monitoring device shall not be rendered inoperative by the ground water, rainfall, soil moisture or other known interferences so that a release could go undetected for more than 30 calendar days;
- iv. The level of background contamination in the excavation zone shall not interfere with the method used to detect releases from the tank;
- v. The vapor monitors shall be designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;

vi. In the underground storage tank excavation zone, the site shall be assessed to ensure compliance with the requirements in (a)5i through iv and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and

vii. Monitoring wells shall be clearly marked and secured to avoid unauthorized access and tampering.

6. Testing or monitoring for liquids floating on the ground water shall meet the following requirements:

- i. The regulated substance stored shall be immiscible in water and has a specific gravity of less than one;
- ii. Ground water shall never be more than 20 feet from the ground surface and the hydraulic conductivity of the soil(s) between the underground storage tank

system and the monitoring wells or devices is not less than 0.01 cm/sec (for example, the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);

iii. The slotted portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low ground-water conditions;

iv. All monitoring systems using screen and casing shall be constructed and permitted in accordance with the Subsurface and Percolating Waters Act (N.J.S.A. 58:4A-4.1 et seq.) unless constructed in the manner described in N.J.A.C. 7:14B-4.1(c);

v. Monitoring wells or devices shall intercept the excavation zone or are as close to it as is technically feasible;

vi. The continuous monitoring devices or manual methods used shall detect the presence of at least one-eighth of an inch of free product on top of the ground water in the monitoring wells;

vii. Within and immediately below the underground storage tank system excavation zone, the site shall be assessed to ensure compliance with the requirements in (a)6i through v and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

viii. Monitoring wells shall be clearly marked and secured to avoid unauthorized access and tampering.

7. Interstitial monitoring between the underground storage tank and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

i. For double-walled underground storage tank systems, the sampling or testing method shall detect a release through the inner wall in any portion of the tank that routinely contains product. The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" may be used as guidance for aspects of the design and construction of underground steel double-walled tanks;

ii. For underground storage tank systems with a secondary barrier within the excavation zone, the sampling or testing method used shall detect a release between the underground storage tank system and the secondary barrier. The secondary barrier shall meet the following requirements:

- (1) The secondary barrier shall consist of artificially constructed material that is sufficiently thick

and impermeable (at least 10^{-6} cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection;

(2) The secondary barrier shall be compatible with the regulated substance stored so that a release from the underground storage tank system shall not cause a deterioration of the barrier allowing a release to pass through undetected;

(3) For cathodically protected tanks, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system;

(4) The ground water, soil moisture, or rainfall shall not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 calendar days;

(5) The site shall be assessed to ensure that the secondary barrier is always above the ground water and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and

(6) Monitoring wells shall be clearly marked and secured to avoid unauthorized access and tampering; or

iii. For tanks with an internally fitted liner, an automated device shall detect a release between the inner wall of the tank and the liner, and the liner shall be compatible with the substance stored.

8. Any other type of release detection method, or combination of methods, can be used if it can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05.

9. The Department shall approve another method, through the issuance of a permit for a substantial modification issued pursuant to N.J.A.C. 7:14B-10, if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in (a)3 through 8 above. In comparing methods, the Department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. The owner and operator shall obtain a permit issued by the Department pursuant to N.J.A.C. 7:14B-10 and comply with any conditions imposed by the Department on its use to ensure the protection of human health and the environment.

7:14B-6.6 Methods of release detection for piping

(a) Each method of release detection for piping used to meet the requirements of N.J.A.C. 7:14B-6.2 and 6.3 shall be conducted in accordance with the following:

1. Automatic line leak detectors which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of three gallons per hour at 10 pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements;

2. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure; and

3. Any of the methods in N.J.A.C. 7:14B-6.5(a)5 through 8 may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 73) adopted, which concluded that a penalty of \$15,000 was warranted for a gasoline service station's failure to maintain a properly operating leak detection system for its underground storage tanks; at the time of inspection, the red alert light was constantly lit and covered with opaque black tape. The monitoring function is crucial to the very purpose of the Underground Storage of Hazardous Substances Act, that is, to do what is possible to deter, detect, and deal with the environmental and health dangers inherent in the underground storage of hazardous substances, such as gasoline. N.J. Dep't of Env'tl. Prot. v. Excellent Care, Inc., OAL Dkt. No. EWR 00084-06, 2008 N.J. AGEN LEXIS 682, Final Decision (March 14, 2008).

7:14B-6.7 Release detection recordkeeping

(a) The owner or operator of an underground storage tank system shall develop written routine monitoring procedures which set forth the following:

1. The frequency with which the monitoring is to be performed;

2. The method and equipment used to conduct the monitoring;

3. The location at which the monitoring is to be performed;

4. The name and/or titles of the person responsible for performing the monitoring and maintenance of the monitoring system; and

5. Training in the use and maintenance of the monitoring equipment for the person responsible for performing the monitoring and maintenance of the monitoring system.

(b) The written routine monitoring procedure developed in accordance with (a) above shall be kept at the underground storage tank facility and made available for inspection by any authorized local, State or Federal representative at any time after installation of the monitoring system. The owner or operator of any existing monitoring system shall have the monitoring procedure available for inspection at any time after the monitoring system is installed.

(c) All underground storage tank system owners and operators shall maintain records of all written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer.

(d) All underground storage tank system owners and operators shall maintain records of all written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site.

(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.

Case Notes

Initial Decision (2006 N.J. AGEN LEXIS 300) adopted, which concluded that penalties totaling \$30,000 were warranted for respondents' failure to timely investigate the source of the discharge of heating oil from an underground storage tank on their property, conduct the appropriate remedial investigation, and submit the appropriate reports; respondents had failed to properly and completely clean up the contamination and to fully cooperate with the Department of Environmental Protection, and the discharge had contaminated the environment (although there was no evidence in the record of acute harm to the drinking water supply). N.J. Dep't of Envtl. Prot. v. Palermo's Thriftway Market, OAL Dkt. No. EWR 402-02, 2006 N.J. AGEN LEXIS 550, Final Decision (May 26, 2006), aff'd per curiam, No. A-5560-05T5, 2007 N.J. Super. Unpub. LEXIS 2742 (App.Div. February 6, 2007).

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, in accordance with the schedule at N.J.A.C. 7:26E-3.3(e), 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.

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In (b), substituted “, in accordance with the schedule at N.J.A.C. 7:26E-3.3(e),” for “within 60 calendar days of discovery of a suspected release”.

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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 877-927-6337. 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.

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

7:14B-7.4 Unknown sources

If the owner or operator of a facility has information indicating that a facility may be the source of a discharge, the owner or operator of the facility shall 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, prepare a site investigation report in accordance with the Technical Requirements for Site Remediation rules at N.J.A.C. 7:26E-3.13, and submit the report to the Department within the timeframe indicated at N.J.A.C. 7:26E-3.3(e). The owner or operator of a facility that is the suspected source of a discharge shall perform additional investigation(s) as the Department determines to be necessary and shall remediate any discharge discovered during the additional site investigation(s).

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

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

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Rewrote the section.

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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:

1. Determine the source of the discharge;
2. Cease use of the underground storage tank system:
 - i. In the event that ceasing use of the underground storage tank system would precipitate an emergency which constitutes an immediate threat to human health and safety, then the owner/operator shall cease use of the underground storage tank system immediately subsequent to taking all necessary actions to abate the emergency.
 - ii. Where a building's sole source of heat is from an oil burner, and there has been a discharge from the un-

derground storage tank system containing heating oil, then the owner/operator shall take immediate action to provide an alternate source of heat. Upon providing an alternate source of heat, the owner/operator shall immediately cease use of the underground storage tank system which has discharged.

3. Mitigate any fire, safety or health hazard including, but not limited to, hazards from combustible vapor or vapor inhalation and the removal of ignition sources, in accordance with appropriate standards and practices, including National Fire Protection Association Standard 329, "Underground Leakage of Flammable and Combustible Liquids", incorporated herein by reference;

4. Conduct a visual inspection to detect any above ground or exposed below ground discharge, and where any discharge is evident, mitigate the effects of the discharge;

5. Properly remove all hazardous substances from the underground storage tank system;

6. Repair, replace or close the underground storage tank system in accordance with the requirements of N.J.A.C. 7:14B-4, 5 and 9; and

7. Comply with the reporting requirements set forth in N.J.A.C. 7:14B-7.3.

Case Notes

Where respondents failed to immediately mitigate vapor and ground-water hazards down-gradient at a nearby property, and failed to perform proper remedial investigations, most particularly by not delineating the horizontal and vertical extent of groundwater contamination, respondents' liability was clear; contrary to respondents' allegations, the penalty was not duplicative where one penalty was for failing to immediately mitigate the effects of a discharge on a specific neighbor and the other was for delaying the remedial investigation of all potential impacts (adopting 2007 N.J. AGEN LEXIS 149). N.J. Dep't of Env'tl. Prot. v. Foster, OAL Dkt. No. EHW 83-06, 2007 N.J. AGEN LEXIS 505, Final Decision (May 4, 2007).

Initial Decision (2006 N.J. AGEN LEXIS 300) adopted, which concluded that penalties totaling \$30,000 were warranted for respondents' failure to timely investigate the source of the discharge of heating oil from an underground storage tank on their property, conduct the appropriate remedial investigation, and submit the appropriate reports; respondents had failed to properly and completely clean up the contamination and to fully cooperate with the Department of Environmental Protection, and the discharge had contaminated the environment (although there was no evidence in the record of acute harm to the drinking water supply). N.J. Dep't of Env'tl. Prot. v. Palermo's Thriftway Market, OAL Dkt. No. EWR 402-02, 2006 N.J. AGEN LEXIS 550, Final Decision (May 26, 2006), aff'd per curiam, No. A-5560-05T5, 2007 N.J. Super. Unpub. LEXIS 2742 (App.Div. February 6, 2007).

7:14B-8.2 Discharge remediation requirements

(a) The owner or operator of an underground storage tank system which has discharged hazardous substances shall:

1. Perform a remedial investigation in accordance with the requirements of N.J.A.C. 7:26E-4;
2. Perform a remedial action in accordance with the requirements of N.J.A.C. 7:26E-6;

3. Determine the classification of any wastes that are generated during the remedial investigation or remedial action, in accordance with N.J.A.C. 7:26-8.5;

4. Remove all nonhazardous waste from the site to an approved treatment, recycling, or disposal facility, in accordance with N.J.A.C. 7:26-1.1 and 1.4 or treat soils on site in accordance with N.J.A.C. 7:26E-5 and 6, or reuse soils in accordance with N.J.A.C. 7:26E-6.2(b) upon Department approval, within six months after generation; and

5. Remove all hazardous waste to an approved facility, in accordance with N.J.A.C. 7:26, within 90 calendar days after generation. Interim storage of hazardous waste shall be in accordance with N.J.A.C. 7:26-9.

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) and (a)1 through (a)5; and deleted (a)6 and (b).

Case Notes

Department of Environmental Protection properly assessed penalties of \$13,500 against a former gas station for failure to remediate discharges, failure to perform a remedial investigation, failure to perform a baseline ecological evaluation, failure to perform a remedial investigation of groundwater, failure to delineate soil contamination, and failure to submit a remedial action work plan. N.J. Dep't of Env'tl. Prot. v. A&O Petroleum, OAL Dkt. No. ESR 2880-08, 2009 N.J. AGEN LEXIS 1125, Final Decision (June 11, 2009).

Initial Decision (2009 N.J. AGEN LEXIS 16) adopted, which found that the Department of Environmental Protection properly issued respondent an Administrative Order and Notice of Civil Administrative Penalty Assessment for failure to remediate the discharges at the property, failure to perform a remedial investigation, failure to perform a receptor evaluation, failure to perform a remedial investigation of groundwater, and failure to submit a Remedial Action Work Plan. The Department's only discretion with respect to the penalty amount was in the number of days for which the Department chose to assess a penalty; respondent was penalized for only eight days for a total of \$9,000, which was a fraction of the time the respondent remained out of compliance. N.J. Dep't of Env'tl. Prot. v. Kristmark Transportation, OAL Dkt. No. ESR 07837-07, 2009 N.J. AGEN LEXIS 1124, Final Decision (February 20, 2009).

Where respondents failed to immediately mitigate vapor and groundwater hazards down-gradient at a nearby property, and failed to perform proper remedial investigations, most particularly by not delineating the horizontal and vertical extent of groundwater contamination, respondents' liability was clear; contrary to respondents' allegations, the penalty was not duplicative where one penalty was for failing to immediately mitigate the effects of a discharge on a specific neighbor and the other was for delaying the remedial investigation of all potential impacts (adopting 2007 N.J. AGEN LEXIS 149). N.J. Dep't of Env'tl. Prot. v. Foster, OAL Dkt. No. EHW 83-06, 2007 N.J. AGEN LEXIS 505, Final Decision (May 4, 2007).

7:14B-8.3 Reporting requirements

(a) The owner or operator of an underground storage tank system which has discharged hazardous substances shall provide the local health department and the Department with a remedial investigation report prepared and presented pursuant to N.J.A.C. 7:26E-4.8, and shall pay all required fees and costs pursuant to this chapter and the Administrative Requirements for the Remediation of Contaminated Sites Rules at N.J.A.C. 7:26C-4, as applicable, within 270 calendar

days after the notification required by N.J.A.C. 7:14B-7.3(a) or by November 26, 2010, which ever is later.

1. If required pursuant to N.J.A.C. 7:26E-5, the owner or operator shall submit a remedial action selection report prepared and presented in accordance with N.J.A.C. 7:26E-5.2. Unless otherwise allowed by the Department, the remedial action selection report shall be submitted in the sequence required by N.J.A.C. 7:26E-5.2(d) and (e).

(b) For all confirmed releases from an underground storage tank subject to regulation at 40 CFR Part 280, the owner or operator shall report to the Department the source and cause of the confirmed release on a form, found on the Department's website at <http://www.nj.gov/dep/srp/srra/forms/> in accordance with the timeframe applicable for submittal of the site investigation or remedial investigation report, regardless of whether the remediation is being conducted pursuant to N.J.A.C. 7:14B-1.8(a)1 or 2.

(c) As required pursuant to N.J.A.C. 7:14B-1.8, the report described in (a) above, and the form described in (b) above if applicable, shall be prepared either by an individual certified in subsurface evaluation pursuant to N.J.A.C. 7:14B-13 or by a licensed site remediation professional. The report(s) shall include the name and address for both the owner and the operator.

(d) When the owner or operator is conducting the remediation pursuant to N.J.A.C. 7:14B-1.8(a)1, in addition to the requirements listed in (a) and (b) above, the owner or operator of an underground storage tank system which has discharged a hazardous substance shall submit one of the documents listed in (d)1 through 3 below, and all of the appropriate fees pursuant to N.J.A.C. 7:14B-3.5 with the remedial investigation report to the address specified in N.J.A.C. 7:14B-2.2(b):

1. A request for a letter requiring no further action at the site if the remedial investigation indicates that no contamination at the site, or which has migrated off-site, exceeds any applicable remediation standard;

2. A proposed remedial investigation workplan prepared and presented pursuant to N.J.A.C. 7:26E-4.2 if the remedial investigation indicates that contamination remains in excess of any applicable remediation standard and the contamination on and off site has not been fully delineated vertically or horizontally; or

3. A proposed remedial action workplan, prepared and presented pursuant to N.J.A.C. 7:26E-6.2.

(e) When the owner or operator is conducting the remediation pursuant to N.J.A.C. 7:14B-1.8(a)1, within 90 calendar days after the Department's approval of the remedial investigation workplan submitted pursuant to (d)2 above, the owner or operator shall submit a remedial investigation report prepared in accordance with N.J.A.C. 7:26E-4.8 and (d) above

that presents all the data and information collected in accordance with the approved remedial investigation workplan, or any other sampling conducted in accordance with N.J.A.C. 7:26E, accompanied by the applicable fee required in N.J.A.C. 7:14B-3.

(f) If the Department determines at any time prior to the approval of a proposed request for no further action that additional sampling and analysis is required, the owner or operator shall conduct the additional sampling and analysis as required, which may include submission of a remedial investigation workplan in the time frame specified by the Department.

(g) If the Department determines that any submittal made under this section is inadequate or incomplete, the Department shall provide the owner or operator with written notification of the deficiencies, and the owner or operator shall correct the deficiencies and resubmit the required information within 30 calendar days of receipt of the notification unless otherwise specified by the Department. If the revision does not address the deficiency(ies) to the Department's satisfaction, the Department shall disapprove the submittal and require the owner or operator to present a new submittal pursuant to (d) above and a new fee pursuant to N.J.A.C. 7:14B-3.5.

(h) When the owner or operator is conducting the remediation pursuant to N.J.A.C. 7:14B-1.8(a)1, the owner or operator may request an extension of time to submit the remedial investigation report required in (e) above. The request shall be in writing and include a justification for such a change and outline a new detailed schedule for the submission of the report. All requests for extensions shall be submitted pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-3.2(b).

(i) The owner or operator of the facility shall provide the Department with 14 calendar days notice of the onset of all remedial activities and shall allow site access to observe all said activities.

(j) If the Department approves a revised remedial investigation workplan submitted pursuant to (d) above, the owner or operator shall perform the additional work in accordance with the timeframes specified therein.

(k) If the Department determines that a remedial action for affected media at or emanating from any portion of the facility is necessary prior to full contaminant delineation due to a discharge posing an immediate threat to public health or the environment, the owner or operator shall comply with N.J.A.C. 7:26E-1.14.

(l) When the owner or operator is conducting the remediation pursuant to N.J.A.C. 7:14B-1.8(a)2, the owner or operator shall implement the remedial investigation and submit reports pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-

2.4 and pay all required fees and costs pursuant to N.J.A.C. 7:26C-4, within the timeframe specified at (a) above.

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) and (a)1; deleted (a)2 through (a)7; rewrote (c) and (c)1 through (c)3; deleted (c)3i through (c)3iii; and added (d) through (k). Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Rewrote the section.

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted with one change: in (b), substituted "form, found on the Department's website" for "Confirmed Discharge Notification form available from the Department", effective October 3, 2011.

Case Notes

Department of Environmental Protection properly assessed penalties of \$13,500 against a former gas station for failure to remediate discharges, failure to perform a remedial investigation, failure to perform a baseline ecological evaluation, failure to perform a remedial investigation of groundwater, failure to delineate soil contamination, and failure to submit a remedial action work plan. N.J. Dep't of Env'tl. Prot. v. A&O Petroleum, OAL Dkt. No. ESR 2880-08, 2009 N.J. AGEN LEXIS 1125, Final Decision (June 11, 2009).

Initial Decision (2009 N.J. AGEN LEXIS 16) adopted, which found that the Department of Environmental Protection properly issued respondent an Administrative Order and Notice of Civil Administrative Penalty Assessment for failure to remediate the discharges at the property, failure to perform a remedial investigation, failure to perform a receptor evaluation, failure to perform a remedial investigation of groundwater, and failure to submit a Remedial Action Work Plan. The Department's only discretion with respect to the penalty amount was in the number of days for which the Department chose to assess a penalty; respondent was penalized for only eight days for a total of \$9,000, which was a fraction of the time the respondent remained out of compliance. N.J. Dep't of Env'tl. Prot. v. Kristmark Transportation, OAL Dkt. No. ESR 07837-07, 2009 N.J. AGEN LEXIS 1124, Final Decision (February 20, 2009).

7:14B-8.4 Implementation of the remedial action requirements

(a) When the owner or operator is conducting the remediation pursuant to N.J.A.C. 7:14B-1.8(a)1, the following requirements shall apply:

1. After written Department approval of the remedial action workplan, including any workplan amendments, the owner or operator shall implement the remedial action workplan and any amendments thereto in accordance with the timeframes specified therein. The owner or operator shall obtain any necessary permits in accordance with N.J.A.C. 7:26E-7;

2. The owner or operator may request, in writing, an extension of time to complete implementation of the remedial action workplan. The request shall include a justification for such a change and outline a new detailed schedule for the submission of the remedial action report. All requests for extensions shall be received by the Department 14 calendar days prior to any schedule deadline. The Department shall approve or disapprove the extension request in writing;

3. The owner or operator shall submit an amendment to the approved remedial action workplan at any time during the implementation of the workplan, if new information, such as a new discharge, becomes available which was not adequately addressed in the original workplan. All remedial action workplan amendments shall be accompanied by a revised schedule and the appropriate additional fee pursuant to N.J.A.C. 7:14B-3.5;

4. The owner or operator of the facility shall submit progress reports to the Department in the time frame specified by the remedial action workplan approval letter. The progress reports shall contain the information required in accordance with N.J.A.C. 7:26E-6.6 and the remedial action workplan approval letter; and

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

(b) When the owner or operator is conducting the remediation pursuant to N.J.A.C. 7:14B-1.8(a)2, the owner or operator shall implement the remedial action and submit reports as required pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-2.4, pay all required fees and costs pursuant to N.J.A.C. 7:26C-4, and if necessary, submit any request for an extension of a regulatory timeframe in this subchapter in accordance with the procedures and timeframes at N.J.A.C. 7:26C-3.1(b).

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".
Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).
See: 41 N.J.R. 4467(a).

Added new (a); recodified former (a) through (e) as (a)1 through (a)5; in (a)1, (a)2 and (a)3, substituted a semicolon for a period at the end; in (a)4, substituted "N.J.A.C. 7:26E-6.6" for "N.J.A.C. 7:26E-6.5", and "; and" for a period at the end; and added new (b).
Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

7:14B-8.5 Remedial action reports

(a) When the owner or operator is conducting the remediation pursuant to N.J.A.C. 7:14B-1.8(a)1, the following requirements shall apply:

1. 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-6.7, 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;

2. 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; and

3. 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.

(b) When the owner or operator is conducting the remediation pursuant to N.J.A.C. 7:14B-1.8(a)2, the owner or operator shall implement the remedial action and submit reports, and address any deficiencies identified by the Department in accordance with N.J.A.C. 7:26C-2.4, and shall submit a response action outcome issued by the licensed site remediation professional hired by the owner or operator to conduct the remediation.

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".

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Added new (a); recodified former (a) through (c) as (a)1 through (a)3; in (a)1, substituted "N.J.A.C. 7:26E-6.7" for "N.J.A.C. 7:26E-6.6", and a semicolon for a period at the end; in (a)2, substituted "; and" for a period at the end; and added new (b).

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

7:14B-8.6 Applicable remediation standards

The owner or operator of a facility which has discharged hazardous substances shall remediate the discharge to the Technical Requirements for Site Remediation at N.J.A.C. 7:26E.

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.

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

Rewrote the section.

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-1.10.

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.

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Substituted "N.J.A.C. 7:26E-1.10" for "N.J.A.C. 7:26E-1.9".

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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 five 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 overfill 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.

(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 Publication 1604, "Closure of Underground Petroleum Storage Tanks" titled "Temporarily Out-of-Service," incorporated herein by reference, as amended and supplemented, no later than the end of the third month in which the system is out-of-service.

(c) The owner or 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 or a licensed site remediation professional shall be involved as follows:

1. 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 when those activities were initiated prior to November 4, 2009; and

2. A licensed site remediation professional shall supervise all tank closure and site investigation activities required under this section, and shall ensure that those activities are conducted in accordance with the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-2.4, when those activities are initiated on or after November 4, 2009.

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.

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

In (b), substituted "Publication" for "Bulletin No." following "American Petroleum Institute" and substituted "Closure of" for "Removal and Disposal of Used" preceding "Underground Petroleum Storage Tanks". Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In the introductory paragraph of (a)1, substituted "five" for "30"; and rewrote (e).

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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 or the license number of the licensed site remediation professional, if applicable;
- 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) When the owner or operator is conducting the remediation pursuant to N.J.A.C. 7:14B-1.8(a)1, 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.

(d) The owner or operator of an underground storage tank system shall ensure the system is closed by either:

1. An individual certified for closure in accordance with N.J.A.C. 7:14B-13 when closure was initiated prior to November 4, 2009; or
2. A licensed site remediation professional when closure is initiated on or after November 4, 2009.

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)1iv, 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). Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In (a)1iv, inserted "or the license number of the licensed site remediation professional, if applicable"; in (c), substituted "When the owner or operator is conducting the remediation pursuant to N.J.A.C. 7:14B-1.8(a)1, the" for "The", and deleted the last sentence; and rewrote (d).

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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 either:

1. An individual certified for closure in accordance with N.J.A.C. 7:14B-13 when closure was initiated prior to November 4, 2009; or
2. A licensed site remediation professional when closure is initiated on or after November 4, 2009.

(d) An individual certified in subsurface evaluation or a licensed site remediation professional shall be involved as follows:

1. 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 when those activities were initiated prior to November 4, 2009; and
2. A licensed site remediation professional shall supervise all tank closure and site investigation activities required under this section, and shall ensure that those

activities are conducted in accordance with the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-2.4, when those activities are initiated on or after November 4, 2009.

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).

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Rewrote (c) and (d).

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

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 270 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 shall conduct remediation in accordance with the requirements of the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C.

(c) The owner or operator shall submit a New Jersey Underground Storage Tank Facility Certification Questionnaire pursuant to N.J.A.C. 7:14B-2.5(c) that documents the change of substance.

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".

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In (a)3, substituted "270" for "120"; in (b), substituted "shall conduct remediation" for "conduct a remedial investigation" and "N.J.A.C. 7:26C" for "N.J.A.C. 7:14B-8", and inserted "the Administrative Requirements for the Remediation of Contaminated Sites rules"; re-codified the former last sentence of (b) as (c); and in (c), inserted "that documents the change of substance".

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

7:14B-9.5 Reporting and recordkeeping requirements

(a) The owner or operator of an underground storage tank shall, within 270 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 the Technical Requirements for Site Remediation rules at N.J.A.C. 7:26E-3.13, accompanied by the appropriate fees required pursuant to N.J.A.C. 7:14B-3.5 and the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-4, as applicable.

(b) As required pursuant to N.J.A.C. 7:14B-1.8, the report described in (a) above shall be prepared either by an individual certified in subsurface evaluation pursuant to N.J.A.C. 7:14B-13 or by a licensed site remediation professional. 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).

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In (a), substituted "270" for "120", and inserted "the Technical Requirements for Site Remediation rules at", a comma following "N.J.A.C. 7:26E-3.13", and inserted "and the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-4, as applicable"; and in (b), substituted "As required pursuant to N.J.A.C. 7:14B-1.8, the" for "The", and inserted "either" and "or by a licensed site remediation professional".

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

SUBCHAPTER 10. PERMITTING REQUIREMENTS FOR UNDERGROUND STORAGE TANK SYSTEMS

7:14B-10.1 Permit requirements

(a) Any person who owns or operates, or is proposing to own or operate an underground storage tank system shall, except as specified in (b) and (c) below:

1. Obtain a permit from the Department prior to the repair, installation, substantial modification or upgrade of the underground storage tank system, or performance of an

activity specified in N.J.A.C. 7:14B-4, 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;

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; or

5. The only portion of the underground storage tank system being installed is a spill catchment basin used for spill prevention equipment, and the underground storage tank system is already protected from corrosion and overfills in accordance with N.J.A.C. 7:14B-4.1(a) or 4.2 and has release detection in accordance with N.J.A.C. 7:14B-6.

Prior to installation of the new spill catchment basins, the owner or operator shall investigate the ground beneath and around the fill ports for releases. The owner or operator shall report all releases and conduct remediation in accordance with the requirements of N.J.A.C. 7:14B-7 and 8.

(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, overfill prevention and corrosion protection in accordance with N.J.A.C. 7:14B-4.1(a)1 through 3, and appropriate release detection monitoring in accordance with N.J.A.C. 7:14B-6.1(a), 6.2 and 6.3.

(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).

Amended by R.2003 d.197, effective May 19, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

In (b), added 5.

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 877 WARN DEP or 877-927-6337 of the discharge;

ii. Submits a remedial investigation report/remedial action workplan in accordance with the requirements of the Technical Requirements for Site Remediation rules at N.J.A.C. 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.

Amended by R.2003 d.197, effective May 19, 2003.

See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In (b)1ii, inserted "report/", "the" preceding "requirements", and "of the Technical Requirements for Site Remediation rules at", and deleted "14B-8 and" preceding "7:26E".

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

7:14B-10.3 Permit applications

(a) All permit applications shall be submitted on forms provided by the Department obtained from the address noted below and containing the information specified in (b) below. The permit application shall be accurately completed, signed, dated and returned to:

New Jersey Department of Environmental
Protection
Division of Remediation Support
Oversight Resources Allocation Element

PO Box 028
401 E. State Street
Trenton, NJ 08625-0028
Attn: UST Permitting Unit

(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.

Amended by R.2003 d.197, effective May 19, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

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 Risk Management,
Initial Notice and Case Assignment
PO Box 435
491 East State Street
Trenton, New Jersey 08625-0435

Amended by R.2003 d.197, effective May 19, 2003.
See: 34 N.J.R. 4024(a), 35 N.J.R. 2304(a).

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 on-going 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

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 Penalties

(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; and/or 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 or 16.

(b) Failure by any person to comply with any requirement of N.J.A.C. 7:14B-1, 3 and 7 through 14, may result in the assessment of civil administrative penalties, pursuant to the Department Oversight of the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C-10, and any other enforcement action, or any action pursuant to N.J.A.C. 7:14B-16.11.

(c) Failure by any person to comply with any requirements of N.J.A.C. 7:14B-2, 4, 5, 6 or 15 may result in the assessment of civil administrative penalties pursuant to the Water Pollution Control Act Rules, at N.J.A.C. 7:14-8.

(d) 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, or the Department Oversight of the Remediation of Contaminated Sites rules, at N.J.A.C. 7:26C-10.9, as applicable.

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.2003 d.198, effective May 19, 2003.

See: 34 N.J.R. 3703(a), 35 N.J.R. 2319(a).

Rewrote (a); in (b), inserted "or the Oversight rules, at N.J.A.C. 7:26C-10.6, as applicable" following "N.J.A.C. 7:14-8.4".

Amended by R.2006 d.328, effective September 18, 2006.

See: 37 N.J.R. 2923(a), 38 N.J.R. 3821(a).

In (a), inserted "and/or" preceding "denial" and deleted "; and/or the" following "N.J.A.C. 7:14B-13"; recodified part of (a) as new (b); rewrote (b); added (c); recodified former (b) as new (d); and in (d), substituted "10.9" for "10.6".

Special amendment, R.2006 d.383, effective October 3, 2006 (to expire April 3, 2008).

See: 38 N.J.R. 4748(a).

In (a), inserted second N.J.A.C. reference; rewrote (b); and in (d), inserted "Department" and "of the Remediation of Contaminated Sites". Provisions of R.2006 d.383 were readopted without change by R.2008 d.322, effective September 30, 2008; and in (b), updated the last N.J.A.C. reference, effective November 3, 2008.

See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(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 16 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, PO Box 402, 401 East State Street, 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.

(d) If it grants the request for a hearing, the Department shall file the request for a hearing with the Office of Administrative Law. The hearing shall be held before an administrative law judge and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Pending the decision on appeal to the Department and upon a typewritten request supporting the ongoing need to use the tank, the Department may stay the revocation of the permit, for good cause shown, upon such terms and conditions as are deemed proper. The request for stay of revocation of the permit shall be included in the request for hearing.

Amended by R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Special amendment, R.2006 d.383, effective October 3, 2006 (to expire April 3, 2008).
See: 38 N.J.R. 4748(a).

In the introductory paragraph of (a), inserted second N.J.A.C. reference, deleted "and Energy" following "Protection", and inserted "401 East State Street,".
Provisions of R.2006 d.383 were readopted without change by R.2008 d.322, effective September 30, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

7:14B-12.3 Liability for compliance

The owner and operator of a facility shall be held jointly and strictly liable for compliance with the provisions of N.J.S.A. 58:10A-21 et seq., and this chapter and subject to penalties pursuant to N.J.S.A. 58:10A-32.

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-12.4 Civil administrative penalties for violations of N.J.A.C. 7:14B-13 and 16

(a) Any person who violates the provisions of N.J.A.C. 7:14B-13 or 16 is liable to a civil administrative penalty of not more than \$5,000 for the first offense, not more than \$10,000 for the second offense, and \$25,000 for the third and each subsequent offense.

(b) If the violation is of a continuing nature, each day of violation constitutes an additional, separate and distinct offense. No civil administrative penalty shall be levied except subsequent to the notification of the violator by certified mail or personal service. The notice shall include a reference to the section of the statute, regulation, order or permit condition violated; a concise statement of the facts alleged to constitute the violation; a statement of the amount of the civil penalty to be imposed; and a statement of the violator's right to a hearing. The violator shall have 20 calendar days from receipt of notice within which to deliver to the Department a written request for a hearing. Subsequent to the hearing and upon a finding that a violation has occurred, the Department may issue a final order assessing the amount of the penalty. If no hearing is requested, the notice shall become a final order upon the expiration of the 20 day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Agreement to, or payment of a civil administrative penalty shall not be deemed to affect the availability of any other enforcement provision in connection with the violation for which the penalty is levied.

(c) The Department may compromise and settle any claim for a penalty under this section in such amount as the Department may determine to be appropriate and equitable under all of the circumstances.

(d) Any person who fails to contest or to pay, in whole or in part, a penalty imposed pursuant to this section, or who fails to agree to a payment schedule, within 30 calendar days of the date that the penalty is due and owing, shall be subject to an interest charge on the amount of the penalty from the date that the amount was due and owing. The rate of interest shall be that established by the New Jersey Supreme Court for interest rates on judgments, as set forth in the Rules Governing the Courts of the State of New Jersey.

(e) The penalty provisions of this section shall be in addition to such penalties as may be assessed pursuant to N.J.S.A. 58:10A-32.

New Rule, R.1997 d.487, effective November 17, 1997.
See: 29 N.J.R. 1593(a), 29 N.J.R. 4866(a).
Special amendment, R.2006 d.383, effective October 3, 2006 (to expire April 3, 2008).
See: 38 N.J.R. 4748(a).

Section was "Civil administrative penalties for violations of N.J.A.C. 7:14B-13". In (a), inserted second N.J.A.C. reference.
Provisions of R.2006 d.383 were readopted without change by R.2008 d.322, effective September 30, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

Case Notes

Initial Decision (2009 N.J. AGEN LEXIS 16) adopted, which found that the Department of Environmental Protection properly issued respondent an Administrative Order and Notice of Civil Administrative Penalty Assessment for failure to remediate the discharges at the property, failure to perform a remedial investigation, failure to perform a receptor evaluation, failure to perform a remedial investigation of groundwater, and failure to submit a Remedial Action Work Plan. The Department's only discretion with respect to the penalty amount was in the number of days for which the Department chose to assess a penalty; respondent was penalized for only eight days for a total of \$9,000, which was a fraction of the time the respondent remained out of compliance. N.J. Dep't of Env'tl. Prot. v. Kristmark Transportation, OAL Dkt. No. ESR 07837-07, 2009 N.J. AGEN LEXIS 1124, Final Decision (February 20, 2009).

SUBCHAPTER 13. CERTIFICATION OF INDIVIDUALS AND BUSINESS FIRMS

7:14B-13.1 General requirements for certification

(a) No individual shall provide services on an underground storage tank system regulated pursuant to N.J.S.A. 58:10A-21 et seq. and this chapter for the purpose of complying with this chapter, unless the individual is certified or working under the immediate, on-site supervision of a person certified in accordance with this subchapter.

(b) The Department shall issue a certification card to an individual meeting the requirements for certification pursuant to this subchapter. The certification card shall identify the duration and classification(s), for which the individual is certified to perform services. The certified individual shall make this certification card available to the Department or its authorized agent upon request.

(c) The Department shall issue a certificate to a business firm meeting the requirements for certification pursuant to this subchapter. The certificate shall identify the classification(s) for which the business firm is certified to perform services. The business firm shall conspicuously display the certificate for public review in the business office of the business firm. If a business firm maintains a business office at more than one location, a duplicate certificate, issued by the Department, shall be conspicuously displayed at each location.

(d) The owner or operator of an underground storage tank system shall ensure that all services performed on regulated underground storage tank systems pursuant to N.J.S.A. 58:10A-21 et seq. and this chapter are performed by an individual certified pursuant to this subchapter or under the immediate, on-site supervision of an individual certified pursuant to this subchapter. If a certified individual is not present at the underground storage tank site, the owner or operator shall suspend all regulated activities in that classification of service.

(e) No individual shall perform any service pursuant to N.J.A.C. 7:14B except as provided for by (f) below, unless:

1. The individual is a permanent employee at a business firm which is certified in the classification of service

being performed and the individual is certified in the classification of service being performed; or

2. The individual is working under the immediate, on-site supervision of an individual certified in the classification of service being performed and both individuals are employed at the same business firm which is certified in the classification of service being performed.

(f) An owner or operator of an underground storage tank system, or the permanent employee of an owner or operator may perform any service on the owner's or operator's underground storage tank provided the individual is certified in that classification of service. Certification of the owner or operator as a business firm is not required if the owner or operator can provide to the Department proof of financial responsibility assurance in accordance with N.J.A.C. 7:14B-13.8 or 40 C.F.R. Part 280 for the remediation of a hazardous substance discharge resulting from the performance of such service(s).

- (g) Certifications are not transferable.

(h) A certified individual or business firm shall notify the Department in writing, within three business days, at the address in (j) below, of any amendments to the certification, other than those created by passing an examination or the loss of the certification card or certificate.

(i) A business firm or individual performing well drilling or pump installation services at the site of an underground storage tank who is licensed to perform such services pursuant to N.J.S.A. 58:4A-11 shall not be required to be certified to perform these services pursuant to this subchapter.

(j) If a certified individual listed as the business firm's certifying individual pursuant to N.J.A.C. 7:14B-13.3(b) below, either leaves the business firm or loses his or her certification, the certified business firm shall so notify the Department, in writing at the following address:

New Jersey Department of Environmental
Protection
Examination and Licensing Unit
PO Box 441
Trenton, NJ 08625-0441

Notification shall be made within three working days of the individual leaving the business firm or losing his or her certification. The Department shall withdraw the business firm's certification if a replacement name of an individual certified in that classification of service is not submitted within 30 calendar days of notification.

(k) A certified individual shall sign the certification statement pursuant to N.J.A.C. 7:14B-10.3(b) for all documents prepared pursuant to this chapter and submitted to the Department.

(l) When a permit is required to be obtained through the local construction office, for the purposes of complying with N.J.A.C. 7:14B, the individual's certification card and a copy

of the certification for the business firm shall be available upon request of the local construction official.

(m) An individual and business firm certified under this subchapter shall comply with the professional business practices referenced in N.J.A.C. 7:14B-13.9.

Amended by R.2008 d.322, effective November 3, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

In (d), substituted the second and third occurrences of "an" for "a certified" and inserted "certified pursuant to this subchapter" twice; and added (m).

7:14B-13.2 Classifications of underground storage tank services

(a) An individual or business firm may apply for certification in any one or more of the following classifications of underground storage tank services:

1. Installation which may be either entire system installation or release detection monitoring system installation;
2. Closure;
3. Tank testing;
4. Subsurface evaluation; and
5. Corrosion protection system analysis which may be either cathodic protection specialist or cathodic protection tester.

(b) The activities which comprise the above classifications include the following:

1. Entire system installation includes all activities required by this chapter to install underground storage tanks, associated piping, release detection monitoring systems, interior tank lining, and appurtenant equipment including factory installed cathodic protection systems, from the time the ground is broken to the restoration of finished grade at the site. Entire system installation includes the performance of an internal inspection for the purpose of assessing a tank for corrosion protection and the installation of a field installed cathodic protection system when the installer is under the supervision of a cathodic protection specialist or following the plans designed by a cathodic protection specialist. Entire system installation activities include any maintenance or repair of any part of the underground storage tank system or release detection monitoring system.

- i. Individuals holding an entire system installation certification shall also be considered to hold the more limited release detection monitoring system installation certification described in (b)2 below.

- ii. Entire system installation does not include the installation of discharge detection observation wells unless installed in the manner described in N.J.A.C. 7:14B-4.1(c).

2. Release detection monitoring system installation includes the activities associated with the installation, re-

pair and maintenance of release detection monitoring systems.

- i. Release detection monitoring system installation does not include the installation of discharge detection observation wells unless installed in the manner described in N.J.A.C. 7:14B-4.1(c).

3. Closure includes all physical activities required by N.J.A.C. 7:14B relative to the removal or abandonment in place of an underground storage tank, associated piping and appurtenant equipment, from the time the ground is broken until the excavation is filled or until a determination is made that further subsurface evaluation is necessary and the site falls under the on-site supervision of a subsurface evaluator. A certified subsurface evaluator shall be present at the removal of an underground storage tank from the ground as well as during the activities designed to determine the presence and extent of contamination. Closure activities do not include the preparation or implementation of site investigation or remedial investigation workplans or any other remedial action plans or activities, which are the exclusive purview of an individual certified in subsurface evaluation described in (b)5 below.

4. Tank testing includes all activities required by this chapter relative to testing the physical integrity of an underground storage tank and appurtenant piping from inception of the test until removal of testing apparatus from the tank system. The tank testing classification shall not include the activities of air pressure soap tests of tanks or piping where product is not present, which is the exclusive purview of the individual certified in entire system installation described in (b)1 above.

5. Subsurface evaluation includes all activities regarding site investigation, remedial investigation and remedial action and the evaluation for selection of release detection monitoring systems, as follows:

- i. For site investigation, subsurface evaluation activities include the preparing or reviewing the closure plan required pursuant to N.J.A.C. 7:14B-9.2, witnessing the tank and/or piping removal, inspecting the tank system for possible holes, inspecting the excavation for contamination, performing (or overseeing) necessary field screening tests, selecting soil and ground water sampling locations, and submitting or reviewing of the report(s) required under N.J.A.C. 7:14B-9.5.

- ii. Site investigation, remedial investigation and remedial action activities include, but are not limited to, the development, implementation, or review of soil and/or ground water sampling plans, quality assurance/quality control plans, health and safety plans; overseeing field screening activities; determining the horizontal and vertical extent of contamination; assessing the actual or potential effect of a discharge on receptors; determining appropriate remedial activities for soil and/or ground water contamination; the submittal or review of appro-

priate site investigation, remedial investigation and remedial action reports, and recommendations for no further action.

iii. Release detection monitoring system selection activities include selecting locations for soil borings, characterizing soils, and determining soil permeability and depth to ground water.

iv. Subsurface evaluation activities do not include:

(1) The design or installation of any treatment works necessary to perform the remedial action, which is the purview of a licensed professional engineer;

(2) The taking of any soil or groundwater samples for laboratory analyses once a certified subsurface evaluation has determined, through on-site observation, the appropriate sample locations; however, the subsurface evaluator must have knowledge of proper sampling and analytical protocols; and

(3) The performance of well drilling or pump installation services which shall be performed by an individual who is licensed to perform such services pursuant to N.J.S.A. 58:4A-11.

6. Cathodic protection specialist includes the activities required by this chapter relative to the design, installation, maintenance and testing of cathodic protection systems for underground storage tank systems.

i. Individuals holding the cathodic protection specialist certification are also considered to hold the more limited cathodic protection tester certification described in (b)7 below.

7. Cathodic protection tester includes all activities required by this chapter relative to the testing of cathodic protection systems for underground storage tank systems.

7:14B-13.3 Application procedures

(a) An individual who wishes to be certified in one or more of the classifications described in N.J.A.C. 7:14B-13.2, or if already certified, who wishes to add a classification of certification, or who wishes to renew the certification, shall apply on forms obtained from the Department at the address listed in N.J.A.C. 7:14B-2.2(b). The information required to be submitted to the Department shall include the following:

1. The name and address of certification applicant;
2. The name and address of the employer of the certification applicant;
3. A history of experience documenting the qualification for certification as required at N.J.A.C. 7:14B-13.4;
4. A listing of education and/or training completed demonstrating the fulfillment of the requirement for certification pursuant to N.J.A.C. 7:14B-13.4;

5. A list of the categories of service being applied for; and

6. The issuance and expiration dates and New Jersey Professional Engineer's license number or New Jersey Master Plumber's license number if the certification applicant is applying for an exemption from the examination.

(b) A business firm which wishes to be certified in one or more of the classifications described in N.J.A.C. 7:14B-13.2, or if already certified, wishes to add a classification of certification, or wishes to renew the certification, shall apply on forms obtained from the Department at the address listed in N.J.A.C. 7:14B-2.2(b). The business firm shall submit with the application:

1. Proof of financial responsibility assurance as defined in N.J.A.C. 7:14B-13.8. A copy of the mechanism of financial assurance shall be submitted; and

2. A copy of the certification card noting each of the requested classifications by:

- i. The owner, in the case of a sole proprietorship;
- ii. One or more partners in the business firm, in the case of a partnership; or
- iii. One or more officers of the corporation, in the case of a corporation.

(c) The applicant shall sign and certify the application as follows:

1. The following documents required to be submitted to the Department shall be executed and include a certification pursuant to (c)2 below:

- i. An individual's application for certification, certification renewal, or proficiency examination pursuant to P.L. 1991, c.123; and
- ii. Any document prepared by a certified individual or professional engineer in accordance with this chapter.

2. The documents in (c)1 above shall contain an executed certification as set forth in N.J.A.C. 7:14B-1.7(e).

(d) The applicant shall submit with the application, all appropriate fees, pursuant to N.J.A.C. 7:14B-3.10.

7:14B-13.4 Eligibility

(a) Individuals not satisfying the criteria in (b) or (c) below may obtain certification by passing the proficiency examination described in N.J.A.C. 7:14B-13.5. An applicant shall be eligible to take the proficiency examination if the applicant meets the following minimum criteria for each classification for which the applicant is seeking certification:

1. Applicants for the entire system installation classification examination shall meet the following criteria:

i. Either a minimum of two years experience performing installations of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. with participation in at least five installations during each year of experience or nine months experience with participation in at least 25 installations of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. in that nine-month period;

ii. Completion of training approved by the manufacturer of the equipment installed by the individual; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 C.F.R. 1910 and 1926 et seq.).

2. Applicants for the release detection monitoring system installation classification examination shall meet the following criteria:

i. Either a minimum of two years experience performing installations of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. with participation in at least five installations during each year of experience or nine months experience with participation in at least 25 installations of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. in that nine-month period;

ii. Completion of training approved by the manufacturer of the equipment to be installed; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 C.F.R. 1910 and 1926 et seq.).

3. Applicants for the closure classification examination shall meet the following criteria:

i. Either a minimum of two years experience performing closures of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. with participation in at least five closures during each year of experience or nine months experience with participation in at least 25 closures of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. in that nine-month period; and

ii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations

Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 C.F.R. 1910 and 1926 et seq.).

4. Applicants for the tank testing classification examination shall meet the following criteria:

i. A minimum of two years experience performing tank testing services of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. on equipment that satisfies the requirements of N.J.A.C. 7:14B-6.1(a)3 and 6.5(a)3 with participation in at least five tank tests during each year of experience or nine months experience with participation in at least 25 tank tests of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. within that nine-month period;

ii. Completion of training approved by the manufacturer of the testing equipment; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 C.F.R. 1910 and 1926 et seq.).

5. Applicants for the cathodic protection specialist classification examination shall possess a certification from NACE International in the category of cathodic protection specialist; and

6. Applicants for the cathodic protection tester classification examination shall meet the following criteria:

i. A minimum of two years experience performing cathodic protection system testing of underground storage tank systems regulated pursuant N.J.S.A. 58:10A-21 et seq. with participation in at least five tests during each year of experience or nine months experience with participation in at least 25 tests of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et seq. within that nine-month period;

ii. Fulfill all requirements in accordance with the requirements of NACE International's Certification Committee for the category of cathodic protection tester, corrosion technologist, or senior corrosion technologist; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 C.F.R. 1910 and 1926 et seq.).

7. Applicants for the subsurface evaluation classification examination shall meet the following criteria:

i. A bachelor's degree from an accredited institution in a natural (earth, biological, or environmental), physical, or chemical science or appropriate engineering discipline;

ii. Either a minimum of two years experience performing subsurface evaluation services with participation in at least five subsurface evaluation services performed during each year of experience or nine months experience with participation in at least 25 subsurface evaluations in that nine-month period; and

iii. Completion of appropriate health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 C.F.R. 1910 and 1926 et seq.).

(b) Any individual possessing a valid New Jersey Professional Engineers License, issued pursuant to N.J.S.A. 45:8-27 et seq., shall be eligible for certification in all classifications upon application to the Department and shall be exempt from the examination requirements of (a) above and individual certification fee requirements of N.J.A.C. 7:14B-3.10.

(c) A licensed plumbing contractor, defined pursuant to N.J.S.A. 45:14C, shall be eligible for certification in the classifications of entire system installation, closure and tank testing of waste oil underground storage tank systems upon application to the Department and shall be exempt from the examination requirements of (a) above and fee requirements of N.J.A.C. 7:14B-3.10. Licensed plumbing contractors seeking individual certification in the categories of Corrosion Protection System Analysis or Subsurface Evaluation on waste oil underground storage tanks or all regulated services on underground storage tanks other than waste oil are subject to applicable requirements for certification listed in (a) above, including all applicable fees pursuant to N.J.A.C. 7:14B-3.10.

(d) As a condition to the certifications granted in accordance with (b) and (c) above, a certified individual shall attend a Department approved course on the regulations governing underground storage tank system management in New Jersey within one year prior to or after the effective date of the certification.

Amended by R.2008 d.322, effective November 3, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

Inserted "of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et. seq." throughout; in the introductory paragraph of (a), deleted "N.J.A.C. 7:14B-13.4" preceding "(b) or (c)"; in (a)4i, inserted "of underground storage tank systems regulated pursuant to N.J.S.A. 58:10A-21 et. seq. on equipment that satisfies the requirements of N.J.A.C. 7:14B-6.1(a)3 and 6.5(a)3"; in (a)6i, deleted "tank" following "five"; and in (a)7i, inserted ", physical, or chemical".

7:14B-13.5 Examinations

(a) As a condition of initial certification, an individual is required to pass an examination in each classification of service for which the applicant is seeking certification, unless exempted by N.J.A.C. 7:14B-13.4(b) or (c).

(b) Failure to pass an examination shall result in the denial of the application for certification and the forfeiture of all application fees.

(c) Any applicant who submits false, inaccurate or incomplete information when applying for certification may be disqualified from taking the examination or receiving the certification.

(d) The Department shall issue each applicant who passes the examination and pays the appropriate fee pursuant to N.J.A.C. 7:14B-3.10 a certification in the classification for which the applicant passed the appropriate examination.

7:14B-13.6 Continuing education requirements

(a) As a condition for renewal of certification, all certified individuals shall attend annual eight-hour health and safety refresher courses as required by 29 C.F.R. 1910.120(e)(8).

(b) As a condition for renewal of certification, all certified individuals shall complete a Department-approved training course on the Department's rules and regulations concerning underground storage tanks within one year prior to renewal.

7:14B-13.7 Renewal requirements

(a) The certification of each individual and business firm shall be valid for three years.

(b) Individual certifications may be renewed by submitting a complete renewal application and the application fee to the Department at least 60 calendar days prior to expiration of the current certification.

(c) Business firm certifications may be renewed by submitting a complete renewal application, the application fee, and a copy of the certification of those individuals through which the business firm is certified, to the Department at the address listed in N.J.A.C. 7:14B-13.1(j) at least 60 calendar days prior to expiration of the current certification.

(d) No individual may perform services for which certification is required after the expiration of a certification. An individual who fails to renew his or her certification within 90 calendar days following the expiration date of the certification shall meet the initial certification requirements as required by this subchapter.

(e) Individuals who have acquired additional classifications subsequent to initial certification shall renew all subsequent certifications at the same time as renewing the initial certification.

(f) Proof of the individual's attendance at continuing education courses, required training courses, and supporting documentation of all requisites or prerequisites as required in N.J.A.C. 7:14B-13.6 shall be made available upon request by the Department.

(g) The Department is not responsible for providing notification to any individuals or business firms that certifications are to expire.

7:14B-13.8 Financial responsibility assurance

(a) As a condition of certification or renewal of certification, a business firm engaged in providing underground storage tank services shall maintain evidence of financial responsibility assurance pursuant to this section, for the mitigation or remediation of a hazardous substance discharge resulting from the performance of such services. Financial responsibility assurance in the amount and form required in this section shall be maintained for the term of the certification of the business firm.

(b) A business firm shall provide written notification to the Department 120 calendar days prior to any cancellation or change in status of a mechanism used to provide financial responsibility assurance at the following address:

New Jersey Department of Environmental
Protection
Bureau of Underground Storage Tanks
PO Box 433
401 East State Street
Trenton, NJ 08501-0433

(c) Financial responsibility assurance may be demonstrated through one or more of the following mechanisms:

1. Liability insurance as follows:

i. Liability insurance may be in the form of a separate insurance policy, or an endorsement to an existing policy which covers the remediation of a discharge resulting from the performance of those services which the insured is certified to perform under this subchapter;

ii. The policy shall provide limits of liability for at least \$250,000 per occurrence and at least \$250,000 annual aggregate;

iii. The insurer is responsible for the payment of all monies to the limit of the policy, including any deductible applicable to the policy, to the provider of remediation with a right to reimbursement by the insured for any such payment made by the insurer; and

iv. Each insurance policy shall be issued by an insurer that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in New Jersey; or

2. A surety bond, letter of credit, self-insurance or other security posted with the Department in the amount of

no less than \$250,000, provided that prior approval for the use of the surety bond, letter of credit, self-insurance or other security posted with the Department is received in writing from the Department.

7:14B-13.9 Professional business practices

(a) An individual and business firm certified pursuant to this subchapter shall:

1. Perform all services in accordance with all applicable Federal, State and local rules and regulations;

2. Employ fair and reasonable pricing and business practices in all of its dealings with clients and the Department;

3. Upon request, provide all prospective clients a list of the standard price for services in accordance with (c) below that are material to the work to be provided; and

4. Present a copy of the Department-issued certification card to all prospective clients upon request.

(b) When providing a service required by this chapter, an individual or business firm certified pursuant to this subchapter shall enter into a written contract with the client. The contract shall contain the following provisions:

1. Clear and detailed descriptions of the work activities to be performed;

2. Lists of all materials, equipment, tools and other incidentals anticipated to be necessary for the execution of the proposed work activities;

3. Lists of the number and types of personnel anticipated to be necessary for the execution of the proposed work activities;

4. The maximum contract price that cannot be exceeded without written amendments to the contract;

5. Estimated time frames for the completion of the work activities listed in the contract; and

6. A listing and description of all services in the contract which exceed the requirements of the applicable local, State or Federal rules and regulations.

(c) Upon request by the client, an individual or business firm certified pursuant to this subchapter shall provide the client with a written standard price list of the services that it provides as applicable:

1. The categories of labor and the daily/hourly rates;

2. Daily and weekly rates for heavy equipment, instrumentation, vehicles and any ancillary equipment that is separately billed;

3. The price or the formula for pricing variable costs such as subcontracted services, transport and disposal of wastes;

4. A listing of all applicable governmental fees and costs typically associated with the contracted service, including, but not limited to, all application fees, local and State permit fees and State inspection fees, and a statement that State oversight costs may also be incurred; and

5. All ancillary administrative costs typically incurred such as document reproduction costs, mailing costs and phone calls.

(d) For services being performed with financial assistance from the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund (the Fund), the certified individual or business firm shall:

1. Submit documentation to the Department at the address listed in N.J.A.C. 7:14B-2.2(b) of the individual or business firm's cost for providing the services for which the Fund is providing the financial assistance. The documentation shall include, but is not limited to, documentation of the direct cost to provide the services, and all tiers of subcontractors' costs such as materials, equipment rentals and services; and

2. Cooperate in and help facilitate an audit by the Department of the individual or business firm's pricing and business practices conducted with industry standards and performed at the expense of the Department by a certified public accounting firm under contract to the Department.

(e) Upon request by the Department, provide the Department with any and all information that will aid in its review of loan and grant applications, investigation of complaints against the certified individual or business firm, investigation of known or suspected discharges of hazardous substances, and investigation of any known or suspected violation of this subchapter. This information shall include, but shall not be limited to, the following:

1. All direct subcontractor invoices for services such as, but not limited to, laboratory analyses, well drilling, contaminated soil disposal, oil/water/sludge disposal, vacuum truck services, property restoration, engineering services, etc.;

2. All receipts for rental equipment, including, but not limited to, sampling equipment or instrumentation, heavy equipment, etc.;

3. All receipts for material purchases, including, but not limited to, clean fill material, top soil, stone, etc.;

4. All receipts for miscellaneous costs necessary to conduct remediation such as local police traffic control and local permits; and

5. Documents associated with the services provided for underground storage tank systems such as copies of field notes, contracts, manifests, timesheets, and invoices.

New Rule, R.2008 d.322, effective November 3, 2008.

See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

Former N.J.A.C. 7:14B-13.9, Denial, suspension, revocation and refusal to renew a certification, recodified to N.J.A.C. 7:14B-13.10.

7:14B-13.10 Denial, suspension, revocation and refusal to renew a certification

(a) The Department may deny, suspend, revoke, or refuse to renew a certification issued pursuant to N.J.A.C. 7:14B-13 for good cause, including:

1. A violation, or abetting another to commit a violation of any provision of this chapter or of N.J.S.A. 58:10A-21 et seq., or of an order issued pursuant to the Act;

2. Making a false, inaccurate or incomplete statement on an application for certification or other information required by the Department pursuant to this chapter or N.J.S.A. 58:10A-21 et seq.;

3. Misrepresentation or the use of fraud in obtaining certification or performing underground storage tank services;

4. Failure to attend a Department approved course on the regulations as required pursuant to N.J.A.C. 7:14B-13.4(d);

5. Failure to adhere the professional business practices listed in N.J.A.C. 7:14B-13.9; or

6. Any other violation of this subchapter, the Technical Requirements for Site Remediation rules, N.J.A.C. 7:26E, the Department Oversight of the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., or of an order issued pursuant to any of these Acts.

(b) Within 30 calendar days after receipt of notification of the Department's intent to suspend, revoke, deny or refuse to renew a certification, the applicant or certificate holder may request an adjudicatory hearing pursuant to N.J.A.C. 7:14B-12.2.

(c) The Department may order the certificate holder to cease operations pending the outcome of the adjudicatory hearing if the Department has reason to believe that a condition exists that poses an imminent threat to the public health, safety or welfare.

(d) Suspension, revocation, denial, or refusal to renew a certification shall not bar the Department from pursuing any other lawful remedy available to the Department against the applicant or certificate holder.

(e) Any business firm or person whose certification is revoked shall be ineligible to apply for certification for three years from the date of the revocation. Reapplication shall be for initial certification as per this subchapter.

Recodified from N.J.A.C. 7:14B-13.9 and amended by R.2008 d.322, effective November 3, 2008

See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

In (a)3, deleted "or" from the end; in (a)4, substituted a semicolon for a period at the end; and added (a)5 and (a)6.

SUBCHAPTER 14. CONFIDENTIALITY

7:14B-14.1 Scope and exchange of information

(a) This subchapter sets forth the procedures for making information received by the Department in administering the Underground Storage Tank program under N.J.A.C. 7:14B-1 available to the public and maintaining confidentiality of certain parts of that information.

(b) All information collected by or originated by the Department in connection with underground storage tank regulatory activities under N.J.A.C. 7:14B shall be generally available to the public except as provided otherwise in this subchapter.

(c) Claims for confidentiality will be decided by the Department in accordance with the provisions of this subchapter.

(d) If a request for information is made for interagency or intra-agency memoranda or letters, the Department may deny this request if such request is exempted from disclosure pursuant to 5 U.S.C. § 552(b)(5).

(e) If a request for information is made for investigatory records, the Department may deny the request if such request is exempted from disclosure pursuant to 5 U.S.C. § 552(b)(7) or N.J.S.A. 47:1A-3.

(f) When USEPA supplies information to the Department which was submitted to USEPA under a claim of confidentiality, the information shall be subject to the conditions set forth in 40 CFR Part 2 and this subchapter. If the Department obtains information from USEPA that is not claimed to be confidential, the Department may make that information available to the public without further notice to any interested party.

(g) Notwithstanding any other provision of this subchapter, any information obtained or used in the administration of the underground storage tank program shall be available to EPA and U.S. Department of Justice upon request without restriction. If the information has been submitted to the Department under a claim of confidentiality, the Department shall submit that claim to EPA when providing information as required in this section.

(h) Access to any information for which a confidentiality claim has been made will be limited to Department employees, representative and contractors, whose activities necessitate such access. Also USEPA employees may have access to confidential information subject to (f) above.

(i) No disclosure of information for which a confidentiality claim has been asserted shall be made to any other persons except as provided in this subchapter.

(j) Nothing in this section shall be construed as prohibiting the incorporation of confidential information into compilations of data subject to disclosure as public records, provided that such disclosure is not in a form that would foreseeably allow persons, not otherwise having knowledge of such confidential information, to deduce from it the confidential information or the identity of the person who supplied it to the Department.

7:14B-14.2 Confidential claims

(a) Any owner or operator of an underground storage tank system required to submit any information pursuant to the Act or this chapter which in the owner's or operator's opinion constitutes trade secrets, proprietary information, or information related to national security, may assert a confidentiality claim by following the procedures set forth in this subchapter.

(b) Any owner or operator submitting any information to the Department and asserting a confidentiality claim covering any information contained therein shall submit two documents to the Department. One document shall contain all the information required by the Act or this chapter including any information which the owner or operator alleges to be entitled to confidential treatment. The second document shall be identical to the first except that it shall contain no information which the owner or operator alleges to be entitled to confidential treatment. The second document can be a photocopy of the first, with the allegedly confidential material blacked out.

(c) The top of each page of the first document containing the information which the owner or operator alleges to be entitled to confidential treatment shall display the heading "CONFIDENTIAL" in bold type, or stamp.

(d) All parts of the text of the first document which the owner or operator alleges to be entitled to confidential treatment shall be underscored or highlighted in a clearly identifiable manner. This manner of marking confidential information shall be such that both the allegedly confidential information and the underscoring or highlighting is reproducible on photocopying machines.

(e) The first document, containing the information which the owner or operator alleges to be entitled to confidential treatment, shall be sealed in an envelope which shall display the word "CONFIDENTIAL" in bold type or stamp on both sides. This envelope, together with the second, nonconfidential document (which may or may not be enclosed in a separate envelope, at the option of the owner or operator), shall be enclosed in another envelope for transmittal to the Department. The outer envelope shall bear no marking indicating the confidential nature of contents.

(f) To ensure proper delivery, the complete package should be sent by certified mail, return receipt requested, or by other means which will allow verification of receipt. Ordinary mail may be used, but the Department will assume no responsibility for packages until they are actually received at the address provided in N.J.A.C. 7:14B-2.2(b).

(g) The request for confidentiality shall be accompanied by the applicable fee pursuant to N.J.A.C. 7:14B-3.7.

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

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

Added (g).

7:14B-14.3 Disclosure of confidential information to contractors

(a) The Department may disclose confidential information to a contractor of the Department when the contractor's activities necessitate such access.

(b) No information may be disclosed to a contractor unless the contract in question provides that the contractor and the contractor's employees, agents and representatives use the information only for the purpose of carrying out the work required by the contract, not disclose the information to anyone not authorized in writing by the Department, store the information in locked cabinets in secure rooms, and return the information to the Department whenever the information is no longer required by the contractor for the performance of the work required by the contract.

(c) Disclosure in violation of this subchapter or the contractual provisions described in (b) above shall constitute grounds for debarment or suspension as provided in N.J.A.C. 7:1D-2, Debarment, Suspension and Disqualification from Department Contracting, in addition to whatever other remedies may be available to the Department at equity or law.

Administrative change.

See: 32 N.J.R. 1796(a).

7:14B-14.4 Confidentiality determinations

(a) Information for which a confidentiality claim has been asserted will be treated by the Department as entitled to confidential treatment, unless the Department determines that

the information is not entitled to confidential treatment as provided for in this subchapter.

(b) The Department shall act upon a confidentiality claim and determine whether information is or is not entitled to confidential treatment whenever the Department:

1. Receives a request under N.J.S.A. 47:1A-1 et seq. to inspect or copy such information;
2. Desires to determine whether information in its possession is entitled to confidential treatment; or
3. Desires for any reason in the public interest to disclose the information to persons not authorized by this subchapter to have access to confidential information.

(c) The Department shall make the initial determination whether information is or is not entitled to confidential treatment.

1. If the Department determines that information is not entitled to confidential treatment, it shall so notify the owner or operator who submitted the information.
2. The notice required under this subsection shall be sent by certified mail, return receipt requested and shall state the reasons for the Department's initial determination.
3. An owner or operator who wishes to contest a determination by the Department shall, within 30 days of notification of the determination, submit evidence to support the owner's or operator's contention that the Department's initial determination was incorrect. The evidence may include, but need not be limited to, a statement indicating:
 - i. The period of time for which confidential treatment is desired by the owner or operator (for example, until a certain date, until the occurrence of a specified event, or permanently);
 - ii. The measures taken by the owner or operator to guard against undesired disclosure of the information to others;

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 owner'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.

SUBCHAPTER 15. FINANCIAL RESPONSIBILITY REQUIREMENTS

7:14B-15.1 Applicability and general requirements

(a) This subchapter sets forth financial responsibility assurance requirements for owners and operators of underground storage tank systems for the purpose of remediation and for compensating third parties for bodily injury and property damage as a result of a discharge from an underground storage tank system.

(b) Owners and operators of Federally regulated systems subject to 40 C.F.R. Part 280 Subpart H shall comply with this subchapter by maintaining financial assurance pursuant to 40 C.F.R. Part 280 Subpart H incorporated, in its entirety, by reference.

(c) By September 16, 2003, the owner or operator of an underground storage tank system subject to the requirements of this chapter, not covered by (b) above, shall comply with this subchapter for the amounts listed in N.J.A.C. 7:14-15.2 by maintaining financial assurance pursuant to USEPA's Financial Responsibility Regulations at 40 C.F.R. 280 Part H incorporated by reference, with the noted exclusions at N.J.A.C. 7:14B-15.3(c).

(d) State and Federal government entities whose debts and liabilities are the debts and liabilities of the State of New Jersey or the United States are exempt from the requirements of this subchapter.

(e) If the owner and operator of an underground storage tank system are separate persons, only one person is required to demonstrate financial responsibility; however, both the owner and operator are responsible in the event of non-compliance.

(f) The owner and operator may use separate mechanisms to satisfy the requirements of N.J.A.C. 7:14B-15.2 for different underground storage tank systems; however, the annual aggregate required shall be based on the number of tanks covered by each separate mechanism.

(g) The owner and operator is no longer required to maintain financial responsibility assurance for any underground storage tank system when the Department has provided the owner or operator with the following:

1. A no further action letter for the closure of the underground storage tank system; and

2. Notice that each third-party claim for damages as a result of a discharge from the underground storage tank system has been resolved pursuant to 40 C.F.R. 280.112 as adopted by reference at N.J.A.C. 7:14B-15.3, if one has been filed.

(h) The owner and operator shall identify the financial assurance mechanism being used to comply with this subchapter on the New Jersey Underground Storage Tank Facility Certification Questionnaire pursuant to N.J.A.C. 7:14B-2.2(d) 5 and shall maintain evidence of financial assurance at the site and at the owner or operator's place of business. An owner or operator shall submit to the Department evidence of financial assurance with any supporting documentation, pursuant to a request by the Department.

(i) Within 30 calendar days after the cancellation or expiration of any form of financial assurance established to meet the requirements of this chapter, the issuing financial institution shall notify the Department in writing of the ex-

piration or cancellation. The financial institution shall include in the notification the name of the insured policy holder, the policy number as applicable and the address of all sites covered by the financial mechanism. The written notification shall be sent to the address below:

New Jersey Department of Environmental
Protection
Bureau of Case Assignment & Initial Notice
PO Box 028
401 East State Street
Trenton, NJ 08625-0028
Attn: Registration and Billing Unit

Administrative correction.
See: 42 N.J.R. 1862(a).

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 73) adopted, which concluded that a penalty of \$15,000 was warranted for a gasoline service station's failure to have insurance for its underground storage tanks ("USTs"); the potential environmental and even human consequences of USTs are such that it is of fundamental importance that facilities with USTs have insurance. N.J. Dep't of Env'tl. Prot. v. Excellent Care, Inc., OAL Dkt. No. EWR 00084-06, 2008 N.J. AGEN LEXIS 682, Final Decision (March 14, 2008).

Initial Decision (2006 N.J. AGEN LEXIS 420) adopted, which concluded that a gas station operator's failure to maintain a record of financial responsibility for its underground storage tanks was a moderately serious violation, and was moderately improper conduct. Without adequate insurance, there was the potential to cause substantial harm to health and the environment with no ability to compensate third parties and mitigate damages; in addition, the operator derived a benefit, a savings over its competitors, from not maintaining insurance. Thus, a \$15,000 penalty was appropriate for this violation. N.J. Dep't of Env'tl. Prot. v. Egg Harbor Gas & Go, LLC, OAL Dkt. No. EWR 2907-05, 2006 N.J. AGEN LEXIS 780, Final Decision (August 21, 2006).

7:14B-15.2 Amount and scope of required financial responsibility

(a) Owners and operators shall maintain financial responsibility assurance for regulated underground storage tank systems in the per-occurrence amounts as follows:

1. For petroleum underground storage tank systems located at petroleum marketing facilities, or facilities that handle an average of more than 10,000 gallons of petroleum per month based on annual throughput for the previous calendar year: \$1,000,000;

2. For all other petroleum underground storage tanks: \$250,000; and

3. For underground storage tanks systems containing hazardous substances other than petroleum: \$1,000,000.

(b) Owners or operators shall maintain financial responsibility assurance for regulated underground storage tank systems in the annual aggregate amounts as follows:

1. For one to 100 underground storage tanks: \$1,000,000; and

2. For 101 or more underground storage tanks: \$2,000,000.

(c) Owners and operators shall review the amount of per-occurrence and aggregate assurance needed whenever they acquire or install additional underground storage tanks to ensure the amount of financial responsibility assurance required at (a) and (b) above are maintained.

(d) If an adjustment in the amount of financial responsibility assurance is required pursuant to (c) above, the owner and operator shall demonstrate the adjusted amount within 30 calendar days after the tank acquisition or installation by submitting to the Department an amended New Jersey Underground Storage Tank Facility Certification Questionnaire in accordance with N.J.A.C. 7:14B-2.4.

7:14B-15.3 Incorporation of the Code of Federal Regulations by reference

(a) Unless specifically excluded by these rules, when a provision of the Code of Federal Regulations (C.F.R.) is incorporated by reference into this rule, all notes, comments, appendices, diagrams, tables, forms, figures, and publications are also incorporated by reference.

(b) Owners and operators of Federally regulated underground storage tank systems subject to 40 C.F.R. Part 280 Subpart H shall comply with this subchapter by maintaining financial assurance pursuant to 40 C.F.R. Part 280 Subpart H incorporated, in its entirety, by reference into this rule.

(c) Owners and operators of State regulated underground storage tank systems subject to the requirements of N.J.A.C. 7:14B, but not covered by (b) above, shall comply with this chapter for the amounts listed in N.J.A.C. 7:14-15.2 by complying with USEPA's Financial Responsibility Regulations at 40 C.F.R. 280 Part H incorporated by reference into this rule with the following noted exclusions:

1. 40 C.F.R. 280.98, Surety Bond;
2. 40 C.F.R. 280.100, Use of State required mechanism;
3. 40 C.F.R. 280.101, State fund of other State assurance; and
4. 40 C.F.R. 280.106(d), Local government guarantee, Local Government Guarantee With Standby Trust Made by a State.

(d) For the purposes of this subchapter, when the term, "name of State" appears in the Federal rule, it shall be replaced with the term "New Jersey"; when the term "State implementing agency" appears in the Federal rule, it shall be replaced with the term "Department of Environmental Protection"; when the term "Director" or "Director of the implementing agency" appears in the Federal rule, it shall be replaced with the term "DEP Commissioner."

(e) Prospective incorporation by reference means the ongoing process, beginning May 19, 2003, whereby all provisions of regulations incorporated into this subchapter from the Federal regulations at 40 C.F.R. 280 Part H are continually automatically updated in order to maintain consistency with the most current Federal rules. Thus, any supplements, amendments, and any other rule changes including, without limitation, repeals or stays that affect the meaning or operational status of a Federal rule, brought about by either judicial or administrative action and adopted or otherwise noticed by U.S. Environmental Protection Agency in the Federal Register, shall simultaneously amend this subchapter so this subchapter has the same meaning and status as its Federal counterpart.

(f) Provisions of 40 C.F.R. Part 280 Subpart H incorporated by reference are prospective and all internal references contained therein are also incorporated prospectively for the purposes of that provision, unless otherwise noted. Each internal reference to the Federal Register shall be interpreted to include, in addition to the Federal citation, any changes, additions and deletions made to that citation by this subchapter.

(g) Provisions of 40 C.F.R. Part 280 Subpart H that are excluded from incorporation by reference in these rules are excluded in their entirety, unless otherwise specified. If there is a cross reference to a Federal citation that was specifically excluded from incorporation, the cross referenced citation is not incorporated by virtue of the cross reference. Provisions that have been excluded from incorporation by reference are also excluded from the process of prospective incorporation by reference.

(h) Nothing in these provisions incorporated by reference from the Federal Register shall affect the Department's authority to enforce statutes or rules, permits or orders administered or issued by the Commissioner.

(i) New Federal rules, amendments, supplements and other changes at 40 C.F.R. 280 Part H brought about through administrative or judicial action adopted or otherwise noticed by USEPA in the Federal Register shall be automatically incorporated through the prospective incorporation process in this chapter.

(j) New Federal rules, amendments, supplements and other changes at 40 C.F.R. 280 Part H brought about through administrative or judicial action adopted or otherwise noticed in the Federal Register by USEPA after January 26, 1998 but prior to May 19, 2003 shall be prospectively incorporated by reference and shall be effective on May 19, 2003 and operative on August 17, 2003 or on the operative date cited by USEPA in the relevant Federal Register Notice, whichever is later, unless the Department publishes a notice of proposal repealing the adoption of the Federal rule in New Jersey in whole or in part, and/or proposes to otherwise amend the affected State rules.

(k) On or after May 19, 2003, new Federal rules, amendments, supplements and other changes brought about through administrative or judicial action and adopted or otherwise noticed by USEPA in the Federal Register automatically incorporated through the prospective incorporation by reference process shall be effective upon publication in the

Federal Register and operative on the date cited by USEPA in the relevant Federal Register Notice, unless the Department publishes a notice of proposal repealing the adoption in New Jersey of the Federal regulation in whole or in part, and/or proposing to otherwise amend the affected State rules.

7:14B-15.4 Document availability

(a) Copies of the 40 C.F.R. 280 Part H as adopted and incorporated by reference herein are available for review. Publications incorporated by reference within the Code of Federal Regulations as listed at 40 C.F.R. 280 Part H, or the most currently available version, are also available for review. The Federal rule can be accessed through a hyperlink provided on the Department's internet web page at www.state.nj.us/dep/srp/regs/ust. These publications may also be reviewed by contacting the Department at:

New Jersey Department of Environmental
Protection
Site Remediation Program
PO Box 028
Trenton, NJ 08625-0028
Telephone: (609) 633-1408

(b) Copies of 40 C.F.R. 280 Part H as adopted and incorporated by reference herein, may be purchased from the following sources:

U.S. Government Printing Office
Superintendent of Documents
Mail Stop: SCOP
Washington, DC 20402-9328

U.S. Government Printing Office Bookstore
Room 110, 26 Federal Plaza
New York, NY 10278-0081

U.S. Government Printing Office Bookstore
Robert Morris Building
100 North 17th Street
Philadelphia, PA 19103

(c) Copies of 40 C.F.R. 280 Part H as adopted and incorporated by reference herein, are available for review at the following public libraries:

New Jersey State Library
PO Box 520, 185 West State Street
Trenton, NJ 08625-0520

Newark Public Library
5 Washington Street
Newark, NJ 07101

(d) The Office of the Federal Register, a component of the National Archives and Record Administration, has a website at www.nara.gov/fedreg which shows a current listing of files available for public inspection, Federal Registers as well as the Code of the Federal Regulations.

SUBCHAPTER 16. CERTIFICATION OF INDIVIDUALS AND BUSINESS FIRMS FOR UNREGULATED UNDERGROUND STORAGE TANK SYSTEMS

7:14B-16.1 Scope and applicability

(a) This subchapter establishes the certification program for any individual or business firm providing services on un-

regulated heating oil tank systems, except closure of an unregulated heating oil tank system located on a farm.

(b) An individual or business firm certified in one or more classifications of regulated underground storage tank system services in accordance with N.J.A.C. 7:14B-13 is also certified under this subchapter for those same classifications for unregulated underground storage tank system services.

(c) An individual or business firm that is licensed to perform well drilling or pump installation services at the site of unregulated heating oil tank systems pursuant to N.J.S.A. 58:4A-11 shall not be required to be certified under this subchapter in order to provide well drilling or pump installation services on unregulated heating oil tank systems.

(d) As of July 6, 2009, any individual or business firm providing services on unregulated heating oil tank systems in any of the categories listed in N.J.A.C. 7:14B-16.3 shall meet the requirements of N.J.A.C. 7:14B-16.5.

Amended by R.2008 d.322, effective November 3, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

In (b), substituted "system services" for "systems"; and in (c), inserted "in order to provide well drilling or pump installation services on unregulated heating oil tank systems".

Administrative change.
See: 41 N.J.R. 2648(b).

7:14B-16.2 General requirements for certification

(a) No individual shall perform any service on unregulated heating oil tank systems unless the individual is certified under this subchapter or is working under the immediate, on-site supervision of a person certified in accordance with this subchapter.

(b) The Department shall issue a certification card to an individual meeting the requirements for certification pursuant to this subchapter. The certification card shall identify the duration and classification(s) for which the individual is certified to perform services. The certified individual shall make this certification card available to the Department or its authorized agent upon request.

(c) The Department shall issue a certificate to a business firm meeting the requirements for certification pursuant to this subchapter. The certificate shall identify the classification(s) for which the business firm is certified to perform services. The business firm shall conspicuously display the certificate for public review in the business office of the business firm. If a business firm maintains a business office at more than one location, a duplicate certificate, issued by the Department, shall be conspicuously displayed at each location.

(d) The owner or operator of an unregulated heating oil tank system shall ensure that all services performed on the unregulated heating oil tank system are performed by an individual or under the immediate, on-site supervision of an individual certified under N.J.A.C. 7:14B-13 or under this subchapter, unless exempt pursuant to (n) below. If a certified

individual is not present at the unregulated heating oil tank system site, the owner or operator shall suspend all activities in that classification of service.

(e) Except as provided in (n) below, no individual shall perform any service on an unregulated heating oil tank system unless:

1. The individual is a permanent employee at a business firm which is certified in the classification of service being performed and the individual is certified in the classification of service being performed; and

2. The individual is working under the immediate, on-site supervision of an individual certified in the classification of service being performed and both individuals are employed at the same business firm which is certified in the classification of service being performed.

(f) An individual or firm certified to perform services on unregulated heating oil tank systems shall perform such services pursuant to all applicable:

1. Federal and State laws, regulations and permits;

2. Local ordinances or codes;

3. Department of Community Affairs Bulletins and notices published in the "Construction Code Communicator" (www.nj.gov/dca/publications/);

4. Manufacturer's installation instructions; and

5. Industry standards, including the following, as incorporated herein by reference, as amended and supplemented, as applicable:

- i. American Petroleum Institute Publication 1604, "Closure of Underground Petroleum Storage";

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

- iii. Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems" (obtained from P.O. Box 2380, Tulsa, OK 74101-2380);

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

- v. NACE International Standard RP-02-95 RP0285-2002, "Corrosion Control of Underground Storage Tank

Systems by Cathodic Protection," and Underwriters Laboratories Standard 58, "Standard for Steel underground storage tanks for Flammable and Combustible Liquids" (obtained from: 144 South Creek Drive, Houston, TX 77084-4906);

- vi. National Fire Protection Association (NFPA) 30 "Flammable and Combustible Liquids Code", Battery-march Park, Quincy, MA 02269-9990; and

- vii. International Code Council's International Building Code at N.J.A.C. 5:23-3.14.

(g) An individual or business firm certified under this subchapter shall:

1. Cooperate in and help facilitate any audit of its pricing and business practices, conducted in accordance with industry standards and performed at the expense of the Department by a certified public accounting firm under contract to the Department; and

2. For services being performed with financial assistance from the Petroleum Underground Storage Tank Remediation Upgrade and Closure Fund (the Fund), submit documentation to the Department at the address listed in N.J.A.C. 7:14B-2.2(b) of the individual's or business firm's cost for providing the services for which the Fund is providing the financial assistance. The documentation shall include, but is not limited to, documentation of the direct cost to provide the services, and all tiers of subcontractors' costs, including, by way of example, materials, equipment rentals and services.

(h) Certifications are not transferable.

(i) A certified individual or business firm shall notify the Department in writing, within three business days, at the address in (j) below, of any amendments to the certification, other than those created by passing an examination.

(j) When a certified individual listed as the business firm's certifying individual on the certification card issued pursuant to (c) above leaves the business firm, the certified business firm shall so notify the Department, in writing at the address below. Notification shall be made by the business firm within three working days of the individual leaving the business firm. The Department shall withdraw the business firm's certification if a replacement name of an individual certified in that classification of service is not submitted within 30 calendar days of the individual leaving the business firm.

New Jersey Department of Environmental
Protection
Examination and Licensing Unit
428 E. State St.
P.O. Box 441
Trenton, NJ 08625-0441

(k) When a certified individual listed as the business firm's certifying individual on the certification card issued pursuant to (c) above loses his or her certification due to expiration, revocation or suspension, the Department shall withdraw the business firm's certification if a replacement name of an individual certified in that classification of service is not submitted within 30 calendar days of loss of certification. The notice of the loss of certification and the replacement name of an individual certified in that classification of service shall be submitted to the Department, in writing, at the address in (j) above.

(l) When a permit is required to be obtained through the local construction office, for the purposes of providing the services described in this subchapter on an unregulated heating oil tank system, the individual's certification card and a copy of the certification for the business firm shall be made available upon request of the local construction company.

(m) An individual or business firm may replace a damaged or lost certification card or certificate by contacting the Department at the address listed in (j) above and paying the fee required by N.J.A.C. 7:14B-3.10(h).

(n) Certification in the classification of entire unregulated heating oil tank system installation at N.J.A.C. 7:14B-16.3(a)1i is not required when performing repair or maintenance if a permit is not required from a municipal construction official to perform this activity.

Amended by R.2008 d.322, effective November 3, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

In (d), inserted ", unless exempt pursuant to (n) below" and inserted the last occurrence of "system"; rewrote the introductory paragraph of (e); in (e)1 and (e)2, substituted "The individual" for "An individual who"; deleted former (g)1; recodified (g)2 and (g)3 as (g)1 and (g)2; in the address in (j), inserted "428 E. State St."; and added (n).

7:14B-16.3 Classifications of unregulated heating oil tank services

(a) An individual or business firm may apply for certification in any one or more of the following classifications of unregulated heating oil tank system services:

1. Installation of unregulated heating oil tank systems including:
 - i. Entire unregulated heating oil tank system installation; and
 - ii. Unregulated heating oil tank system release detection monitoring installation;
2. Closure of unregulated heating oil tank systems;

3. Tank testing of unregulated heating oil tank systems;
4. Subsurface evaluation of unregulated heating oil tank systems; and

5. Corrosion protection of unregulated heating oil tank system analysis, which may be either cathodic protection specialist or cathodic protection tester, as applicable to unregulated heating oil tank systems.

(b) The activities which comprise the classifications in (a) above include the following:

1. Entire unregulated heating oil tank system installation includes all activities required to install unregulated heating oil tanks, associated piping, release detection monitoring systems, interior tank lining, and appurtenant equipment including factory installed cathodic protection systems, from the time the ground is broken to the restoration of finished grade at the site. Entire unregulated heating oil tank system installation of unregulated heating oil tank systems shall be performed in accordance with N.J.A.C. 7:14B-16.2(f). Entire system installation includes the performance of an internal inspection for the purpose of assessing a tank for corrosion protection and the installation of a field installed cathodic protection system when the installer is under the supervision of a cathodic protection specialist or following the plans designed by a cathodic protection specialist. Entire unregulated heating oil tank system installation activities include any maintenance or repair of any part of the unregulated heating oil tank system or release detection monitoring system requiring a permit from local officials.

i. Individuals holding an entire unregulated heating oil tank system installation certification shall also be considered to hold the more limited unregulated heating oil tank system release detection monitoring installation certification described in (b)2 below;

ii. Entire unregulated heating oil tank system installation does not include the installation of discharge detection observation wells unless installed in the manner described in N.J.A.C. 7:14B-4.1(c); and

iii. Entire unregulated heating oil tank system installation does not include routine maintenance performed on appurtenant pipes, lines, fixtures and other related equipment not requiring a permit from local officials.

2. Unregulated heating oil tank system release detection monitoring installation includes the activities associated with the installation, repair and maintenance of any release detection monitoring systems of unregulated heating oil tanks.

i. Unregulated heating oil tank system release detection monitoring installation does not include the installation of discharge detection observation wells unless installed in the manner described in N.J.A.C. 7:14B-4.1(c).

3. Closure of unregulated heating oil tank systems includes all physical activities required by N.J.A.C. 7:14B-16.2(f) as applicable relative to the removal or abandonment in place of an unregulated heating oil tank, associated piping and appurtenant equipment, from the time the ground is broken until the excavation is filled, or until a determination is made that subsurface evaluation is necessary and the site falls under the on-site supervision of a subsurface evaluator.

i. Closure activities do not include the preparation or implementation of site investigation or remedial investigation workplans or any other remedial action plans or activities, which are the exclusive purview of an individual certified in unregulated heating oil tank system subsurface evaluation described in (b)5 below.

ii. Closure of an unregulated heating oil tank system shall be performed in accordance with N.J.A.C. 7:14B-16.2(f), as applicable.

iii. If upon closure of the tank there is evidence of a discharge, no additional closure activities shall proceed unless an individual certified in subsurface evaluation is present.

4. Tank testing of unregulated heating oil tank systems includes all activities relative to testing the physical integrity of an unregulated heating oil tank and appurtenant piping from inception of the test until removal of testing apparatus from the tank system. The tank testing classification shall not include the activities of air pressure soap tests of tanks or piping where product is not present, which is the exclusive purview of the individual certified in entire unregulated heating oil tank system installation described in (b)1 above. Tank testing of an unregulated heating oil tank system shall be performed pursuant to N.J.A.C. 7:14B-16.2(f) as applicable. All volumetric and non-volumetric tank system testing methods used to test unregulated heating oil tank systems shall be evaluated by an independent testing laboratory to meet the accuracy described by N.J.A.C. 7:14B-6.5(a)3 for the size and type of tank system being tested in the most current version of the "List of Leak Detection Evaluations for Underground Storage Tanks Systems" available at the time the individual submits the application for certification. The "List of Leak Detection Evaluations for Underground Storage Tanks Systems" is published by the National Work Group on Leak Detection Evaluations (NWGLDE), www.epa.gov/swerust1/pubs/ldlist.htm and is incorporated herein by reference as amended and supplemented.

5. Subsurface evaluation of unregulated heating oil tank systems includes all activities regarding site investigation, remedial investigation and remedial action, and/or the evaluation for selection of release detection monitoring systems, as follows:

i. For site investigation, remedial investigation and/or remedial action, subsurface evaluation activities

required pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, inspecting the excavation for contamination, performing (or overseeing) necessary field screening tests, selecting soil and ground water sampling locations, and submitting or reviewing of the report(s) required under N.J.A.C. 7:26E;

ii. Site investigation, remedial investigation and/or remedial action activities include, but are not limited to, the development, implementation, or review of soil and/or ground water sampling plans, quality assurance/quality control plans, health and safety plans; overseeing field screening activities; determining the horizontal and vertical extent of contamination; assessing the actual or potential effect of a discharge on receptors; determining appropriate remedial activities for soil and/or ground water contamination; the submittal or review of appropriate site investigation, remedial investigation and/or remedial action reports, and recommendations for no further action;

iii. Release detection monitoring system selection activities include selecting locations for soil borings, characterizing soils, and determining soil permeability and depth to ground water as may be applicable;

iv. Subsurface evaluation of unregulated heating oil tank system activities do not include:

(1) The design or installation of any treatment works necessary to perform the remedial action, which is the purview of a licensed professional engineer;

(2) The taking of any soil or groundwater samples for laboratory analyses once a person certified in subsurface evaluation has determined, through on-site observation, the appropriate sample locations; however, the subsurface evaluator shall have knowledge of proper sampling and analytical protocols; and

(3) The performance of well drilling or pump installation services which shall be performed by an individual who is licensed to perform such services pursuant to N.J.S.A. 58:4A-11; and

v. Subsurface evaluation of an unregulated heating oil tank system shall be performed pursuant to N.J.A.C. 7:14B-16.2(f), as applicable.

6. Unregulated heating oil tank system cathodic protection specialist includes the activities relative to the design, installation, maintenance and testing of cathodic protection systems for unregulated heating oil tank systems.

i. Individuals holding the unregulated heating oil tank system cathodic protection specialist certification are also considered to hold the more limited unregulated heating oil tank system cathodic protection tester certification described in (b)7 below.

7. Unregulated heating oil tank systems cathodic protection tester includes all activities relative to the testing of cathodic protection systems for unregulated heating oil tank systems.

Amended by R.2008 d.322, effective November 3, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

In the introductory paragraph of (b)1, inserted "requiring a permit from local officials"; in (b)1iii, inserted "not requiring a permit from local officials"; and in (b)5i, deleted "witnessing the tank and/or piping removal, inspecting the tank system for possible holes," preceding "inspecting the excavation".

7:14B-16.4 Application procedures

(a) An individual who wishes to be certified in one or more of the classifications described in N.J.A.C. 7:14B-16.3, or if already certified, who wishes to add a classification of certification, or who wishes to renew the certification, shall apply on forms obtained from the Department at the address listed in N.J.A.C. 7:14B-2.2(b). The information required to be submitted to the Department shall include the following:

1. The name and address of certification applicant;
2. The name and address of the employer of the certification applicant;
3. A history of experience documenting the qualification for certification as required at N.J.A.C. 7:14B-16.5;
4. A listing of education and/or training completed demonstrating the fulfillment of the requirement for certification pursuant to N.J.A.C. 7:14B-16.5;
5. A list of the categories of service being applied for; and
6. The issuance and expiration dates and New Jersey Professional Engineer's license number if the certification applicant is applying for an exemption from the examination.

(b) A business firm that wishes to be certified in one or more of the classifications described in N.J.A.C. 7:14B-16.3, or if already certified, wishes to add a classification of certification, or wishes to renew the certification, shall apply on forms obtained from the Department at the address listed in N.J.A.C. 7:14B-16.2(j). The business firm shall submit with the application:

1. A copy of the mechanism of financial responsibility assurance as required by N.J.A.C. 7:14B-16.9; and
2. A copy of the certifying individual's certification card(s) noting each of the requested classifications by:
 - i. The owner, in the case of a sole proprietorship;
 - ii. One or more partners in the business firm, in the case of a partnership; or
 - iii. One or more officers of the corporation, in the case of a corporation.

(c) The applicant shall sign and certify the application as follows:

1. The following documents required to be submitted to the Department shall be executed and include a certification pursuant to N.J.A.C. 7:14B-1.7:

- i. An individual's application for certification, certification renewal, or proficiency examination pursuant to this subchapter; and
- ii. Any document submitted in accordance with the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and prepared by a certified individual or professional engineer in accordance with N.J.A.C. 7:26E.

(d) The applicant shall submit with the application all appropriate fees pursuant to N.J.A.C. 7:14B-3.10.

7:14B-16.5 Eligibility

(a) Individuals not satisfying the criteria in (b) below may obtain certification by passing the proficiency examination described in N.J.A.C. 7:14B-16.6. An applicant shall be eligible to take the proficiency examination if the applicant meets the following minimum criteria for each classification for which the applicant is seeking certification:

1. An applicant for the entire unregulated heating oil tank system installation classification examination shall meet the following criteria:

- i. Either a minimum of two years experience performing installations with participation in at least five installations during each year of experience, or nine months experience with participation in at least 25 installations in that nine-month period, or five years experience with participation in at least 12 installations with no less than two installations during each year of experience;
- ii. Completion of training approved by the manufacturer of the equipment installed by the individual; and
- iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).

2. An applicant for the unregulated heating oil tank system release detection monitoring installation classification examination shall meet the following criteria:

- i. Either a minimum of two years experience performing release detection monitoring installations with participation in at least five installations during each year of experience, or nine months experience with participation in at least 25 installations in that nine-

month period or five years experience with participation in at least 12 installations with no less than two installations during each year of experience;

ii. Completion of training approved by the manufacturer of the equipment to be installed; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).

3. An applicant for the closure of unregulated heating oil tank systems classification examination shall meet the following criteria:

i. Either a minimum of two years experience performing closures with participation in at least five closures during each year of experience, or nine months experience with participation in at least 25 closures in that nine-month period or five years of experience with participation in at least 12 closures with no less than two closures during each year of experience; and

ii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).

4. An applicant for the tank testing of unregulated heating oil tank systems classification examination shall meet the following criteria:

i. A minimum of two years experience performing tank testing services on equipment that satisfies requirements of N.J.A.C. 7:14B-6.1(a)3 and 6.5(a)3 with participation in at least five tank tests during each year of experience or nine months experience with participation in at least 25 tank tests within that nine-month period or five years experience with participation in at least 12 tank tests with no less than two tank tests during each year of experience;

ii. Completion of training approved by the manufacturer of the testing equipment; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).

5. An applicant for the unregulated heating oil tank system cathodic protection specialist classification examination shall possess a certification from NACE International in the category of cathodic protection specialist.

6. An applicant for the unregulated heating oil tank system cathodic protection tester classification examination shall meet the following criteria:

i. A minimum of two years experience performing cathodic protection system testing with participation in at least five tank tests during each year of experience, nine months experience with participation in at least 25 tests within that nine-month period, or five years experience with participation in at least 12 tests with no less than two tests during each year of experience;

ii. Fulfillment of all requirements in accordance with the requirements of NACE International's Certification Committee for the category of cathodic protection tester, corrosion technologist, or senior corrosion technologist; and

iii. Completion of health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).

7. An applicant for the subsurface evaluation of unregulated heating oil tank systems classification examination shall meet the following criteria:

i. A bachelor's degree from an accredited institution in a natural (earth, biological, or environmental), physical, or chemical science or appropriate engineering discipline;

ii. Either a minimum of two years experience performing subsurface evaluation services with participation in at least five subsurface evaluation services performed during each year of experience or nine months experience with participation in at least 25 subsurface evaluations in that nine-month period; and

iii. Completion of appropriate health and safety training given in accordance with the United States Environmental Protection Agency's Standard Operating Safety Guides (Hazardous Materials Incident Response Operations Course (165.5)) and the United States Department of Labor's Occupational Safety and Health Administration's Safety and Health Standards (29 CFR 1910 and 1926 et seq.).

(b) Any individual possessing a valid New Jersey Professional Engineers License, issued pursuant to N.J.S.A. 45:8-27 et seq., shall be eligible for certification in all classifications upon application to the Department and shall be exempt from the examination requirements of (a) above and

individual certification fee requirements of N.J.A.C. 7:14B-3.10.

(c) As a condition to the certification granted in accordance with (b) above, a certified individual shall attend a Department approved course concerning underground storage tank system management in New Jersey within one year prior to or after the effective date of the certification.

Amended by R.2008 d.322, effective November 3, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

Substituted "(165.5)" for "(155.5)" throughout; in (a)1i and (a)3i, inserted a comma following the second occurrence of "experience"; in (a)1i, inserted "; or five years experience with participation in at least 12 installations with no less than two installations during each year of experience"; in (a)2i, inserted "or five years experience with participation in at least 12 installations with no less than two installations during each year of experience"; in (a)3i, inserted "or five years experience with participation in at least 12 closures with no less than two closures during each year of experience"; in (a)4i, inserted "services on equipment that satisfies requirements of N.J.A.C. 7:14B-6.1(a)3 and 6.5(a)3" and "or five years experience with participation in at least 12 tank tests with no less than two tank tests during each year of experience"; in (a)6i, substituted a comma for "or" following the second occurrence of "experience" and inserted "; or five years experience with participation in at least 12 tests with no less than two tests during each year of experience"; and in (a)7i, inserted ", physical, or chemical".

7:14B-16.6 Examinations

(a) As a condition of initial certification under this subchapter, an individual is required to pass an examination in each classification of service for which the applicant is seeking certification, unless the individual is exempt under N.J.A.C. 7:14B-16.5(b) or meets the requirements of N.J.A.C. 7:14B-16.1(b) or (c).

(b) Failure to pass an examination shall result in the denial of the application for certification and the forfeiture of all application fees.

(c) Any applicant who submits false, inaccurate or incomplete information when applying for certification may be disqualified from taking the examination or receiving the certification.

(d) The Department shall issue each applicant who passes the examination and pays the appropriate fee pursuant to N.J.A.C. 7:14B-3.10 a certification, limited to performance of services on unregulated heating oil tanks, in the classification for which the applicant passed the appropriate examination.

Amended by R.2008 d.322, effective November 3, 2008.
See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

In (d), inserted ", limited to performance of services on unregulated heating oil tanks,".

7:14B-16.7 Continuing education requirements

(a) As a condition for renewal of certification, all certified individuals shall attend annual eight-hour health and safety refresher courses as required by 29 CFR 1910.120(e)(8).

(b) As a condition for renewal of certification, within one year prior to renewal, all individuals certified to perform

services on unregulated heating oil storage tank systems shall complete a Department-approved training course concerning underground storage tank system management in New Jersey.

7:14B-16.8 Renewal requirements

(a) The certification of each individual and business firm shall be valid for three years.

(b) An individual certification may be renewed by submitting a complete renewal application and the application fee required pursuant to N.J.A.C. 7:14B-3 to the Department at least 60 calendar days prior to expiration of the current certification.

(c) A business firm certification may be renewed by submitting a complete renewal application, the application fee required pursuant to N.J.A.C. 7:14B-3, and a copy of the certification of those individuals through which the business firm is certified, to the Department at the address listed in N.J.A.C. 7:14B-16.2(j) at least 60 calendar days prior to expiration of the current certification.

(d) No individual may perform services for which certification is required after the expiration of a certification. An individual who fails to renew his or her certification within 90 calendar days following the expiration date of the certification shall meet the initial certification requirements as required by this subchapter.

(e) Individuals who have acquired additional classifications subsequent to initial certification shall renew all subsequent certifications at the same time as renewing the initial certification.

(f) Proof of the individual's attendance at continuing education courses, required training courses, and supporting documentation of all requisites or prerequisites as required in N.J.A.C. 7:14B-16.7 shall be submitted to the Department with the renewal application.

(g) The Department is not responsible for providing notification to any individuals or business firms that certifications are to expire.

7:14B-16.9 Financial responsibility assurance

(a) As a condition of certification or renewal of certification, a business firm engaged in performing unregulated heating oil tank system services shall maintain evidence of financial responsibility assurance pursuant to this section, for the mitigation or remediation of a hazardous substance discharge resulting from the performance of such services. Financial responsibility assurance in the amount and form required in this section shall be maintained for the term of the certification of the business firm.

(b) A business firm shall provide written notification to the Department 120 calendar days prior to any cancellation or

change in status of a mechanism used to provide financial responsibility assurance at the following address:

New Jersey Department of Environmental
Protection
Bureau of Underground Storage Tanks
P.O. Box 433
401 E. State Street
Trenton, NJ 08501-0433

(c) Financial responsibility assurance may be demonstrated through one or more of the following mechanisms:

1. Liability insurance as follows:
 - i. Liability insurance may be in the form of a separate insurance policy, or an endorsement to an existing policy which covers the remediation of a discharge resulting from the performance of those services which the insured is certified to perform under this subchapter;
 - ii. The policy shall provide limits of liability for at least \$250,000 per occurrence and at least \$250,000 annual aggregate;
 - iii. The insurer is responsible for the payment of all monies to the limit of the policy, including any deductible applicable to the policy, to the provider of remediation with a right to reimbursement by the insured for any such payment made by the insurer; and
 - iv. Each insurance policy shall be issued by an insurer that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in New Jersey; or
 2. A surety bond, letter of credit, self-insurance or other security posted with the Department in the amount of no less than \$250,000, provided that prior approval for the use of the surety bond, letter of credit, self-insurance or other security posted with the Department is received in writing from the Department.
- 7:14B-16.10 Professional business practices**
- (a) An individual or business firm certified pursuant to this subchapter shall:
1. Perform all services in accordance with all applicable Federal, State and local rules and regulations;
 2. Employ fair and reasonable pricing and business practices in all of its dealings with clients and the Department;
 3. Upon request, provide all prospective clients a list of the standard price for services in accordance with (c) below that are material to the work to be provided; and
 4. Present a copy of the Department issued certification card to all prospective clients upon request.

(b) When providing any service required by this chapter, an individual and business firm certified pursuant to this subchapter shall enter into a written contract with the client. The contract shall contain the following provisions:

1. Clear and detailed descriptions of the work activities to be performed;
2. Lists of all materials, equipment, tools and other incidentals anticipated to be necessary for the execution of the proposed work activities;
3. Lists of the number and types of personnel anticipated to be necessary for the execution of the proposed work activities;
4. The maximum contract price that cannot be exceeded without written amendments to the contract;
5. Estimated time frames for the completion of the work activities listed in the contract; and
6. A listing and description of all services in the contract which exceed the requirements of applicable local, State or Federal rules and regulations.

(c) Upon request by the client, an individual or business firm certified pursuant to this subchapter shall provide the client with a written standard price list of the services that it provides as applicable:

1. The categories of labor and the daily/hourly rates;
2. Daily and weekly rates for heavy equipment, instrumentation, vehicles and any ancillary equipment that is separately billed;
3. The price or the formula for pricing variable costs such as subcontracted services, transport and disposal of wastes;
4. A listing of all applicable governmental fees and costs typically associated with the contracted service, including, but not limited to, all application fees, local and State permit fees and State inspection fees, and a statement that State oversight costs may also be incurred; and
5. All ancillary administrative costs typically incurred such as document reproduction costs, mailing costs and phone calls.

(d) For services being performed with financial assistance from the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund (the Fund), the certified individual or business firm shall:

1. Submit documentation to the Department at the address listed in N.J.A.C. 7:14B-2.2(b) of the individual or business firm's cost for providing the services for which the Fund is providing the financial assistance. The documentation shall include, but is not limited to, documentation of the direct cost to provide the services, and all tiers

of subcontractors' costs such as materials, equipment rentals and services; and

2. Cooperate in and help facilitate an audit by the Department of the individual or business firm's pricing and business practices conducted with industry standards and performed at the expense of the Department by a certified public accounting firm under contract to the Department.

(e) Upon request by the Department, provide the Department with any and all information that will aid in its review of loan and grant applications, investigation of complaints against the certified individual or business firm, investigation of known or suspected discharges of hazardous substances, and investigation of any known or suspected violation of this subchapter. This information shall include, but shall not be limited to, the following:

1. All direct subcontractor invoices for services such as, but shall not be limited to, laboratory analyses, well drilling, contaminated soil disposal, oil/water/sludge disposal, vacuum truck services, property restoration, and engineering services;

2. All receipts for rental equipment, including, but not limited to, sampling equipment or instrumentation, and heavy equipment;

3. All receipts for material purchases, including, clean fill material, top soil, and stone;

4. All receipts for miscellaneous costs necessary to conduct remediation such as local police traffic control and local permits; and

5. Documents associated with the services provided for underground storage tank systems such as copies of field notes, contracts, manifests, timesheets, and invoices.

New Rule, R.2008 d.322, effective November 3, 2008.

See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).

Former N.J.A.C. 7:14B-16.10, Denial, suspension, revocation and refusal to renew a certification, recodified to N.J.A.C. 7:14B-16.11.

7:14B-16.11 Denial, suspension, revocation and refusal to renew a certification

(a) The Department may deny, suspend, revoke, or refuse to renew a certification issued pursuant to this subchapter, for any of the following:

1. A violation, or abetting another to commit a violation of any provision of this subchapter, the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, the Department Oversight of the Remediation of Contaminated Sites Rule, N.J.A.C. 7:26C, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq., or of an order issued pursuant to any of these Acts;

2. Making a false, inaccurate or incomplete statement on an application for certification or other information required by the Department pursuant to this subchapter, the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, the Department Oversight of the Remediation of Contaminated Sites Rule, N.J.A.C. 7:26C, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq. or of an order issued pursuant to any of these Acts;

3. Misrepresentation or the use of fraud in obtaining certification or performing unregulated heating oil tank services;

4. Failure to attend a Department approved course on the regulations as required pursuant to N.J.A.C. 7:14B-16.7(b);

5. Performing tank services on unregulated heating oil underground storage tank systems without obtaining appropriate permits or approvals from State, Federal and local agencies; or

6. Any other violation of this subchapter, the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, the Department Oversight of the Remediation of Contaminated Sites Rule, N.J.A.C. 7:26C, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq. or of an order issued pursuant to any of these Acts.

(b) Within 30 calendar days after receipt of notification of the Department's intent to suspend, revoke, deny or refuse to renew a certification, the applicant or certificate holder may request an adjudicatory hearing pursuant to N.J.A.C. 7:14B-12.2.

(c) The Department may order the certificate holder to cease operations pending the outcome of the adjudicatory hearing if the Department has reason to believe that a condition exists that poses an imminent threat to the public health, safety or welfare.

(d) Suspension, revocation, denial, or refusal to renew a certification shall not bar the Department from pursuing any other lawful remedy available to the Department against the applicant or certificate holder.

(e) Any business firm or person whose certification is revoked shall be ineligible to apply for certification for three years from the date of the revocation. Reapplication shall be for initial certification as per this subchapter.

Recodified from N.J.A.C. 7:14B-16.10 by R.2008 d.322, effective November 3, 2008

See: 40 N.J.R. 2166(a), 40 N.J.R. 6440(a).