NASSAU COUNTY PETROLEUM BULK STORAGE REGULATIONS

PETROLEUM BULK STORAGE REQUIREMENTS AS AUTHORIZED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, IMPLEMENTED BY THE COUNTY OF NASSAU

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Article 15-1 General Provisions

15-1.1 Purpose

The purpose of this Article is to regulate the bulk storage of petroleum in Nassau County in order to protect public health and the environment.

15-1.2 Applicability

(a) Every facility in Nassau County is subject to the provisions of this Article.

(b) Every carrier is subject to the provisions of sections 2.2(a)(8), 3.2(a)(9) and 4.2(a)(7) of this Article.

(c) Any provision of this Article that imposes a requirement on a facility imposes that requirement on every operator, tank system owner and facility owner, unless expressly stated otherwise.

15-1.3 Definitions

(a) *Aboveground storage tank system* or *AST system* means any tank system that is not an underground storage tank system.

(b) *Accessible underground area* means an underground area – such as a basement, cellar, shaft, or vault – that allows for the physical inspection of the exterior of the tank.

(c) *Ancillary equipment* means fittings, flanges, valves, pumps, and other devices that are used to distribute, meter, or control the flow of petroleum to and from a tank.

(d) *Carrier* means a person who transports petroleum and delivers it into a tank system.

(e) *Category 1 tank system* means any tank system whose tank was installed before December 27, 1986.

(f) *Category 2 tank system* means any tank system whose tank was installed from December 27, 1986 through October 11, 2015.

(g) *Category 3 tank system* means any tank system whose tank was installed after October 11, 2015.

(h) *Cathodic protection* means the prevention of electrolytic corrosion of a metallic structure (tank or piping) by causing it to act as the cathode rather than as the anode of an electrochemical cell.

(i) *Cathodic protection tester* means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to metal portions of tank systems in contact with the ground. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of metal portions of tank systems in contact with the ground.

(j) *Class A Operator* means the individual who has primary responsibility to operate and maintain the UST system(s) at a facility in accordance with applicable requirements of this Article. The Class A Operator typically manages resources and personnel to achieve and maintain compliance with the requirements of this Article.

(k) *Class B Operator* means the individual who has day-to-day responsibility for implementing applicable requirements of this Article. The Class B Operator typically implements field aspects of operation, maintenance, and associated recordkeeping for a UST system.

(l) *Class C Operator* means the individual who has primary responsibility for initially addressing emergencies presented by a spill or release from a UST system. The Class C Operator typically controls or monitors the dispensing or sale of petroleum.

(m) *Compatible* means, in the case of two or more substances, able 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.

(n) *Containment* means equipment that limits or prevents the spread of a petroleum release.

(o) *Corrosion expert* means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control of metal portions of tank systems in contact with the ground. Such a person must be:

> (1) a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of metal portions of tank systems in contact with the ground; or
>
> (2) accredited or certified by NACE International as a corrosion specialist or cathodic protection specialist.

(p) *Department* means the Nassau County Department of Health.

(q) *Design capacity* means the amount of petroleum that a tank is designed to hold. If a certain portion of a tank is unable to store petroleum because of its integral design (for example, electrical equipment or other interior components take up space), the design capacity of the tank is thereby reduced. Actions taken to physically alter the design capacity of a tank (such as drilling a hole in the side of the tank so that it cannot hold petroleum above that point) will not change the design capacity of the tank.

(r) *Dielectric material* means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate tank systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the tank system (for example, tank from piping).

(s) *Dispenser system* means equipment located aboveground that meters the amount of petroleum transferred to a point of use outside the tank system, such as a motor vehicle. This system includes the equipment necessary to connect the dispenser to the tank system.

(t) *Environment* means any water, water vapor, land including land surface or subsurface, air, fish, wildlife, biota, and all other natural resources.

(u) *Excavation zone* means the volume containing the UST system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

(v) *Facility* means a single property, or contiguous or adjacent properties used for a common purpose which are owned or operated by the same person or persons, on or in which are located:

(1) one or more tank systems having a combined storage capacity of more than 1,100 gallons;

(2) an underground tank system having a storage capacity that is greater than 110 gallons;

(3) one or more aboveground tank systems having a combined storage capacity of 250 gallons or more that contain petroleum other than heating oil (i.e. motor oil, lubricants, transmission fluid, hydraulic oil, cutting oil, synthetic oils, and dielectric oil); or

(4) any tank system storing used oil, including oil water separators and associated holding tanks.

(5) This term does not include:

(i) any tank system owned or operated by a State agency;

(ii) any temporary tank system;

(iii) any tank system that is part of a facility that has been constructed, acquired, or operated in accordance with a Certificate of Public Convenience and Necessity issued by the Federal Energy Regulatory Commission pursuant to the terms of 15 U.S.C. section 717f;

(iv) any heating oil tank system used for on-premises consumption that is not interconnected to any other heating oil tank system and which has a storage capacity of less than 1,100 gallons, unless such tank system is located on a property that has another tank system or set of tank systems that otherwise independently meets the definition of facility under paragraph (1) or (2) of this subdivision;

(v) any tank system that has a storage capacity of 1,100 gallons or less and is used to store motor fuel for non-commercial purposes (not for resale) at a farm or residence, unless such tank system or systems are located on a property that has another tank system or set of systems that otherwise independently meets the definition of facility under paragraph (1) or (2) of this subdivision;

(vi) any tank system that is used to store or contain asphalt cement (however, a tank system used to store or contain asphaltic emulsions is included);

(vii) any tank system that has been permanently closed in accordance with sections 2.6(b), 3.5(b), or 4.5(b) of this Article;

(viii) pipelines that enter or leave the property;

(ix) any tank system owned or operated by a public authority created under the Public Authorities Law; or

(x) any tank system at a major facility or vessel that is considered a major facility.

(w) *Facility owner* means any person who has legal or equitable title to the real property of a facility.

(x) *Farm* means a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. Farm includes fish hatcheries, rangeland, and nurseries with growing operations.

(y) *Flow-through process tank system* means a tank system 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 tank systems 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.

(z) *Free product* means petroleum that is present as a nonaqueous phase liquid (for example, liquid that is not dissolved in water.)

(aa) (1) *Hazardous substance* means:

(i) a substance included on the list provided under 6 NYCRR section 597.3; or

(ii) a hazardous substance mixture.

(2) Hazardous substance does not include petroleum as defined in subdivision (as) of this section, except as may be part of a blend described in section 1.3(ab)(2) of this Article.

(ab) *Hazardous substance mixture* means:

(1) a mixture of any substances covered under section 1.3(aa)(1)(i) of this Article; or

(2) a blend that consists of:

(i) less than 70 percent by volume of the substances covered under sections 1.3(as)(1)(i) through (iii) of this Article (singly or in combination);

(ii) one percent or more by volume of one or more substances covered under section 1.3(aa)(1)(i) of this Article; and

(iii) no hazardous waste as identified or listed in 6 NYCRR Part 371; or

(3) a blend that consists of:

(i) one percent or more by volume of the substances covered under section 1.3(aa)(1)(i) of this Article (singly or in combination);

(ii) any substance not covered under sections 1.3(as)(1)(i) through (iii) of this Article; and

(iii) no hazardous waste as identified or listed in 6 NYCRR Part 371.

(ac) *Heating oil* means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, or No. 6 technical grade of fuel oil; and, other residual fuel oils (including Navy Special Fuel Oil, Bunker C, and clarified oil). Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

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

(ae) *Install* or *installation* means the emplacement of a tank system, or any part thereof, in, on, or above the ground. The movement of a tank from one location for use in a different location constitutes the installation of the tank system.

(af) *Leak*, *spill*, or *spillage* means any escape of petroleum from the ordinary container employed in the normal course of storage, transfer, processing, or use. Any escape of petroleum that enters containment (for example, a catch basin) is a spill.

(ag) *Leak detection* means determining whether a release of petroleum has occurred from a tank system or a spill has occurred into the interstitial space between the tank system and its secondary barrier or secondary containment around the tank system.

(ah) *Lining* means a coating of a material that is bonded firmly to the interior surface of a tank and which is compatible with the petroleum stored.

(ai) *Liquid trap* means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

(aj) *Major facility* includes any refinery, storage or transfer terminal, pipeline, deep water port, drilling platform, or any appurtenance related to any of the preceding that is used or is capable of being used to refine, produce, store, handle, transfer, process, or transport petroleum. A vessel will be considered a major facility only when petroleum is transferred between vessels in the waters of the State of New York. Fueling operations between vessels will not be considered petroleum transfers between vessels for the purposes of this definition. A facility with a combined design capacity of less than 400,000 gallons is not a major facility for the purposes of this Article.

(ak) *Motor fuel* means petroleum that is typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, jet fuel, or No. 1 or No. 2 diesel fuel.

(ak.1) *NYSDEC* means New York State Department of Environmental Conservation.

(al) *On-premises consumption* means consumed at the site where the tank system containing the heating oil is located.

(am) *On-shore major facility* means a major facility that is not a vessel or a drilling platform, is located on or under any land and, if partially or totally located on submerged land, is physically connected to the shore by permanent structures located above the mean high-water level.

(an) RESERVED

(ao) *Operator* means any person who leases, operates, controls, or supervises a facility.

(ap) *Out-of-service* with respect to a tank system means no longer receiving or dispensing petroleum.

(aq) *Overfill* means a spill that occurs when a tank is filled beyond its design capacity.

(ar) *Person* means any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, consortium, joint venture, interstate body, trust, estate, or any other legal entity whatsoever.

(as) (1) *Petroleum* means:

(i) crude oil and any fraction thereof;

(ii) synthetic forms of lubricating oils, dielectric oils, insulating oils, hydraulic oils, and cutting oils;

(iii) any complex blend of hydrocarbons that is not derived from crude oil; or

(iv) any petroleum mixture.

(2) Petroleum does not include:

(i) any hazardous substance covered under subdivision (aa) of this section, except as may be part of a blend described in section 1.3(at)(2) of this Article;

(ii) animal or vegetable oils; or

(iii) substances that are gases at standard temperature and pressure.

(at) *Petroleum mixture* means:

(1) a mixture of any substances covered under sections 1.3(as)(1)(i) through (iii) of this Article; or

(2) a blend that consists of:

(i) at least 70 percent by volume of the substances covered under sections (as)(1)(i) through (iii) of this Article (singly or in combination) and

(ii) one or more other substances, except any hazardous waste as identified or listed in 6 NYCRR Part 371; or

(3) a blend that consists of:

(i) one percent or more by volume of the substances covered under sections 1.3(as)(1)(i) through (iii) of this Article (singly or in combination), and

(ii) one or more other substances, other than hazardous substances covered under section 1.3(aa)(1)(i) of this Article and hazardous waste as identified or listed in 6 NYCRR Part 371.

(au) *Pipe* or *piping* means a hollow cylinder made of non-earthen materials that is used for the conveyance of petroleum.

(av) *Release* means any intentional or unintentional action or omission resulting in the releasing, discharging, spilling, leaking, pumping, pouring, emitting, emptying or dumping of petroleum into the waters of the State or onto lands from which it might flow or drain into said waters, or into waters outside the jurisdiction of the state when damage may result to lands, waters, or natural resources within the jurisdiction of Nassau County. A leak or spill of petroleum into secondary containment, including soil that is used as part of secondary containment, does not constitute a release.

(aw) *Repair* means to restore to working order a tank, a pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, leak detection equipment, or other tank system component that has caused a leak or a suspected leak of petroleum from the tank system or has failed to function properly.

(ax) *Replaced* means:

(1) for tanks – the removal of a tank and installation of another tank in the same location.

(2) for piping – the removal of 50 percent or more of piping that is connected to a single tank and installation of other piping, excluding connectors, to that same tank. For tanks with multiple piping runs, this definition applies independently to each piping run.

(ay) *Residence* means a building that is primarily used for dwelling purposes, including any home, apartment building, or nursing home. This term does not include a hospital or hotel.

(az) *Retail motor fuel facility* means a facility engaged in the business of selling motor fuel to customers for on-road use.

(ba) *Rural and remote area* means an area where one retail motor fuel facility is more than 20 miles from the nearest other retail motor fuel facility.

(bb) *Secondary containment* means containment that prevents any spilled or leaked petroleum from reaching the land or water outside the containment before cleanup occurs.

(bc) *Septic tank* means a watertight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil, and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

(bd) *Stationary device* means a device that is not mobile. Examples of stationary devices include tank systems that are fixed or permanently in place on foundations, racks, cradles, or stilts.

(be) *Storage capacity* means the total volume capacity of a tank system.

(bf.1) *Stormwater collection system* or *wastewater collection system* means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of stormwater and wastewater does not include treatment except where incidental to conveyance.

(bf. 2) *Substantial Modification* shall mean the construction of additions or changes to an existing tank system(s) or restoration, refurbishment, renovation or repair of a tank system(s).

(bg) *Subtitle I* means Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. sections 6991 – 6991m, entitled “Regulation of Underground Storage Tanks.”

(bh) *Surface impoundment* means a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

(bi) *Tag* means a sign that is affixed by the Department or its authorized representative to the fill pipe(s) of a tank system giving notice that delivery is prohibited.

(bj) *Tank* means the portion of a tank system that contains the majority of the petroleum in the tank system. Each section of a compartmented tank will be treated as an individual tank.

(bk) *Tank system* means a stationary device designed to store petroleum that is constructed of non-earthen materials that provide structural support. This term includes all associated piping and ancillary equipment. This term does not include a dispenser system; septic tank; surface impoundment, pit, pond or lagoon; any tank used for emergency spill or overflow containment that is expeditiously emptied after use; stormwater or wastewater collection system; flow-through process tank system; or liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

(bl) *Tank system owner* means any person who has legal or equitable title to a tank system.

(bm) *Temporary tank system* means an aboveground tank system that is installed and intended for use on a property for no more than 180 consecutive days during any 12-month period.

(bn) *Tightness test* means a test that is capable of detecting a leak from a tank system of 0.1 gallons per hour with a probability of detection of at least 95 percent and a probability of false alarm of no more than five percent (with a threshold for declaring a leak of 0.05 gallons per hour). A tightness test is valid only if it is performed by a person who has been trained and certified or credentialed by the manufacturer/vendor of the test method.

(bo) *Title 10* means Title 10 of Article 17 of the Environmental Conservation Law entitled “Control of the Bulk Storage of Petroleum.”

(bp) *Under-dispenser containment* or *UDC* means containment underneath a dispenser system designed to prevent leaks from the dispenser system from reaching soil or groundwater.

(bq) *Underground piping* means piping that is beneath the surface of the ground or covered by materials. This term does not include piping the exterior of which can be physically inspected, or secondarily contained piping that is located aboveground.

(br) *Underground storage tank system* or *UST system* means a tank system that has ten percent or more of its volume beneath the surface of the ground or is covered by materials. This term does not include a tank system situated in an “accessible

underground area." A tank system that is covered by materials does not include a tank system where the tank is completely above the surface of the ground and:

(1) the tank is fully enclosed within pre-fabricated secondary containment, or

(2) the tank is insulated in order to store heated petroleum.

(bs.1) *Used for a common purpose* means that the primary activity at the properties is the same. A common purpose among properties may be shown if the primary activity at each property falls under the same six-digit classification code of the North American Industry Classification System (a standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the United States business economy).

(bs.2) *Used oil* means any oil that has been refined from crude oil or any synthetic oil that has been used, and as a result of such use, is contaminated by physical or chemical impurities.

(bt) *Wastewater treatment tank system* means a tank system that is designed to receive and treat influent wastewater through physical, chemical, or biological methods.

(bu) *Waters* or *waters of the State* means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State of New York, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private, which are wholly or partially within or bordering the state or within its jurisdiction.

(bv) *Working capacity* means the portion of the design capacity of a tank that may be filled before engaging the overfill prevention device, reduced by an allowance for freeboard and petroleum expansion.

15-1.4 Access to records and facilities

(a) Upon reasonable notice of the Department, the operator, facility owner, or tank system owner of a facility must allow any designated employee or agent of the Department to review and copy any books, papers, documents and records relating to compliance with this Article.

(b) Any designated employee or agent of the Department may, at reasonable times and upon reasonable notice, enter and inspect a facility for purposes of assuring compliance with provisions of this Article, provided that the employee or agent is accompanied by the tank system owner, operator, or their designee.

15-1.5 Recordkeeping

(a) Every facility must maintain all records (in hard copy or electronic format) and make them available to the Department or to the NYSDEC within three business days following the Department's or NYSDEC's request, except for the results of the last 30

days of leak detection monitoring, which must be immediately available at the time of request.

(b) In the case of permanent closure or change-in-service records required under section 2.6(f) of this Article, or permanent closure records required under sections 3.5(f) and 4.5(c) of this Article, the facility must transmit a copy of the records to the Department within 30 days after permanent closure or change in service.

15-1.6 RESERVED

15-1.7 RESERVED

15-1.8 Variances

(a) The Department may, upon written request from any person subject to this Article, consider an application for a variance from one or more provisions of this Article. An application for a variance must:

(1) identify the specific provisions of this Article from which a variance is ` sought;

(2) demonstrate that the proposed activity will have no adverse impact on public health and the environment;

(3) demonstrate that the proposed activity will be consistent with the provisions of the Environmental Conservation Law and this Article;

(4) demonstrate that the proposed activity will provide environmental protection equal to or greater than the requirements of this Article; and

(5) provide the Department with appropriate evidence that the new or alternative designs, practices, or methods meet the criteria of this subdivision.

(b) In granting any variance, the Department may impose conditions necessary to assure that the activity will have no adverse impact on public health or the environment.

(c) No variance request will be approved that would have the effect of continuing an activity or circumstance that constitutes non-compliance with any provision of this Article, unless the Department authorizes the submission of the variance request as part of an enforcement settlement.

(d) No variance request involving requirements that are also found in 6 NYCRR Part 613 will be approved unless the NYSDEC has been consulted and has approved of the proposed Department action to grant the variance request.

15-1.9 Registration, permitting, and certificates of fitness

(a) *General*. The facility owner must obtain a Permit to Operate from the Department prior to the first receipt of petroleum into a new or replaced tank system. The facility owner must ensure that the registration information identified in subdivision (e) of this

section remains current and accurate. In addition, every temporary tank system that is not removed within 180 days after installation must either be included on a new facility registration or be added to an existing facility's registration. The facility owner may rely on an authorized representative to satisfy any obligation imposed on the owner by the provisions of this section.

(b) *Transition from earlier regulation*. Unless the registration certificate must be revised or newly issued pursuant to the terms of subdivision (a) or (d) of this section, a registration certificate held by a facility on October 11, 2015 that was issued pursuant to terms of the former Nassau County Petroleum Bulk Storage requirements, remains valid until the expiration date recorded on the certificate.

(c) *Renewal*. Facility registrations may be renewed for periods of one to five years or until the Department receives written notice and documentation from the facility owner that the facility has been permanently closed in accordance with section 2.6(b), 3.5(b), or 4.5(b) of this Article, or that ownership of the facility has been transferred in accordance with subdivision (d) of this section.

(d) *Application procedure for initial registration or transfer of ownership*.

(1) If ownership of the real property on which a facility is located is transferred, the new facility owner must submit an application to initially register the facility with the Department within 30 days after the transfer.

(2) The facility owner must submit a registration application using forms or electronic means as provided by the Department. Forms are available on the Department website and at the Department office.

(3) Each application for an initial registration or transfer of facility ownership must be accompanied by a copy of the current deed for the property at which the facility is located. If the facility is located on multiple properties, deeds for each property must be submitted with the application. If a deed does not exist for a particular property, the application must be accompanied by other evidence of ownership of the property.

(4) The application must be signed by the facility owner.

(5) Every registration application must be accompanied by payment of the applicable fee schedule.

(e) *Application procedure for information corrections*.

(1) The facility owner must submit information corrections for registered facilities using forms or electronic means as provided by the Department. Forms are available on the Department website and at the Department office.

(2) The registration application must be signed by the facility owner.

(3) Changes in the following registration items are considered information corrections:

(i) contact information;

(ii) Class A or Class B Operator, as identified in compliance with 6 NYCRR section 613-2.5;

(iii) tank system status;

(iv) tank system equipment; or

(v) type of petroleum stored.

(4) No registration fee is required for submitting information corrections.

(f) *Application procedure for permanent closure or change in service of tank systems*. The facility owner must notify the Department of permanent closure or change in service of tank systems using forms or electronic means as provided by the Department. Forms are available on the Department website and at the Department office.

(g) *Registration certificate*. Upon submittal of a complete registration application and payment of the applicable registration fee, the Department will issue a registration certificate. The current registration certificate must be displayed at all times in a conspicuous location at the facility.

(h) *Advance notification of installation of a tank*. Except in the case of a temporary tank system, when a facility intends to install a tank, the facility owner must notify the Department of this action at least 30 days prior to installing the tank. For any tank added to a previously registered facility, any increased fee applicable to the facility will be assessed as per the fee schedule.

(i) *Permit Requirements for Constructing, Installing, and Operating a Category 3 Tank System and Substantial Modifications for all ASTs and Category 2 and 3 USTs*.

(1) Permit to Construct:

A Permit to Construct issued by the Department must be obtained prior to the construction or installation of any new tank system, or substantial modification to any AST or Category 2 and 3 USTs. Prior to the construction or installation of any new tank system, or substantial modification, the facility owner must submit a complete application to the Department for a Permit to Construct with all applicable fees.

The application must include submission of:

(i) Application forms for a Permit to Construct, signed by the facility owner;

(ii) A list of all the types of petroleum and quantities that will be stored in the tank system(s);

(iii) Plans for the construction or installation of any new tank system, or substantial modification, must show compliance with the requirements of this Article and be prepared in accordance with the requirements of paragraph (5) of this subdivision. The Department may require additional information to be shown on the plans to indicate compliance with this Article.

(iv) Approval of plans: Upon review of a completed application (application forms, plans, and specifications) and approval of the plans, the Department will issue a Permit to Construct. The permit will be valid for a period not to exceed one year from date of issuance. After one year (365 days) if the work in the previously approved plans has not been completed, the Permit to Construct may be renewed at the request of the facility owner for one additional year for the applicable fee.

(2) Permit to Operate:

No person shall use or cause to be used any tank system until a Permit to Operate issued by the Department has been obtained. A Permit to Operate will be issued for a period not to exceed five years for each new or modified tank system after the certification required under paragraph (3) of this subdivision has been submitted to and accepted by the Department.

(3) Certifications:

Persons submitting certifications to the Department must:

(i) Be a Professional Engineer or a Registered Architect licensed in the State of New York;

(ii) Have witnessed the construction or had the construction witnessed by an employee under the direct supervision of the person submitting the certification;

(iii) Submissions shall consist of a set of plans titled “As-Built” which comply with paragraph (5) of this subdivision along with a certification letter indicating that all construction is in accordance with the approved plans. Any deviations or nonconformance must be approved in writing by the Department prior to construction;

(iv) Sign and seal any plans and the certification letter submitted; and

(v) Acceptance of certifications will be issued in writing by the Department after submission of the “As-Built” plans required under paragraph (5) of this subdivision and certification letter in order to confirm

compliance with the approved plans. The facility shall not place the tank system into service until the certification is accepted by the Department.

(4) The construction or installation of any AST system having a storage capacity of fewer than 250 gallons and storing types of petroleum other than gasoline, diesel or kerosene is exempt from the requirements of submission of plans and certifications.

(5) Submission of Plans for the Construction of a New Facility or Substantial Modification

(i) General content and format of plans:

Plans submitted must:

(*a*) Bear the seal and signature of a Professional Engineer or a Registered Architect licensed in the State of New York on each drawing.

(*b*) Be submitted in quadruplicate.

(*c*) Be drawn to scale 1" = 10’ to 100’ for plot plan, depending upon area covered and a suitable scale for details of the storage area.

(*d*) Be of standard drawing sizes of 18" x 24" or 24" x 36".

(*e*) Show the following:

(*1*) A plot plan showing property lines and location of buildings;

(*2*) A key map showing the location of the facility;

(*3*) The size, location, including the exact street address and topographical contour of the facility;

(*4*) Section, block, and lot;

(*5*) The location, size and use of all existing and proposed buildings on the property;

(*6*) All pertinent dimensions;

(*7*) The location, type, size, capacity and contents of all existing and proposed tank systems;

(*8*) Sewage and industrial disposal system(s);

(*9*) Interior floor drains;

(*10*) Location of all storm drains including dry wells, water supply lines, water supply wells, or other utilities which are contained on the property or are within 100 feet of the property line;

(*11*) Fire hydrant locations;

(*12*) Details of construction of the proposed storage location including plan cross section and elevation;

(*13*) Depth from grade to groundwater and anticipated maximum and minimum groundwater levels;

(*14*) Material and elevation of the proposed finished grading;

(*15*) Material of construction of the tank and piping, tank design standards, specifications and other related information to show conformance to the requirements of this Article;

(*16*) Description of materials and products for all standard aspects of the tank system including but not limited to: piping materials, electronic monitoring systems for leak detection and high level alarm systems, gauges, pumps, etc.;

(*17*) Spill protection at the fill port;

(*18*) Location of any surface waters within 500 feet of the property;

(*19*) Tank labeling and color coding; and

(*20*) Corrosion protection.

(ii) The following information must additionally be provided with respect to UST systems:

(*a*) Details of the proposed tank system in plan view, cross-section and elevation;

(*b*) Depth from grade to groundwater. Elevation of the maximum and minimum groundwater levels on the site. Maximum and minimum groundwater levels may be based on monitoring well(s) in proximity to the site;

(*c*) Secondary containment system;

(*d*) Leak detection system;

(*e*) Overfill protection equipment;

(*f*) Protection against floatation and buoyancy;

(*g*) Backfill material; and

(*h*) Separation distances between UST system(s) and existing or proposed water lines, water supply wells, storm water basins, drywells, and sanitary leaching pools.

(iii) The following information must additionally be provided with respect to AST systems:

(*a*) Details of the proposed tank installation and piping in plan view, cross-section and elevation;

(*b*) Depth from grade to groundwater;

(*c*) Secondary containment system;

(*d*) Leak detection system;

(*e*) Overfill protection equipment;

(*f*) Protection against physical damage;

(*g*) Protection against floatation or lateral movement;

(*h*) Normal and emergency venting;

(*i*) Adequate clearance provided around the tank; and

(*j*) Separation distance from water lines and water supply wells.

(iv) The following information must additionally be provided with respect to tank systems storing gasoline, diesel or kerosene:

(*a*) The location, material, and size of all existing or proposed dikes;

(*b*) The location of existing or proposed loading racks, and or dispensing islands, and storage areas;

(*c*) The description and location of fire extinguishers and/or fire extinguishing system to be installed; and

(*d*) Fire safety equipment location.

(j) *Certificates of Fitness required*. A person must obtain the applicable certificate from the Department before performing the following activities:

(1) Removing or permanently closing in place USTs or piping that stored gasoline, diesel or kerosene;

(2) Installing tanks or piping to be used for storing gasoline, diesel or kerosene; or

(3) Performing a test to determine the tightness of underground or aboveground gasoline, diesel or kerosene handling equipment including tanks and piping.

(k) *Criteria for tightness testing for tanks containing gasoline, diesel or kerosene*.

Prior to any system being used in Nassau County for testing tanks containing gasoline, diesel or kerosene, the testing system must be acceptable to the NYSDEC, and submitted to the Department together with all documentation proving the effectiveness of the system, and approved by the Department.

15-1.10 References

The following technical standards are incorporated by reference. With the exception of the technical standards listed in subdivisions (a) and (f) of this section, these references are available for inspection and copying at the office of the NYSDEC Division of Environmental Remediation, located at 625 Broadway, Albany, NY 12233 and the office of the Department of State, Division of Administrative Rules, located at One Commerce Plaza, 99 Washington Avenue, Suite 650, Albany, NY 12231. The technical standards listed in subdivisions (a) and (f) of this section are available for inspection at the office of the NYSDEC Division of Environmental Remediation, located at 625 Broadway, Albany, NY 12233 and the office of the Department of State, Division of Administrative Rules, located at One Commerce Plaza, 99 Washington Avenue, Suite 650, Albany, NY 12231. All of the technical standards are also available for inspection or purchase from the source listed for the given reference.

(a) American Petroleum Institute (API), 1220 L Street, NW, Washington, DC 20005-4070

(1) RP 651, “Cathodic Protection of Aboveground Petroleum Storage Tanks,” 3rd edition, January 2007.

(2) RP 1007, “Loading and Unloading of MC 306/DOT 406 Cargo Tank Motor Vehicles,” March 2001.

(3) RP 1604, “Closure of Underground Petroleum Storage Tanks,” 3rd edition, March 1996.

(4) RP 1615, “Installation of Underground Hazardous Substances or Petroleum Storage Systems,” 6th edition, April 2011.

(5) RP 1631, “Interior Lining and Periodic Inspection of Underground Storage Tanks,” 5th edition, June 2001.

(6) RP 1632, “Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems,” 1st edition, January 1983.

(7) RP 1632, “Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems,” 3rd edition, January 1996 (revised 2002).

(8) RP 1637, “Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals,” 3rd edition, July 2006.

(9) RP 2016, “Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks,” 1st edition, August 2001.

(10) RP 2200, “Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines,” 4th edition, September 2010.

(11) Standard 620, “Recommended Rules for Design and Construction of Large, Welded, Low-Pressure Storage Tanks,” 7th edition, September 1982 (revised April 1985).

(12) Standard 620, “Design and Construction of Large, Welded, Low-Pressure Storage Tanks,” 11th edition, February 2008.

(13) Standard 650, “Welded Steel Tanks for Oil Storage,” 7th edition, February 1984.

(14) Standard 650, “Welded Steel Tanks for Oil Storage,” 12th edition, March 2013.

(15) Standard 653, “Tank Inspection, Repair, Alteration, and Reconstruction,” 4th edition, April 2009.

(b) Fiberglass Tank and Pipe Institute (FTPI), 11150 South Wilcrest Drive, Suite 101, Houston, TX 77099-4343

RP T-95-02, “Remanufacturing of Fiberglass Reinforced Plastic (FRP), Underground Storage Tanks,” 2nd edition, January 1995.

(c) Ken Wilcox Associates, Inc. (KWA), 1125 Valley Ridge Drive, Grain Valley, MO 64029

“Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera,” September 1999.

(d) NACE International (NACE), 1440 South Creek Drive, Houston, TX 77084-4906

(1) RP0193-2001, “External Cathodic Protection of On-Grade Carbon Steel Storage Tank Bottoms,” 2001 edition.

(2) SP0169-2013, “Control of External Corrosion on Underground or Submerged Metallic Piping Systems,” 2013 edition.

(3) SP0285-2011 (formerly RP0285), “Corrosion Control of Underground Storage Tanks by Cathodic Protection,” 2011 edition.

(4) TM0101-2012, “Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems,” 2012 edition.

(5) TM0497-2012, “Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems,” 2012 edition.

(e) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169-7471

(1) NFPA 30, “Flammable and Combustible Liquids Code,” 1984 edition.

(2) NFPA 30, “Flammable and Combustible Liquids Code,” 2012 edition.

(3) NFPA 30A, “Automotive and Marine Service Station Code,” 1984 edition.

(4) NFPA 30A, “Code for Motor Fuel Dispensing Facilities and Repair Garages,” 2012 edition.

(5) NFPA No. 31, “Standard For The Installation Of Oil Burning Equipment,” 2016 edition.

(6) NFPA 326, “Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair,” 2010 edition.

(7) NFPA 385, “Standard for Tank Vehicles for Flammable and Combustible Liquids,” 2012 edition.

(f) Petroleum Equipment Institute (PEI), P. O. Box 2380, Tulsa, OK 74101-2380

(1) RP100, “Recommended Practices for Installation of Underground Liquid Storage Systems,” 2011 edition.

(2) RP200, “Installation of Aboveground Storage Systems,” 2013 edition.

(g) Steel Tank Institute/Steel Plate Fabricators Association (STI/SPFA), 944 Donata Court, Lake Zurich, IL 60047

(1) F841, “Standard for Dual Wall Underground Steel Storage Tanks,” revised January 2006.

(2) F894, “ACT-100®: Specification for External Corrosion Protection of FRP Composite Steel USTs,” revised September 2013.

(3) F922, “Permatank®: Specification for Permatank®,” revised January 2013.

(4) F961, “ACT-100U®: Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks,” revised September 2013.

(5) R051, “Cathodic Protection Testing Procedures for sti-P3® USTs,” revised January 2006.

(6) R892, “Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems,” revised January 2006.

(7) R972, “Recommended Practice for the Addition of Supplemental Anodes to sti-P3® USTs,” revised December 2010.

(8) SP001, “Standard for the Inspection of Aboveground Storage Tanks,” 5th Edition, revised September 2011.

(9) sti-P3®, “Specifications for sti-P3® System for External Corrosion Protection of Underground Steel Storage Tanks,” July 1983.

(10) sti-P3®, “Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks,” revised September 2013.

(h) Underwriters Laboratories (UL), 333 Pfingsten Road, Northbrook, IL 60062-2096

(1) UL 58, “Standard for Steel Underground Tanks for Flammable and Combustible Liquids,” April 1981 edition.

(2) UL 58, “Standard for Steel Underground Tanks for Flammable and Combustible Liquids,” December 1996 edition.

(3) UL 80, “Standard for Steel Tanks for Oil-Burner Fuels and Other Combustible Liquids,” September 2007 edition.

(4) UL 142, “Standard for Steel Aboveground Tanks for Flammable and Combustible Liquids,” January 1985 edition.

(5) UL 142, “Standard for Steel Aboveground Tanks for Flammable and Combustible Liquids,” December 2006 edition.

(6) UL 971, “Standard for Nonmetallic Underground Piping for Flammable Liquids,” February 2006 edition.

(7) UL 971A, “Metallic Underground Fuel Pipe,” October 2006 edition.

(8) UL 1316, “Standard for Glass-Fiber-Reinforced Plastic Underground Tanks for Petroleum Products,” July 1983 edition.

(9) UL 1316, “Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures,” January 1994 edition.

(10) UL 1746, “Standard for External Corrosion Protection Systems for Steel Underground Storage Tanks,” January 2007 edition.

(11) UL 2258, “Nonmetallic Tanks for Oil-Burner Fuels and Other Combustible Liquids,” August 2010 edition.

(i) Underwriters Laboratories of Canada (ULC), 7 Underwriters Road, Toronto, ON, Canada M1R 3A9

(1) CAN4-S601-M84, “Standard for Shop Fabricated Steel Aboveground Horizontal Tanks for Flammable and Combustible Liquids,” 1984.

(2) ULC-S601-07, “Standard for Shop Fabricated Steel Aboveground Tanks for Flammable and Combustible Liquids,” 2007.

(3) ULC-S603-M1981, “Standard for Steel Underground Tanks for Flammable and Combustible Liquids,” 1981.

(4) ULC-S603-00, “Standard for Steel Underground Tanks for Flammable and Combustible Liquids,” 2000.

(5) ULC-S603.1-M1982, “Standard for Galvanic Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids,” 1982.

(6) ULC-S603.1-11, “Standard for External Corrosion Protection Systems,” 2011.

(7) CAN4-S615-M83, “Standard for Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids,” 1983.

(8) ULC-S615-98, “Standard for Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids,” 1998.

(9) CAN4-S630-M84, “Standard for Shop Fabricated Steel Aboveground Vertical Tanks for Flammable and Combustible Liquids,” 1984.

(10) ULC-S660-08, “Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids,” 2008.

(11) UL. 2085 “Standard for Protected Aboveground Tanks for Flammable and Combustible Liquids,” 1997.

(j) New York State Uniform Fire Prevention and Building Code, 2010.

15-1.11 Severability. If any provision of this Article or its application to any person or circumstance is held to be invalid, the remainder of this Article and the application of that provision to other persons or circumstances will not be affected.

15-1.12 Enforcement. All violations of this Article shall be referred to, charged and adjudicated by the Department.

15-1.13 Scope of General Provisions. The General Provisions of this section shall apply to the entirety of this Article, except as otherwise stated.

Article 15-2 UST Systems Subject to Both Subtitle I and Title 10

15-2.1 UST systems: design, construction, and installation

(a) *Applicability*. The provisions of this Subarticle apply to every UST system that is part of a facility except for a UST system that is subject to Subarticle 3 of this Article. Every UST system covered by this Subarticle is subject to regulation pursuant to Subtitle I and Title 10.

(b) *Equipment standards for Category 2 and 3 UST systems*. In order to prevent releases due to structural failure, corrosion, or spills and overfills, any facility containing a Category 2 or 3 UST system must meet the following requirements.

(1) Tanks. Every UST must be properly designed and constructed, and any portion underground that routinely contains petroleum must be protected from corrosion, as specified in subparagraphs (iii) through (v) of this paragraph. In addition, all USTs must be secondarily contained in accordance with subparagraph (vi) of this paragraph:

(i) No underground tank(s) shall be installed beneath an existing or proposed structure.

(ii) Separation Distances for UST systems:

(*a*) There must be at least ten feet of horizontal separation between existing or proposed water lines and the tank system. This distance must be measured edge to edge. Petroleum pipes crossing water lines must be laid to provide a minimum vertical distance of 18 inches between the outside of the pipe and the outside of the water line regardless of whether the water line is located above or below the petroleum piping. At crossings, one full length of water line must be located so both joints will be as far from the petroleum piping as possible. Special structural support for the water line and petroleum piping may be required.

(*b*) A tank system must be at least 100 feet from any water supply well.

(*c*) Stormwater basins, drywells and sanitary leaching pools must be at least 20 feet from the nearest edge of any UST system.

(iii) Every UST made of fiberglass-reinforced plastic (FRP) must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*a*) For Category 2 USTs:

(*1*) UL 1316, July 1983; or

(*2*) CAN4-S615-M83, 1983.

(*b*) For Category 3 USTs:

(*1*) UL 1316, January 1994; or

(*2*) ULC-S615-98, 1998.

(iv) Every UST made of steel that is cathodically protected must meet the following conditions:

(*a*) The UST must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*1*) For Category 2 USTs:

(*i*) UL 58, April 1981; or

(*ii*) ULC-S603-M1981, 1981.

(*2*) For Category 3 USTs:

(*i*) UL 58, December 1996; or

(*ii*) ULC-S603-00, 2000.

(*b*) The UST must be cathodically protected in the following manner:

(*1*) The UST must be coated with a suitable dielectric material;

(*2*) The cathodic protection system must be designed, fabricated, and installed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*i*) For Category 2 USTs:

(*A*) API RP 1632, January 1983;

(*B*) ULC-S603.1-M1982, 1982; or

(*C*) sti-P3®, July 1983.

(*ii*) For Category 3 USTs:

(*A*) sti-P3®, September 2013;

(*B*) UL 1746, January 2007;

(*C*) ULC-S603.1-11, 2011; or

(*D*) NACE SP0285-2011, 2011.

(*3*) Every field-installed cathodic protection system must be designed by a corrosion expert; and

(*4*) Every impressed current system must be designed to allow determination of current operating status as required in section 2.2(b)(3) of this Article.

(v) Every UST made of steel that is clad or jacketed with a non-corrodible material must meet the following conditions:

(*a*) The UST must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*1*) For Category 2 USTs:

(*i*) UL 58, April 1981; or

(*ii*) ULC-S603-M1981, 1981.

(*2*) For Category 3 USTs:

(*i*) UL 58, December 1996; or

(*ii*) ULC-S603-00, 2000.

(*b*) The tank in a Category 2 UST system must be clad with a non-corrodible material according to the following:

(*1*) The UST must be electrically insulated from the piping with dielectric fittings, bushings, washers, sleeves, or gaskets which are compatible with petroleum, petroleum additives, and corrosive soils.

(*2*) The UST must have an exterior fiberglass reinforced plastic shell bonded firmly to the steel. This must consist of a base coat of resin five to eight mils (0.005 to 0.008 inch) in thickness overlain by two layers of resin with fiberglass reinforcement with a thickness of at least 85 mils (0.085 inch) after rolling. A final coat of resin must be applied to a thickness of 10 to 15 mils (0.01 to 0.015 inch). The thickness of the completed coating must be a minimum of 100 mils (0.1 inch) after curing. The coating’s coefficient of thermal expansion must be compatible with steel so that stress due to temperature changes will not be detrimental to the soundness of the coating and a permanent bond between coating and steel is maintained. The coating must

be of sufficient density and strength to form a hard impermeable shell which will not crack, wick, wear, soften, or separate and which must be capable of containing the product under normal service conditions in the event the steel wall is perforated. The coating must be non-corrodible under adverse underground electrolytic conditions and must be compatible with petroleum products and petroleum additives.

(*3*) The coating must be factory-inspected for air pockets, cracks, blisters, pinholes, and electrically tested at 10,000 volts for coating short circuits or coating faults. Any defects must be repaired. The coating must be factory checked with a Barcol Hardness Tester or equivalent to assure compliance with the manufacturer's minimum specified hardness standard for cured resin.

(*c*) The tank in a Category 3 UST system must be clad or jacketed with a non-corrodible material which is designed, fabricated, and installed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*1*) UL 1746, January 2007;

(*2*) STI F894, September 2013;

(*3*) STI F961, September 2013; or

(*4*) STI F922, January 2013.

(vi) Every UST must be secondarily contained according to the following:

(*a*) The secondarily contained UST must:

(*1*) be able to contain petroleum leaked from the primary containment until it is detected and removed; and

(*2*) be able to prevent the release of petroleum.

(*b*) (*1*) Prior to the date 31 years after the tank was installed, the tank in a Category 2 UST system must have a secondary containment system that consists of one of the systems listed in subclause (3) of this clause.

(*2*) By not later than the date 31 years after the tank was installed, the tank in a Category 2 UST system must have a secondary containment system which meets the requirements of item (*3*)(*i*) of this clause or be permanently closed pursuant to section 2.6(b) of this Article.

(*3*) (*i*) Double-walled USTs. A double-walled UST which is designed and manufactured in accordance with all of the following standards:

(*A*) the interstitial space of the double-walled UST can be monitored for tightness;

(*B*) outer jackets made of steel must have a minimum thickness of 10-gauge and be coated as prescribed in section 2.1(b)(1)(iv)(*b*)(*1*) or (v)(*b*)(*2*) of this Article;

(*C*) there are no penetrations of any kind through the jacket to the UST except top entry manholes and fittings required for filling the tank, venting the tank, or monitoring the interstitial space;

(*D*) the outer jacket must cover 100 percent of the UST; and

(*E*) the jacket must be designed to contain an inert gas or liquid at a pressure greater than the maximum internal pressure or be able to contain a vacuum for a period of one month.

(*ii*) Vaults. If a vault is used for secondary containment, the vault must be water tight, impervious to leakage of petroleum, and able to withstand chemical deterioration and structural stresses from internal and external causes. The vault must be a continuous structure with a chemical-resistant water stop used at any joint. There must be no drain connections or other entries through the vault except there may be top entry manholes and other top openings for filling and emptying the UST, venting and monitoring, and pumping of petroleum which may leak into the vault.

(*iii*) Cut-off walls. If a cut-off wall is used:

(*A*) The cut-off wall may be used only where groundwater levels are above the bottom of the UST excavation.

(*B*) A cut-off wall must consist of an impermeable barrier which has a

permeability rate to water equal to or less than 1×10-6 cm/sec. It must not deteriorate in an underground environment and in the presence of petroleum.

(*C*) A cut-off wall must extend around the perimeter of the excavation and to an elevation below the lowest groundwater level.

(*D*) If a synthetic membrane is used for a cut-off wall, any seams, punctures, or tears in the membrane must be repaired and made leak-tight prior to backfilling. No penetrations of the cut-off wall are allowed.

(*E*) Impervious native soil may serve as a cut-off wall when the impervious soil is continuous and is of sufficient depth, thickness, and extent to contain a leak. The soil must have a permeability rate to water equal to or less than 1×10-6 cm/sec.

(*iv*) Impervious underlayment.

(*A*) An impervious underlayment may be used only under a UST at sites where groundwater levels are below the bottom of the excavation and where soils are well drained. This underlayment must have a permeability rate to water equal to or less than 1×10-6 cm/sec and must not deteriorate in an underground environment and in the presence of petroleum. The underlayment may consist of impervious native soils, an impervious concrete pad, a synthetic membrane, or any equivalent material. If a synthetic membrane is used, any seams, punctures, or tears must be repaired prior to backfilling.

(*B*) The underlayment must extend at least one foot beyond the sides and ends of the UST and must have a slope of at least one-quarter inch per foot to a sump. An observation well must be positioned in the

sump and extend to the surface of the excavation for the purpose of sampling for leakage and pumping out water or product which may accumulate.

(*C*) Surface waters must be drained from the site using practices which may include capping the site with asphalt, concrete, or other impervious cover which is sloped to drainways leading away from the UST**.**

(*c*) The tank in a Category 3 UST system must be double-walled and must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*1*) UL 58, December 1996;

(*2*) UL 1316, January 1994;

(*3*) UL 1746, January 2007;

(*4*) STI F841, January 2006; or

(*5*) STI F922, January 2013.

(2) Piping.

(i) Piping installed on or before October 11, 2015 that routinely contains petroleum and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with clauses (*a*) and (*b*) of this subparagraph.

(*a*) Piping made of a non-corrodible material must meet the following conditions.

(*1*) The materials, joints, and joint adhesives must be compatible with petroleum, petroleum additives, and corrosive soils.

(*2*) All underground piping must be designed, constructed, and installed with access ports to permit tightness testing without the need for extensive excavation.

(*3*) All joints must be liquid and air tight.

(*4*) All underground piping must be tested for tightness before being covered, enclosed or placed in use.

(*b*) Piping made of steel that is cathodically protected must meet the following conditions.

(*1*) The cathodic protection system must provide a minimum of 30 years of protection in corrosive soils.

(*2*) Cathodic protection must be provided by the use of sacrificial anodes or impressed current.

(*3*) Where sacrificial anodes or impressed current systems are used, monitors to check on the adequacy of the system must be installed and kept in proper working condition. If at any time the monitor shows that the electrical current necessary to prevent corrosion is not being maintained, the system must be repaired or the piping will be considered unprotected and must be tested for tightness in accordance with section 2.3(d)(2) of this Article.

(*4*) Except where cathodic protection is provided by impressed current, underground piping must have dielectric bushings, washers, sleeves, or gaskets installed at the end to electrically isolate the piping from the UST and the dispenser. These dielectric connectors must be compatible with petroleum, petroleum additives, and corrosive soils.

(*5*) All underground piping must be designed, constructed, and installed with access ports to permit tightness testing without the need for extensive excavation.

(*6*) All joints must be liquid and air tight.

(*7*) All underground piping must be tested for tightness in accordance with section 2.3(d)(2) of this Article before being covered, enclosed, or placed in use.

(ii) Piping installed after October 11, 2015 that routinely contains petroleum and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice specified in clause (*a*) or (*b*) of this subparagraph. In addition, except for suction piping that meets the requirements of section 2.3(b)(2)(i)(*b*) of this Article, all piping installed after October 11, 2015 must be secondarily contained in accordance with clause (*c*) of this subparagraph. The entire piping run must be replaced when 50 percent or more of a piping run is replaced, unless the piping run has been constructed in accordance with the requirements of this subparagraph.

(*a*) All piping made of a non-corrodible material must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*1*) UL 971, February 2006; or

(*2*) ULC-S660-08, 2008.

(*b*) All piping made of steel that is cathodically protected must meet the following conditions:

(*1*) The piping is designed and constructed according to UL 971A, October 2006 (refer to section 1.10 of this Article for complete citation of references);

(*2*) The piping is coated with a suitable dielectric material;

(*3*) The cathodic protection system is designed, fabricated, and installed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*i*) API RP 1632, January 1996 (revised 2002);

(*ii*) STI R892, January 2006;

(*iii*) NACE SP0169-2013, 2013; or

(*iv*) NACE SP0285-2011, 2011.

(*4*) Any field-installed cathodic protection system is designed by a corrosion expert; and

(*5*) Any impressed current system is designed to allow determination of current operating status as required in section 2.2(b)(3) of this Article.

(*c*) All piping must be secondarily contained and meet the following conditions:

(*1*) be able to contain petroleum leaked from the primary containment until it is detected and removed;

(*2*) be able to prevent the release of petroleum; and

(*3*) be double-walled pipe with Underwriters Laboratories (UL) approval for the intended use.

(*d*) Access ports. All underground piping must be designed, constructed, and installed with access ports to permit tightness testing without the need for extensive excavation.

(3) Spill and overfill prevention equipment.

(i) Except as provided in subparagraph (iii) of this paragraph, to prevent spilling and overfilling associated with petroleum transfer to the UST system, the facility must use the following spill and overfill prevention equipment:

(*a*) Spill prevention equipment that will prevent release of petroleum when the transfer hose is detached from the fill pipe (for example, a spill catch basin); and

(*b*) Overfill prevention equipment that will:

(*1*) automatically shut off flow into the UST when the UST is no more than 95 percent full; and

(*2*) alert the operator or carrier when the UST is no more than 90 percent full by triggering a high level alarm.

(ii) Every tank must be equipped with both visual and audible alarms.

(*a*) High-level alarm components:

(*1*) The high-level alarm systems must consist of, but not be limited to, a petroleum level sensing unit and an alarm panel. The level sensing element may be any type (for example, mechanical float, optical, ultrasonic, capacitance, or conductance).

(*2*) The alarm panel must be equipped with both audible and visual warning devices. The audible element may be a horn or bell which can be heard by the person filling the tank. The visual element may be a steady burning or flashing light which can be seen in daylight by the person filling the tank. The alarm panel must be equipped with a reset button which will deactivate the audible alarm at high petroleum level indication, but the visual alarm must remain on until the petroleum level drops below the high-level. Subsequent high-level conditions must activate both the audible and visual alarms.

(*3*) The alarm panel must be equipped with a test button capable of monitoring the working condition of the audible and visual alarms.

(*4*) The alarm panel must be located where it will be seen and heard by the person filling the tank. For multiple tank configurations, one visual alarm must be furnished for each tank. One audible alarm for multiple tank system configurations is acceptable, but the audible alarm must be independently activated by each tank probe.

(*5*) The alarm system must be UL approved. Electrical enclosures mounted on the tank systems must be explosion proof where dictated by the tank contents. Outdoor electrical enclosures must be weatherproof. Power on/off switches on the level sensor or alarm panel or any other component of the level alarm system are not acceptable.

(*6*) All components must be hard wired; plug-in type cords are not acceptable. Upon high petroleum level the audible and visual alarms must activate. On pump-filled tanks or pressure fed tanks, the high-level alarm system must be interlocked with on-site pumps used to fill tanks. The high-level alarm system must shut down the pumps and activate the audible/visual alarms upon high-level. The pump starter and level alarm system must be interlocked such that the pump filling the tank cannot be restarted until the petroleum level drops below the high-level alarm condition.

(iii) A facility is not required to use the spill and overfill prevention equipment specified in subparagraphs (i) and (ii) of this paragraph if the UST system is filled manually at the tank by transfers of no more than 25 gallons at one time.

(4) Installation.

(i) Every Category 2 UST system must have been installed in accordance with the manufacturer's instructions. This includes repair of any damage to the UST coatings prior to backfilling.

(ii) Every Category 3 UST system must be installed by an individual holding a Certificate of Fitness and be properly installed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*a*) API RP 1615, April 2011;

(*b*) PEI RP100, 2011 edition;

(*c*) NFPA 30 and 30A, 2012 editions; or

(d) National Fire Protection Association (NFPA) No. 31, "Standard For The Installation of Oil Burning Equipment," 2016 edition.

(iii) A Permit to Construct must be obtained as per section 1.9(i)(1) of this Article prior to installation of a Category 3 UST system.

(iv) As-Built plans and the installer's certification. The facility must maintain at the facility the following information for the life of every Category 2 or 3 UST system:

(*a*) as built plans required under section 1.9(i)(3);

(*b*) for each UST system component installed after October 11, 2015, a signed statement by the installer certifying that the UST system component was installed in compliance with subparagraph (ii) of this paragraph; and

(*c*) for each UST system component installed after October 11, 2015, the completed manufacturer's installation checklist showing that the UST system component was installed in accordance with the manufacturer's instructions and that the UST system component installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation.

(v) Before first receiving petroleum:

(*a*) every Category 3 tank must be tested for tightness in accordance with sections 2.3(b)(1)(iv) and 2.3(c)(2); and

(*b*) piping installed after October 11, 2015 must be tested for tightness in accordance with section 2.3(d)(2).

(5) Dispenser systems. Each UST system must be equipped with under-dispenser containment for any new dispenser system that is installed.

(i) A dispenser system is considered new when both the dispenser and the equipment are new.

(ii) Under-dispenser containment must be liquid-tight on its sides, on the bottom, and at any penetrations. Under-dispenser containment must allow for visual inspection and access to the components in the containment system or be continuously electronically monitored for leaks from the dispenser system.

(6) Valves.

(i) Every dispenser of motor fuel under pressure from a remote pumping system must be equipped with a shear valve (impact valve) that is located in the supply line at the inlet of the dispenser. The valve must be designed to close automatically in the event that the dispenser is accidentally dislodged from the inlet pipe. For a valve installed on or before October 11, 2015, a valve meeting the standards set forth in NFPA 30A (1984 edition), section 4-3.6 meets the requirements of this subparagraph. For a valve installed after October 11, 2015, a valve meeting the standards set forth in NFPA 30A (2012 edition), section 6.3.9 meets the requirements of this subparagraph.

(ii) Every dispenser of motor fuel that causes a gravity head must be equipped with a device such as a solenoid valve that is positioned adjacent to and downstream from the operating valve. The valve must be installed and adjusted so that liquid cannot flow by gravity from the UST system in case of piping or dispenser hose failure. For a valve installed on or before October 11, 2015, a valve meeting the standards set forth in NFPA 30A (1984 edition), section 2-1.7 meets the requirements of this subparagraph. For a valve installed after October 11, 2015, a valve meeting the standards set forth in NFPA 30A (2012 edition), section 4.2.4 meets the requirements of this subparagraph.

(iii) Every fill pipe leading to a pump-filled UST must be equipped with a properly functioning check valve or equivalent device which provides automatic protection against backflow. A check valve is required only when the piping arrangement of the fill pipe is such that backflow from the receiving tank is possible.

(iv) Each connection on a gravity-drained UST through which petroleum can normally flow must be equipped with an operating valve to control the flow. For a valve installed on or before October 11, 2015, a valve which meets the standards set forth in NFPA 30 (1984 edition), section 2-2.7.1 meets the requirements of this subparagraph. For a valve installed after October 11, 2015, a valve meeting the standards set forth in NFPA 30 (2012 edition), section 22.13.1 meets the requirements of this subparagraph.

(c) *Category 1 UST systems*.

Every Category 1 UST system must be permanently closed pursuant to section 2.6 of this Article.

15-2.2 General operating requirements

(a) *Spill and overfill prevention*.

(1) Every facility must ensure that releases due to spilling or overfilling do not occur. One of the transfer procedures described in NFPA 385 (2012 edition) or API RP 1007 (March 2001 edition) must be used in order to comply with the requirement of this paragraph, unless those procedures are technically infeasible. In circumstances of technical infeasibility, the facility must develop and employ practices to ensure that releases due to spilling or overfilling do not occur.

(2) The facility must report, investigate, and clean up any spills and overfills in accordance with section 2.4 of this Article.

(3) Every Category 2 or 3 UST system must have a label at the fill port specifying tank registration identification number, tank design and working capacities, and type of petroleum that is able to be stored in the UST system.

(4) Every UST system fill port must be color coded in accordance with API RP 1637. If a UST system contains petroleum that does not have a corresponding API color code, the facility must otherwise mark the fill port (for example, with stenciled letters) to identify the petroleum currently in the UST system. For any fill port connected to multiple UST systems storing different types of petroleum, the facility may place the marking near the fill port (for example, with a label or placard) to identify the types of petroleum in the UST systems.

(5) All direct fill pipes for USTs must be located inside a sump riser connected to the tank.

(6) Where there are monitoring wells located at the facility, every monitoring well must be clearly identified as a monitoring well to prevent accidental delivery of petroleum to the well and must be sealed or capped so as to prevent liquid from entering the well from the surface.

(7) The facility must inspect tank systems weekly and keep all gauges, valves, pumps, electronic monitoring systems, high level alarm systems, and spill prevention equipment in good working order, and maintain a log book (hard copy or electronic format) on site documenting the inspections.

(8) Delivery of petroleum to a UST system.

(i) Immediately prior to a delivery, the carrier must determine that the UST has available working capacity to receive the volume of petroleum to be delivered. Every aspect of the delivery must be monitored and immediate action must be taken to stop the flow of petroleum when the working capacity of the UST has been reached or should an equipment failure or emergency occur.

(ii) Immediately prior to a delivery, the carrier must inspect fill port catch basins to ensure that they are empty. If a catch basin contains water, petroleum, or debris, the carrier must ensure that it is emptied before a delivery is made.

(b) *Operation and maintenance of corrosion protection*. Every facility having a metal UST system with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented until the UST system is permanently closed or undergoes a change in service pursuant to section 2.6(b) of this Article:

(1) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the UST and piping that routinely contains petroleum and is in contact with the ground.

(2) All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(i) Frequency. All cathodic protection systems must be tested within six months of installation and at yearly intervals thereafter; and

(ii) Inspection criteria. One of the following codes of practice (refer to section 1.10 of this Article for complete citation of references) must be used to determine that cathodic protection is adequate:

(*a*) NACE TM0101-2012, 2012 edition;

(*b*) NACE TM0497-2012, 2012 edition;

(*c*) STI R051, January 2006;

(*d*) NACE SP0285-2011, 2011 edition; or

(*e*) NACE SP0169-2013, 2013 edition.

(3) UST systems with impressed current cathodic protection systems must be inspected every 60 days to ensure the equipment is operating properly.

(4) For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained to demonstrate compliance with the requirements of this section. The records generated to meet the provisions of paragraphs (2) and (3) of this subdivision must be kept for three years.

(c) *Compatibility*. Every facility must use a UST system made of or lined with materials that are compatible with the petroleum stored in the UST system.

(d) *Repairs allowed*. Every facility must ensure that repairs will prevent releases due to structural failure or corrosion. The repairs must meet the following requirements:

(1) Any repair to a UST system must be properly conducted according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(i) NFPA 30, 2012 edition;

(ii) API RP 2200, September 2010;

(iii) API RP 1631, June 2001;

(iv) NFPA 326, 2010 edition;

(v) STI R972, December 2010;

(vi) NACE SP0285-2011, 2011 edition; or

(vii) FTPI RP T-95-02, January 1995.

(2) Every metal pipe section or fitting from which petroleum has been released as a result of corrosion or other damage must be replaced. Non-corrodible pipes and fittings must be repaired in accordance with the manufacturer's specifications.

(3) Repaired USTs and piping must be tightness tested in accordance with sections 2.3(c)(2) and (d)(2) of this Article, respectively, within 30 days following the date of the completion of the repair.

(4) Within six months following the repair of any UST system that is cathodically protected, the cathodic protection system must be inspected in accordance with sections 2.2(b)(2) and (3) of this Article to ensure that it is operating properly.

(5) Every facility must maintain records of each repair until the UST system is permanently closed or undergoes a change in service pursuant to section 2.6(b) of this Article.

(e) *Tank systems in locations subject to flooding*. For Category 2 UST systems located in an area where the UST may become buoyant because of a rise in the water table, flooding, or accumulation of water, the facility must maintain safeguards in accordance with section 2-5.6 of NFPA 30 (1984 edition). If such safeguards include ballasting of a UST with water during flood warning periods, tank system valves and other openings must be closed and secured in a locked position in advance of the flood. Ballast water removed from the UST after the flood must not be discharged to the waters of the State unless the discharge is in conformance with the standards of 6 NYCRR Parts 701, 702, 703, and 750, as applicable.

(f) *Functionality test*.

(1) At two year intervals the facility must conduct a functionality test of the leak detection equipment including all electronic tank and sump sensors and the high level alarm equipment, including all sensors and the in-tank gauging system, to assess proper operation of the equipment.

(2) Only those contractors approved and licensed as tank installers by the Department with a Certificate of Fitness are authorized to conduct functionality tests.

(3) The facility must provide the Department with a minimum of five business days' notice prior to the test.

(4) The facility must submit test results in writing to the Department no later than ten business days after the date of the test.

(5) The facility must pay a fee to the Department for each functionality test.

(6) Functionality test failure. In the event that the equipment fails a functionality test, the facility owner, operator, or test administrator must notify the Department via telephone immediately and in writing no later than five days after the test date. If the equipment fails a functionality test, the tank system owner or operator must immediately repair or replace and retest the equipment within 48 hours or the tank system must be placed out-of-service. The approval of the Department is required prior to placing the tank system back into service.

15-2.3 Leak detection

(a) *Leak detection requirements for all UST systems*.

(1) Every facility must provide a method, or combination of methods, of leak detection that:

(i) can detect a leak from any portion of the UST and the piping that routinely contains petroleum;

(ii) is installed and calibrated in accordance with the manufacturer's instructions; and

(iii) meets the requirements of subdivisions (c) and (d) of this section, as applicable. In addition, the methods listed in sections 2.3(c)(2), (c)(3), (c)(4), (d)(1), and (d)(2) of this Article must 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 of 95 percent and a probability of false alarm of five percent.

(2) When a leak detection method operated in accordance with the requirements of subdivisions (c) and (d) of this section indicates that a leak may have occurred, the facility must notify the Department and report the suspected leak in accordance with the Environmental Conservation Law, the Navigation Law, and 6 NYCRR section 613-2.4(a) as implemented by NYSDEC.

(3) Additional testing and inspection. When a leak is suspected, or where inspections or tests required by this Article have not been performed, or where accurate inventory monitoring records are not kept and reconciled as required

under section 2.3(c)(1) of this Article, the Department may order the facility to inspect and to test the UST system or equipment for tightness. If the facility fails to conduct such inspections and tests within 10 days after receipt of the Department's order, the Department may conduct inspections or tests for tightness. The expenses of conducting such tests as ordered by the Department must be paid by the tank system owner.

(4) A facility that cannot or does not implement a method of leak detection that complies with the requirements of this section must take the UST system out of service pursuant to section 2.6(a) of this Article.

(b) *Specific requirements for Category 2 and 3 UST systems*.

(1) Tanks. USTs must be monitored for leaks as follows:

(i) Every Category 2 single-walled UST must be tightness tested at one year intervals following the date of installation.

(ii) Every tank must be monitored for leaks at weekly intervals in accordance with section 2.3(c)(3) of this Article. Continuous electronic monitoring satisfies the weekly monitoring requirement. Additionally, any UST system which stores any amount of motor fuel or kerosene that will be sold as part of a commercial transaction must meet the ten-day inventory monitoring requirements in section 2.3(c)(1) of this Article.

(iii) All electronic tank monitoring systems must be inspected for operability at weekly intervals with a log book (hard copy or electronic format) kept on-site documenting the inspections.

(iv) Notification of Tightness Test/Tank Test Fees. The facility shall notify the Department at least five business days before any tightness test. The facility must pay a fee to the Department for each tightness test.

(2) Piping. Piping that routinely contains petroleum must be monitored for leaks as follows:

(i) Piping installed on or before October 11, 2015 must meet one of the following requirements:

(*a*) Pressurized piping. Piping that conveys petroleum under pressure must:

(*1*) be equipped with an automatic line leak detector that is operated in accordance with section 2.3(d)(1) of this Article; and

(*2*) have an annual line tightness test conducted in accordance with section 2.3(d)(2) of this Article or have monitoring conducted at weekly intervals in accordance

with section 2.3(d)(3) of this Article. Continuous electronic monitoring satisfies the weekly monitoring requirement.

(*b*) Suction piping. Piping that conveys petroleum under suction must either have a line tightness test conducted at least every three years and in accordance with section 2.3(d)(2) of this Article, or use a monitoring method conducted at weekly intervals in accordance with section 2.3(d)(3) of this Article. Continuous electronic monitoring satisfies the weekly monitoring requirement.

(ii) Piping installed after October 11, 2015 must meet one of the following requirements:

(*a*) Pressurized piping. Piping that conveys petroleum under pressure must be monitored for leaks at weekly intervals in accordance with section 2.3(c)(3) of this Article and be equipped with an automatic line leak detector in accordance with section 2.3(d)(1) of this Article. Continuous electronic monitoring satisfies the weekly monitoring requirement.

(*b*) Suction piping. Piping that conveys petroleum under suction must be monitored for leaks at weekly intervals in accordance with section 2.3(c)(3) of this Article. Continuous electronic monitoring satisfies the weekly monitoring requirement.

(iii) All electronic piping monitoring systems must be inspected for operability at weekly intervals with a log book (hard copy or electronic format) kept on-site documenting the inspections.

(c) *Methods of leak detection for tanks*. Each method of leak detection for USTs used to meet the requirements of section 2.3(b)(1) of this Article must be conducted in accordance with the following:

(1) Inventory monitoring. Inventory monitoring must be conducted in the following manner:

(i) Volume measurements for petroleum delivered, dispensed, and the amount still remaining in the UST (or each interconnected set of USTs), must be recorded each operating day;

(ii) The equipment used must be capable of measuring the level of petroleum over the full range of the tank's height to the nearest one-eighth of an inch;

(iii) The petroleum delivered must be reconciled with delivery receipts by measurement of the volume before and after delivery;

(iv) Deliveries must be made through a drop tube that extends to within one foot of the tank bottom;

(v) Petroleum dispensing must be metered and recorded within an accuracy of six cubic inches for every five gallons of petroleum withdrawn;

(vi) The measurement of any water level in the bottom of the UST must be made to the nearest one-eighth of an inch and recorded each operating day; and

(vii) On a daily basis, the facility must calculate the difference between the expected and actual amount of petroleum in the UST. At ten-day intervals, the facility must calculate the sum of the daily differences and compare it to the thresholds in clauses (*a*) and (*b*) of this subparagraph to determine if a leak is suspected. A leak is suspected when:

(*a*) The UST has a recurring accumulation of water within the ten-day period; or

(*b*) The sum of the daily differences over the ten-day interval exceeds the largest of three-quarters of one percent (0.0075) of:

(*1*) tank design capacity,

(*2*) total amount of petroleum delivered to the UST system, or

(*3*) total amount of petroleum dispensed from the UST system.

(2) Tank tightness testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a leak at the rate of 0.1 gallons per hour from any portion of the UST that routinely contains petroleum 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.

(3) Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used if the system is designed, constructed and installed to detect a leak from any portion of the UST that routinely contains petroleum; and if the system meets one of the requirements set forth in subparagraphs (i) through (iii) of this paragraph.

(i) For a double-walled UST system, the interstitial space must be monitored by continuous, electronic monitoring.

(ii) For a UST system with a secondary barrier within the excavation zone, the sampling or testing method used can detect a leak between the UST system and the secondary barrier, and the following conditions are met:

(*a*) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at least 1×10-6 cm/sec for the petroleum stored) to direct a leak to the monitoring point and permit its detection;

(*b*) The barrier is compatible with the petroleum stored so that a leak from the UST system will not cause a deterioration of the barrier allowing a leak to pass through undetected;

(*c*) For a cathodically protected tank, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

(*d*) The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a leak could go undetected for more than seven days;

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

(*f*) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

(iii) For a UST system using continuous vacuum, pressure, or liquid-filled methods of interstitial monitoring, the method must be capable of detecting a breach in both the inner and outer walls of the tank and/or piping.

(4) Other methods.

(i) Any other type of leak detection method, or combination of methods, can be used if it can detect a leak at the rate of 0.2 gallons per hour or a leak of 150 gallons within a month with a probability of detection of 95 percent and a probability of false alarm of five percent.

(ii) The Department may approve another method if the facility can demonstrate that the method can detect a leak as effectively as the method allowed in paragraph (3) of this subdivision.

(d) *Methods of leak detection for piping*. Each method of leak detection for piping used to meet the requirements of section 2.3(b)(2) of this Article must be conducted in accordance with the following:

(1) Automatic line leak detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of petroleum through piping or triggering an audible or visual alarm may be used only if they detect leaks of three gallons per hour at ten pounds per square inch line pressure within one hour. The facility must conduct a test of the operation of the leak detector at yearly intervals.

(2) Line tightness testing. A periodic test of piping may be conducted only if it can detect a leak at the rate of 0.1 gallons per hour at one and one-half times the operating pressure.

(3) Alternative leak detection method. The method in section 2.3(c)(3) of this Article may be used if it is designed to detect a leak from any portion of the piping that routinely contains petroleum.

(e) *Leak detection recordkeeping*. All facilities must maintain records demonstrating compliance with all applicable requirements of this section. These records must meet the following requirements:

(1) the results or records of any sampling, testing, or monitoring must be maintained for at least three years;

(2) the results of tank and line tightness testing must be retained until the next test is conducted;

(3) a copy of the results of tank and line tightness testing must be submitted to the Department within 30 days after performance of the test(s); and

(4) written documentation of all calibration, maintenance, and repair of leak detection equipment permanently located on-site must be maintained for at least three years after the servicing work is completed. Any schedules of required calibration and maintenance provided by the leak detection equipment manufacturer must be retained for three years from the date of installation.

15-2.4 Reporting, investigation and confirmation

Any facility or entity with a contractual relationship to the facility that has knowledge of a spill must report it to the Department and to the NYSDEC's Spill Hotline (518-457-7362) within two hours after discovery.

A facility must act in accordance with the provisions of the Environmental Conservation Law, the Navigation Law, and 6 NYCRR section 613-2.4 as implemented by the NYSDEC with respect to any suspected or known spill. The citations to 6 NYCRR sections 613-2.3(c)(1) and (8), and 613-2.3(a) and (b) found in 6 NYCRR section 613-2.4(a)(1)(iii), must be read as citations to sections 2.3(c)(1), and 2.3(a) and (b) of this Article, respectively.

A release or spill of petroleum which meets all of the following conditions is not required to be reported:

(a) It is known to be less than five gallons in total volume;

(b) It is contained and under the control of the spiller;

(c) It has not reached and will not reach the land or waters of the State; and,

(d) It is cleaned up within two hours after discovery.

15-2.5 Operator training

Every facility that is subject to Subarticle 15-2 must comply with the operator training requirements of 6 NYCRR section 613-2.5.

(a) *General requirements for all UST systems*. Not later than October 11, 2016, every facility must ensure that it has designated Class A, Class B, and Class C Operators who meet the requirements of this section.

(b) *Designation of operators*. Every facility must designate:

(1) one Class A and one Class B Operator for each UST system or group of UST systems (the same individual may be designated as both); and

(2) one or more Class C Operators for each UST system or group of UST systems.

(c) *Documentation*. Every facility must maintain a list of designated Class A, Class B, and Class C Operators and maintain records (paper or electronic) verifying that training and testing, as applicable, have been successfully completed, as follows:

(1) The list must:

(i) identify all Class A, Class B, and Class C Operators at the facility; and

(ii) include the name of the operator, the class of the operator, the date that the operator was designated, the date that the operator initially completed testing or training, and the date of any retesting.

(2) The records verifying successful completion of training and testing for Class A, Class B, and Class C Operators must, at a minimum, identify the name of the operator and the date tested, as well as passing results. Owners and operators must maintain these records for as long as Class A, Class B, and Class C Operators are designated plus an additional three years. Records of the exam or training must also, at a minimum, be signed by the examiner or trainer and list the printed name of the examiner or trainer and the name, address, and phone number of the employer of the examiner or trainer. Records of testing for Class A or Class B Operators must include those areas in which the Class A or Class B Operator has been tested.

15-2.6 Out-of-service UST systems and closure

(a) *Out-of-service UST systems*.

(1) General Provisions

(i) When a UST system is out-of-service, the facility must continue operation and maintenance of corrosion protection in accordance with section 2.2(b) of this Article, and any leak detection in accordance with sections 2.3(a) and (b) of this Article. The facility must comply with the requirements of the Environmental Conservation Law, the Navigation Law, and 6 NYCRR Subpart 613-6 as implemented by the NYSDEC if a release is confirmed.

(ii) Leak detection required under sections 2.3(a) and (b) of this Article is not required as long as the UST system is empty. (The UST system is considered empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue remain in the system.) However, leak detection required under sections 2.3(a) and (b) of this Article must resume upon resumption of delivery of petroleum into the UST system.

(2) When a UST system is out-of-service for a period of three to twelve months, the facility must also comply with the following requirements:

(i) Leave vent lines open and functioning;

(ii) Cap and secure all other piping, ancillary equipment, and manways; and

(iii) Submit to the Department notification of the change in service of tank systems using forms or electronic means as provided by the Department. Forms are available on the Department website and at the Department office.

(3) When a UST system is out-of-service for more than 12 months, the facility must permanently close the UST system in accordance with subdivisions (b) through (f) of this section.

(b) *Permanent closure and changes in service*.

(1) The required assessment of the excavation zone under subdivision (c) of this section must be performed after notifying the Department but before completion of the permanent closure or a change in service. The resultant report must be submitted to the Department within 90 days after permanent closure. Within 30 days after permanent closure or a change in service, a facility must submit a registration application to the Department, in accordance with section 1.9(f) of

this Article, indicating that the UST system has been permanently closed or that a change in service has occurred.

(2) To permanently close a UST system:

(i) The facility must notify the Department at least five days prior to the permanent closure of a UST system in order to allow the Department to conduct an inspection.

(ii) The facility must empty and clean the tank system by removing all liquids, accumulated sludge and rendering the tank vapor-free. Every tank that is part of a UST system that is permanently closed must also be either removed from the ground or filled with an inert solid material (such as sand or concrete slurry).

If an inert solid material is used, all voids within the UST must be filled. All connecting and fill lines must be disconnected and removed or securely capped or plugged. Manways must be securely fastened in place. All monitoring and ancillary equipment must be removed.

(iii) The facility must ensure that all scheduled deliveries to the UST system are terminated.

(3) Use of a UST system to store a substance other than petroleum is considered a change in service. Before a change in service, the facility must empty and clean the UST by removing all liquid and accumulated sludge and conduct a site assessment in accordance with subdivision (c) of this section.

(4) One of the following codes of practice (refer to section 1.10 of this Article for complete citation of references) must be adhered to in order to comply with this subdivision:

(i) API RP 1604, March 1996;

(ii) API RP 2016, August 2001;

(iii) API RP 1631, June 2001; or

(iv) NFPA 326, 2010 edition.

(c) *Assessing the site at closure or change in service*.

(1) Before permanent closure or a change in service is initiated, the facility must submit a site assessment plan to the Department for review and approval. The facility must identify methods used to measure for the presence of a release where contamination is most likely to be present at the UST system location. In selecting sample types, sample locations, and measurement methods, the facility must consider the method of closure, the petroleum stored, the type of backfill, the

depth to groundwater, and other factors appropriate for identifying the presence of a release.

(2) The facility must notify the Department at least five days prior to the implementation of the approved site assessment plan. The facility must keep any excavation open for inspection by the Department. The facility may not backfill the excavation until the facility receives permission from the Department. When authorized by the Department, and after prior written request from the facility, certification by a Professional Engineer licensed in the State of New York as to the condition of the tank and the excavation will be accepted. If a reportable spill is identified, it must be reported to the DEC Spill Hotline at (518) 457-7362.

(3) If contaminated soils, contaminated groundwater, or petroleum as a liquid or vapor is discovered, the facility must begin corrective action in accordance with the Environmental Conservation Law, the Navigation Law, and 6 NYCRR Subpart 613-6 as implemented by the NYSDEC.

(d) *Disposal of closed tanks*

(1) Any UST removed from the ground must be visually inspected and all holes or rust penetrations noted. The tank must remain at the site until the Department approves of its transport to an off-site location. When authorized by the Department and after prior written request, certification by a Professional Engineer licensed in the State of New York as to the condition of the tank will be accepted.

(2) Prior to removal from the site, the facility must render the tank vapor free and puncture it with holes in order to make the tank unfit for re-use.

(e) For any UST system that has been out-of-service since December 27, 1986 and was not properly permanently closed pursuant to Department regulations governing UST system closure, the facility owner must assess the excavation zone and permanently close the UST system in accordance with this section.

(f) *Records for permanent closure or change in service*. The facility must maintain for three years records that are capable of demonstrating compliance with closure requirements under this Subarticle. In addition, the facility must transmit a copy of the records to the Department within 30 days after permanent closure or change in service.

Article 15-3 UST Systems Subject Only to Title 10

15-3.1 UST systems: design, construction, and installation

(a) *Applicability*. The provisions of this Subarticle apply to every UST system that is part of a facility, where the UST system:

(1) contains heating oil used for on-premises consumption;

(2) has a storage capacity of 1,100 gallons or less and is used to store motor fuel for non-commercial purposes (not for resale) at a farm or residence;

(3) is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR Part 50; or

(4) consists of a field-constructed tank.

(b) *Equipment standards for Category 2 and 3 UST systems*. In order to prevent releases due to structural failure, corrosion, or spills and overfills, any facility containing a Category 2 or 3 UST system must meet the following requirements.

(1) Tanks. Each UST must be properly designed and constructed, and any portion underground that routinely contains petroleum must be protected from corrosion, as specified in subparagraphs (iii) through (v) of this paragraph. In addition, all USTs must be secondarily contained in accordance with subparagraph (vi) of this paragraph:

(i) No underground tank may be installed beneath an existing or proposed structure.

(ii) Separation Distances for UST systems:

(*a*) There must be at least ten feet of horizontal separation between existing or proposed water lines and the tank system. This distance must be measured edge to edge. Petroleum pipes crossing water lines must be laid to provide a minimum vertical distance of 18 inches between the outside of the pipe and the outside of the water line regardless of whether the water line is located above or below the petroleum piping. At crossings, one full length of water line must be located so both joints will be as far from the petroleum piping as possible. Special structural support for the water line and petroleum piping may be required.

(*b*) A tank system must be at least 100 feet from any water supply well.

(*c*) Stormwater basins, drywells and sanitary leaching pools must be at least 20 feet from the nearest edge of any UST system.

(iii) Every UST made of fiberglass-reinforced plastic (FRP) must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*a*) For Category 2 USTs:

(*1*) UL 1316, July 1983; or

(*2*) CAN4-S615-M83, 1983.

(*b*) For Category 3 USTs:

(*1*) UL 1316, January 1994; or

(*2*) ULC-S615-98, 1998.

(iv) Every UST made of steel that is cathodically protected must meet the following conditions:

(*a*) The UST must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*1*) For Category 2 USTs:

(*i*) UL 58, April 1981; or

(*ii*) ULC-S603-M1981, 1981.

(*2*) For Category 3 USTs:

(*i*) UL 58, December 1996; or

(*ii*) ULC-S603-00, 2000.

(*b*) The UST must be cathodically protected in the following manner:

(*1*) The UST must be coated with a suitable dielectric material;

(*2*) The cathodic protection system must be designed, fabricated, and installed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*i*) For Category 2 USTs:

(*A*) API RP 1632, January 1983;

(*B*) ULC-S603.1-M1982, 1982; or

(*C*) sti-P3®, July 1983.

(*ii*) For Category 3 USTs:

(*A*) sti-P3®, September 2013;

(*B*) UL 1746, January 2007;

(*C*) ULC-S603.1-11, 2011;

(*D*) NACE SP0285-2011, 2011.

(*3*) Every field-installed cathodic protection system must be designed by a corrosion expert; and

(*4*) Every impressed current system must be designed to allow determination of current operating status as required in section 3.2(b)(3) of this Article.

(v) Every UST made of steel that is clad or jacketed with a non-corrodible material must meet the following conditions:

(*a*) The UST must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*1*) For Category 2 USTs:

(*i*) UL 58, April 1981; or

(*ii*) ULC-S603-M1981, 1981.

(*2*) For Category 3 USTs:

(*i*) UL 58, December 1996; or

(*ii*) ULC-S603-00, 2000.

(*b*) The tank in a Category 2 UST system must be clad with a non-corrodible material in accordance with the following requirements:

(*1*) The UST must be electrically insulated from the piping with dielectric fittings, bushings, washers, sleeves or gaskets which are compatible with petroleum, petroleum additives, and corrosive soils.

(*2*) The UST must have an exterior fiberglass reinforced plastic shell bonded firmly to the steel. This must consist of a base coat of resin five to eight mils (0.005 to 0.008 inch) in thickness overlain by two layers of resin with fiberglass reinforcement with a thickness of at least 85 mils (0.085

inch) after rolling. A final coat of resin must be applied to a thickness of 10 to 15 mils (0.01 to 0.015 inch). The thickness of the completed coating must be a minimum of 100 mils (0.1 inch) after curing. The coating's coefficient of thermal expansion must be compatible with steel so that stress due to temperature changes will not be detrimental to the soundness of the coating and a permanent bond between coating and steel is maintained. The coating must be of sufficient density and strength to form a hard impermeable shell which will not crack, wick, wear, soften, or separate and which must be capable of containing the product under normal service conditions in the event the steel wall is perforated. The coating must be non-corrodible under adverse underground electrolytic conditions and must be compatible with petroleum products and petroleum additives.

(*3*) The coating must be factory-inspected for air pockets, cracks, blisters, pinholes, and electrically tested at 10,000 volts for coating short circuits or coating faults. Any defects must be repaired. The coating must be factory checked with a Barcol Hardness Tester or equivalent to assure compliance with the manufacturer's minimum specified hardness standard for cured resin.

(*c*) The tank in a Category 3 UST system must be clad or jacketed with a non-corrodible material which is designed, fabricated, and installed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*1*) UL 1746, January 2007;

(*2*) STI F894, September 2013;

(*3*) STI F961, September 2013; or

(*4*) STI F922, January 2013.

(vi) Every UST must be secondarily contained according to the following:

(*a*) The secondarily contained UST must:

(*1*) be able to contain petroleum leaked from the primary containment until it is detected and removed; and

(*2*) be able to prevent the release of petroleum.

(*b*) The tank in a Category 2 UST system must have a secondary containment system which must consist of one of the following:

(*1*) Double-walled USTs. A double-walled UST which is designed and manufactured in accordance with all of the following standards:

(*i*) the interstitial space of the double-walled UST can be monitored for tightness;

(*ii*) outer jackets made of steel must have a minimum thickness of 10-gauge and must be coated as prescribed in section 3.1(b)(1)(iv)(*b*)(*1*) or (iv)(*b*)(*2*) of this Article;

(*iii*) there are no penetrations of any kind through the jacket to the UST except top entry manholes and fittings required for filling the tank, venting the tank, or monitoring the interstitial space;

(*iv*) the outer jacket must cover 100 percent of the UST; and

(*v*) the jacket must be designed to contain an inert gas or liquid at a pressure greater than the maximum internal pressure or be able to contain a vacuum for a period of one month.

(*2*) Vaults. If a vault is used for secondary containment, the vault must be water tight, impervious to leakage of petroleum and able to withstand chemical deterioration and structural stresses from internal and external causes. The vault must be a continuous structure with a chemical-resistant water stop used at any joint. There must be no drain connections or other entries through the vault except there may be top entry manholes and other top openings for filling and emptying the UST, for venting, and for monitoring and pumping of petroleum which may leak into the vault.

(*3*) Cut-off walls. If a cut-off wall is used:

(*i*) The cut-off wall may be used only where groundwater levels are above the bottom of the UST excavation.

(*ii*) A cut-off wall must consist of an impermeable barrier which has a permeability rate to water equal

to or less than 1×10-6 cm/sec. It must not deteriorate in an underground environment and in the presence of petroleum.

(*iii*) A cut-off wall must extend around the perimeter of the excavation and to an elevation below the lowest groundwater level.

(*iv*) If a synthetic membrane is used for a cut-off wall, any seams, punctures or tears in the membrane must be repaired and made leak tight prior to backfilling. No penetrations of the cut-off wall are allowed.

(*v*) Impervious native soil may serve as a cut-off wall when the impervious soil is continuous and is of sufficient depth, thickness, and extent to contain a leak. The soil must have a permeability rate to water equal to or less than 1×10-6 cm/sec.

(*c*) The tank in a Category 3 UST system must be double-walled and must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*1*) UL 58, December 1996;

(*2*) UL 1316, January 1994;

(*3*) UL 1746, January 2007;

(*4*) STI F841, January 2006; or

(*5*) STI F922, January 2013.

(2) Piping. Piping that routinely contains petroleum and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with subparagraphs (i) or (ii) of this paragraph. In addition, such piping installed after October 11, 2015 must be secondarily contained in accordance with subparagraph (iii) of this paragraph.

(i) Piping made of a non-corrodible material must meet the following conditions.

(*a*) The materials, joints, and joint adhesives must be compatible with petroleum, petroleum additives, and corrosive soils.

(*b*) All underground piping must be designed, constructed, and installed with access ports to permit tightness testing without the need for extensive excavation.

(*c*) All joints must be liquid and air tight.

(*d*) All underground piping must be tested for tightness before being covered, enclosed or placed in use.

(*e*) All piping that is installed after October 11, 2015 must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*1*) UL 971, February 2006; or

(*2*) ULC-S660-08, 2008.

(ii) Piping made of steel that is cathodically protected must meet the following conditions.

(*a*) The cathodic protection system must provide a minimum of 30 years of protection in corrosive soils.

(*b*) Cathodic protection must be provided by the use of sacrificial anodes or impressed current.

(*c*) Where sacrificial anodes or impressed current systems are used, monitors to check on the adequacy of the system must be installed and kept in proper working condition. If at any time the monitor shows that the electrical current necessary to prevent corrosion is not being maintained, the system must be repaired or the piping will be considered unprotected and must be tested for tightness in accordance with section 2.3(d)(2) of this Article.

(*d*) Except where cathodic protection is provided by impressed current, underground piping must have dielectric bushings, washers, sleeves, or gaskets installed at the end to electrically isolate the piping from the UST and the dispenser. These dielectric connectors must be compatible with petroleum, petroleum additives, and corrosive soils.

(*e*) All underground piping must be designed, constructed, and installed with access ports to permit tightness testing without the need for extensive excavation.

(*f*) All joints must be liquid and air tight.

(*g*) All underground piping must be tested for tightness in accordance with section 2.3(d)(2) of this Article before being covered, enclosed, or placed in use.

(*h*) All piping that is installed after October 11, 2015 must meet the following conditions:

(*1*) The piping is designed and constructed according to UL 971A, October 2006 (refer to section 1.10 of this Article for complete citation of references);

(*2*) The piping is coated with a suitable dielectric material;

(*3*) The cathodic protection system is designed, fabricated, and installed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*i*) API RP 1632, January 1996 (revised 2002);

(*ii*) STI R892, January 2006;

(*iii*) NACE SP0169-2013, 2013; or

(i*v*) NACE SP0285-2011, 2011.

(*4*) Any field-installed cathodic protection system is designed by a corrosion expert; and

(*5*) Any impressed current system is designed to allow determination of current operating status as required in section 3.2(b)(2) of this Article.

(iii) All piping installed after October 11, 2015 must be secondarily contained and meet the following conditions:

(a) be able to contain petroleum leaked from the primary containment until it is detected and removed;

(b) be able to prevent the release of petroleum; and

(c) be double-walled pipe with Underwriters Laboratories (UL) approval for the intended use.

(3) Overfill prevention equipment.

(i) Overfill prevention equipment must be used that will alert the operator or carrier when the UST is no more than 90 percent full by triggering a high-level alarm.

(ii) A facility is not required to use the overfill prevention equipment specified in subparagraphs (i) and (iii) of this paragraph if the UST system is manually filled at the tank by transfers of no more than 25 gallons at one time.

(iii) Every tank must be equipped with both visual and audible high-level alarms.

(a) High-level alarm components:

(*1*) The high-level alarm systems must consist of, but not be limited to, a petroleum level sensing unit and an alarm panel. The level sensing element may be any type (for example, mechanical float, optical, ultrasonic, capacitance, or conductance).

(*2*) The alarm panel must be equipped with both audible and visual warning devices. The audible element may be a horn or bell which can be heard by the person filling the tank. The visual element may be a steady burning or flashing light which can be seen in daylight by the person filling the tank. The alarm panel must be equipped with a reset button which will deactivate the audible alarm at high petroleum level indication, but the visual alarm must remain on until the petroleum level drops below the high-level. Subsequent high-level conditions must activate both the audible and visual alarms.

(*3*) The alarm panel must be equipped with a test button capable of monitoring the working condition of the audible and visual alarms.

(*4*) The alarm panel must be located where it will be seen and heard by the person filling the tank. For multiple tank configurations, one visual alarm must be furnished for each tank. One audible alarm for multiple tank system configurations is acceptable, but the audible alarm must be independently activated by each tank probe.

(*5*) The alarm system must be UL approved. Electrical enclosures mounted on the tank systems must be explosion proof where dictated by the tank system contents. Outdoor electrical enclosures must be weatherproof. Power on/off switches on the level sensor or alarm panel or any other component of the level alarm system are not acceptable.

(*6*) All components must be hard wired; plug-in type cords are not acceptable. Upon high petroleum level the audible and visual alarms must activate. On pump-filled tank or pressure fed tanks, the high-level alarm system must be interlocked with on-site pumps used to fill tanks. The high-level alarm system must shut down the pumps and activate the audible/visual alarms upon high-level. The pump starter and level alarm system must be interlocked such that the pump filling the tank cannot be restarted until the petroleum level drops below the high-level alarm condition.

(*b*) High-level alarm exemption:

When approved by the Department, a heating oil tank with a design capacity of no more than 550 gallons may use a whistle vent alarm in lieu of an audible visible high-level alarm provided that the vent pipe terminates adjacent to the fill pipe and higher than the fill pipe opening.

(4) Installation.

(i) Every Category 2 or 3 UST system must be installed in accordance with:

(*a*) National Fire Protection Association (NFPA) No. 31, "Standard For The Installation Of Oil Burning Equipment," 2016 edition; and

(*b*) the manufacturer's instructions. This includes repair of any damage to the tank coatings prior to backfilling.

(ii) A Permit to Construct must be obtained as per section 1.9(i)(1) of this Article prior to installation of a Category 3 UST system.

(iii) As-Built plans and the installer's certification. The facility must maintain at the facility the following information for the life of every Category 2 or 3 UST system:

(a) as built plans required under section 1.9(i)(3);

(*b*) for each UST system component installed after October 11, 2015, a signed statement by the installer certifying that the UST system component was installed in compliance with subparagraph (i) of this paragraph; and

(*c*) for each UST system component installed after October 11, 2015, the completed manufacturer's installation checklist showing that the UST system component was installed in accordance with

the manufacturer's instructions and that the UST system component installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation.

(iii) Before first receiving petroleum

(*a*) every Category 3 tank must be tested for tightness in accordance with sections 2.3(b)(1)(iv) and 2.3(c)(2); and

(*b*) piping installed after October 11, 2015 must be tested for tightness in accordance with section 2.3(d)(2).

(5) Valves.

(i) Every dispenser of motor fuel under pressure from a remote pumping system must be equipped with a shear valve (impact valve) that is located in the supply line at the inlet of the dispenser. The valve must be designed to close automatically in the event that the dispenser is accidentally dislodged from the inlet pipe. For a valve installed on or before October 11, 2015, a valve meeting the standards set forth in NFPA 30A (1984 edition), section 4-3.6 meets the requirements of this subparagraph. For a valve installed after October 11, 2015, a valve meeting the standards set forth in NFPA 30A (2012 edition), section 6.3.9 meets the requirements of this subparagraph.

(ii) Every dispenser of motor fuel that causes a gravity head must be equipped with a device such as a solenoid valve that is positioned adjacent to and downstream from the operating valve. The valve must be installed and adjusted so that liquid cannot flow by gravity from the UST system in case of piping or dispenser hose failure. For a valve installed on or before October 11, 2015, a valve meeting the standards set forth in NFPA 30A (1984 edition), section 2-1.7 meets the requirements of this subparagraph. For a valve installed after October 11, 2015, a valve meeting the standards set forth in NFPA 30A (2012 edition), section 4.2.4 meets the requirements of this subparagraph.

(iii) Every fill pipe leading to a pump-filled UST must be equipped with a properly functioning check valve or equivalent device which provides automatic protection against backflow. A check valve is required only when the piping arrangement of the fill pipe is such that backflow from the receiving tank is possible.

(iv) Each connection on a gravity-drained UST through which petroleum can normally flow must be equipped with an operating valve to control the flow. For a valve installed on or before October 11, 2015, a valve which meets the standards set forth in NFPA 30 (1984 edition), section 2-2.7.1

meets the requirements of this subparagraph. For a valve installed after October 11, 2015, a valve meeting the standards set forth in NFPA 30 (2012 edition), section 22.13.1 meets the requirements of this subparagraph.

(c) *Category 1 UST systems*.

Every Category 1 UST system must be permanently closed pursuant to section 3.5 of this Article.

15-3.2 General operating requirements

(a) *Spill and overfill prevention*.

(1) All underground tanks must be provided with spill containment at the fill port.

(2) Every facility must ensure that releases due to spilling or overfilling do not occur. One of the transfer procedures described in NFPA 385 (2012 edition) or API RP 1007 (March 2001 edition) must be used in order to comply with the requirement of this paragraph, unless those procedures are technically infeasible. In circumstances of technical infeasibility, the facility must develop and employ practices to ensure that releases due to spilling or overfilling do not occur.

(3) The facility must report, investigate, and clean up any spills and overfills in accordance with the Environmental Conservation Law, the Navigation Law, and 6 NYCRR section 613.3.4(d) as implemented by NYSDEC.

(4) Every Category 2 or 3 UST system must have a label at the fill port specifying tank registration identification number, tank design and working capacities, and type of petroleum that is able to be stored in the UST system.

(5) Every UST system fill port must be color coded in accordance with API RP 1637. If a UST system contains petroleum that does not have a corresponding API color code, the facility must otherwise mark the fill port (for example, with stenciled letters) to identify the petroleum currently in the UST system. For any fill port connected to multiple UST systems storing different types of petroleum, the facility may place the marking near the fill port (for example, with a label or placard) to identify the types of petroleum in the UST systems.

(6) All direct fill pipes for underground storage tanks must be located inside a sump riser connected to the tank.

(7) Where there are monitoring wells located at a facility, every monitoring well must be clearly identified as a monitoring well to prevent accidental delivery of petroleum to the monitoring well and must be sealed or capped so as to prevent liquid from entering the well from the surface.

(8) The facility must inspect tank systems weekly and keep all gauges, valves, pumps, electronic monitoring systems, high level alarm systems, and spill

prevention equipment in good working order, and maintain a log book (hard copy or electronic format) on site documenting the inspections.

(9) Immediately prior to a delivery, the carrier must determine that the UST has available working capacity to receive the volume of petroleum to be delivered. Every aspect of the delivery must be monitored and immediate action must be taken to stop the flow of petroleum when the working capacity of the UST has been reached or should an equipment failure or emergency occur.

(b) *Operation and maintenance of corrosion protection*. Every facility having a metal UST system with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented until the UST system is permanently closed pursuant to section 3.5(b) of this Article:

(1) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the UST and piping that routinely contains petroleum and is in contact with the ground.

(2) All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(i) Frequency. All cathodic protection systems must be tested at yearly intervals; and

(ii) Inspection criteria. All cathodic protection systems must provide adequate electrical current to prevent corrosion.

(3) For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained to demonstrate compliance with the requirements of this section. The records generated to meet the provisions of paragraph (2) of this subdivision must be kept for three years.

(c) *Compatibility*. Every facility must use a UST system made of or lined with materials that are compatible with the petroleum stored in the UST system.

(d) *Repairs allowed*. Every facility must ensure that repairs will prevent releases due to structural failure or corrosion. The repairs must meet the following requirements:

(1) Any repair to a UST system must be properly conducted according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(i) NFPA 30, 2012 edition;

(ii) API RP 2200, September 2010;

(iii) API RP 1631, June 2001;

(iv) NFPA 326, 2010 edition;

(v) STI R972, December 2010;

(vi) NACE SP0285-2011, 2011 edition; or

(vii) FTPI RP T-95-02, January 1995.

(2) Every metal pipe section or fitting from which petroleum has been released as a result of corrosion or other damage must be replaced. Non-corrodible pipes and fittings must be repaired in accordance with the manufacturer's specifications.

(3) Repaired USTs and piping must be tightness tested in accordance with sections 2.3(c)(2) and (d)(2) of this Article, respectively, within 30 days following the date of the completion of the repair.

(4) Within six months following the repair of any UST system that is cathodically protected, the cathodic protection system must be inspected in accordance with sections 3.2(b)(2) of this Article to ensure that it is operating properly.

(5) Every facility must maintain records of each repair until the UST system is permanently closed pursuant to section 3.5(b) of this Article.

(e) *Tank systems in locations subject to flooding*. For Category 2 UST systems located in an area where the UST may become buoyant because of a rise in the water table, flooding, or accumulation of water, the facility must maintain safeguards in accordance with sections 2-5.6 of NFPA 30 (1984 edition). If such safeguards include ballasting of a UST with water during flood warning periods, tank system valves and other openings must be closed and secured in a locked position in advance of the flood. Ballast water removed from the UST after the flood must not be discharged to the waters of the State unless the discharge is in conformance with the standards of 6 NYCRR Parts 701, 702, 703, and 750, as applicable.

15-3.3 Leak detection

(a) *Leak detection requirements for all UST systems*.

(1) Every facility must provide a method, or combination of methods, of leak detection that:

(i) can detect a leak from any portion of the UST and the piping that routinely contains petroleum;

(ii) is installed and calibrated in accordance with the manufacturer's instructions; and

(iii) meets the requirements in subdivisions (c) and (d) of this section, as applicable.

(2) When a leak detection method operated in accordance with the requirements of subdivisions (c) and (d) of this section indicates that a leak may have occurred, the facility must notify the Department and report the suspected leak in accordance with the Environmental Conservation Law, the Navigation Law, and 6 NYCRR section 613-3.4(a) as implemented by the NYSDEC.

(3) Additional testing and inspection. When a leak is suspected, or where inspections or tests required by this Article have not been performed, the Department may order the facility to inspect and to test the UST system or equipment for tightness and structural soundness. If the facility fails to conduct such inspections and tests within 10 days after receipt of the Department's order, the Department may conduct inspections or tests for tightness. The expenses of conducting such tests as ordered by the Department must be paid by the tank system owner.

(4) A facility that cannot or does not implement a method of leak detection that complies with the requirements of this section must take the UST system out of service pursuant to section 3.5(a) of this Article.

(b) *Specific requirements for Category 2 and 3 UST systems*.

(1) Tanks. USTs must be monitored for leaks as follows:

(i) Every tank must have electronic leak detection in accordance with section 3.3(c) of this Article.

(ii) All electronic tank monitoring systems must be inspected for operability at weekly intervals with a log book (hard copy or electronic format) kept on site documenting the inspections.

(2) Piping. Piping that routinely contains petroleum and is in contact with the ground must be monitored for leaks as follows:

(i) Pressurized piping.

Piping that conveys petroleum under pressure and is part of a UST system storing motor fuel must be equipped with an automatic line leak detector that is operated in accordance with section 3.3(d)(1) of this Article.

(ii) Suction piping must be monitored for leaks using continuous electronic interstitial monitoring that is operated in accordance with section 3.3(d)(2) of this Article.

(iii) All electronic piping monitoring systems must be inspected for operability at weekly intervals.

(c) *Electronic interstitial monitoring.*

Electronic interstitial monitoring for USTs must be designed, constructed, and installed to detect a leak from any portion of the UST that routinely contains petroleum. Continuous vacuum, pressure, or liquid-filled methods of interstitial monitoring for double-walled USTs must be capable of detecting a breach in both the inner and outer walls of the tank.

(d) *Methods of leak detection for piping*. Each method of leak detection for piping used to meet the requirements of section 3.3(b)(2) of this Article must be conducted in accordance with the following:

(1) Automatic line leak detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of petroleum through piping or triggering an audible or visual alarm may be used only if they detect leaks of three gallons per hour at ten pounds per square inch line pressure within one hour.

(2) Electronic interstitial monitoring. Electronic interstitial monitoring must be designed, constructed, and installed to detect a leak from any portion of the piping that routinely contains petroleum.

(e) *Leak detection recordkeeping*. Every facility must maintain records demonstrating compliance with all applicable requirements of this section. These records must meet the following requirements:

(1) the results or records of any sampling, testing, or monitoring must be maintained for at least three years;

(2) the results of tank and line tightness testing must be retained until the next test is conducted;

(3) a copy of the results of tank and line tightness testing must be submitted to the Department within 30 days after performance of the test(s); and

(4) written documentation of all calibration, maintenance, and repair of leak detection equipment permanently located on-site must be maintained for at least three years after the servicing work is completed. Any schedules of required calibration and maintenance provided by the leak detection equipment manufacturer must be retained for three years from the date of installation.

15-3.4 Reporting, investigation and confirmation

Any facility or entity with a contractual relationship to the facility that has knowledge of a spill must report it to the Department and to the NYSDEC's Spill Hotline (518-457-7362) within two hours after discovery.

A facility must act in accordance with the provisions of the Environmental Conservation Law, the Navigation Law, and 6 NYCRR section 613-3.4 as implemented by the NYSDEC with respect to any suspected or known spill. The citation to 6 NYCRR sections 613-3.3(a) and (b), found in 6

NYCRR section 613-3.4(a)(3), must be read as a citation to sections 3.3(a) and (b) of this Article, respectively.

A release or spill of petroleum which meets all of the following conditions is not required to be reported:

(a) It is known to be less than five gallons in total volume;

(b) It is contained and under the control of the spiller;

(c) It has not reached and will not reach the land or waters of the State; and,

(d) It is cleaned up within two hours after discovery.

15-3.5 Out-of-service UST systems and closure

(a) *Out-of-service UST systems*.

(1) *General Provisions*

(i) When a UST system is out-of-service, the facility must continue operation and maintenance of corrosion protection in accordance with section 3.2(b) of this Article, and any leak detection in accordance with sections 3.3(a) and (b) of this Article. The facility must comply with the requirements of the Environmental Conservation Law, the Navigation Law, and 6 NYCRR Subpart 613-6 as implemented by NYSDEC if a release is confirmed.

(ii) Leak detection required under sections 3.3(a) and (b) of this Article is not required as long as the UST system is empty. (The UST system is considered empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue remain in the system.) However, leak detection required under sections 3.3(a) and (b) of this Article must resume consistent with the original schedule or upon resumption of delivery of petroleum into the UST system, whichever is later.

(2) When a UST system is out-of-service for a period of three to twelve months, the facility must also comply with the following requirements:

(i) Leave vent lines open and functioning; and

(ii) Cap and secure all other piping, ancillary equipment, and manways.

(3) When a UST system is out-of-service for more than 12 months, the facility must permanently close the UST system in accordance with subdivisions (b) and (c) of this section.

(b) *Permanent closure*.

(1) Within 30 days after permanent closure, a facility must submit a registration application to the Department, in accordance with section 1.9(f) of this Article, indicating that the UST system has been permanently closed.

(2) To permanently close a UST system:

(i) The facility must notify the Department at least five days prior to the permanent closure of a UST system in order to allow the Department to conduct an inspection.

(ii) The facility must empty and clean the tank system by removing all liquids, accumulated sludge and rendering the tank vapor-free. Every tank that is part of a UST system that is permanently closed must also be either removed from the ground or filled with an inert solid material (such as sand or concrete slurry).

If an inert solid material is used, all voids within the UST must be filled. All connecting and fill lines must be disconnected and removed or securely capped or plugged. Manways must be securely fastened in place. All monitoring and ancillary equipment must be removed.

One of the following codes of practice (refer to section 1.10 of this Article for complete citation of references) must be adhered in order to comply with this subdivision:

(*a*) API RP 1604, March 1996;

(*b*) API RP 2016, August 2001;

(*c*) API RP 1631, June 2001; or

(*d*) NFPA 326, 2010 edition.

(iii) The facility must ensure that all scheduled deliveries to the UST system are terminated.

(c) *Assessing the site at closure.*

(1) The facility must notify the Department at least five days prior to the commencement of excavation or drilling to collect soil or groundwater samples for a site assessment. The facility must keep any excavation open for inspection by the Department. The facility may not backfill the excavation until the facility receives permission from the Department. When authorized by the Department, and after prior written request from the facility, certification by a Professional Engineer licensed in the State of New York as to the condition of the tank and the excavation will be accepted. If a reportable spill is identified, it must be reported to the DEC Spill Hotline at (518) 457-7362.

(2) Every UST system permanently closed in place must undergo one of the following assessments:

(i) Each tank must have at least three samples collected along the bottom of the tank through one foot square cut out holes at both ends and at the middle of the tank. Piping must be removed or additional soil sampling beneath the piping run will be required. An inspector from the Department must be present during the collection of all soil samples along the bottom of the tank, and the piping run or when the piping is removed.

(ii) Subject to approval by the Department, each UST system (tank, piping and all fittings) has been tested for tightness no more than 90 days prior to tank system closure and has been shown not to be leaking.

(iii) Subject to approval by the Department, a minimum of one observation well, consisting of a 4-inch PVC pipe with ten feet of factory slotted screen, has been installed five feet into the groundwater table (or as determined by the Department) adjacent to each closed tank (or as determined by the Department). This well must be monitored by the facility owner on a weekly basis for a minimum of four months and monthly for an additional eight months and readings sent to the Department at the end of a one year period.

(iv) Subject to approval by the Department, a double-walled UST system is monitored for leaks in accordance with section 3.3(a) and (b) of this Article and the monitoring shows that the UST system is not leaking.

(d) *Disposal of closed tanks.*

(1) Any UST removed from the ground must be visually inspected and all holes or rust penetrations noted. The tank must remain at the site until the Department approves of its transport to an off-site location. When authorized by the Department and after prior written notice, certification by a Professional Engineer licensed in the State of New York as to the condition of the tank will be accepted.

(2) Prior to removal from the site, the facility must render the tank vapor free and puncture it in order to make the tank unfit for re-use.

(e) For any UST system that has been out-of-service since December 27, 1986 and was not properly permanently closed pursuant to Department regulations governing UST system closure, the facility owner must assess the excavation zone and permanently close the UST system in accordance with this section.

(f) *Records for permanent closure*. The facility must maintain for three years records that are capable of demonstrating compliance with closure requirements under this Subarticle.

In addition, the facility must transmit a copy of the records to the Department within 30 days after permanent closure.

Article 15-4 AST Systems

15-4.1 AST systems: design, construction, and installation

(a) *Applicability*. The provisions of this Subarticle apply to every AST system that is part of a facility.

(b) *Equipment standards for Category 1, 2 and 3 AST systems*. In order to prevent releases due to structural failure, corrosion, or spills and overfills, any facility containing a Category 1, 2 or 3 AST system must meet the following requirements.

(1) Tanks.

(i) Separation Distances for AST systems:

(*a*) There must be at least ten feet of horizontal separation between existing or proposed water lines and the tank system. This distance must be measured edge to edge.

(*b*) A tank system must be at least 100 feet from any water supply well.

(*c*) Stormwater basins, drywells and sanitary leaching pools must be at least 10 feet from the nearest edge of any AST system.

(ii) Every AST with a design capacity of 60 gallons or greater must be constructed of steel and must be designed and utilized according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references), as applicable:

(*a*) For Category 2 ASTs:

(*1*) UL 142, January 1985;

(*2*) API Standard 620, September 1982 (revised April 1985);

(*3*) API Standard 650, February 1984;

(*4*) CAN4-S601-M84, 1984; or

(*5*) CAN4-S630-M84, 1984.

(*b*) For Category 3 ASTs:

(*1*) UL 142, December 2006;

(*2*) UL 80, September 2007;

(*3*) UL 2258, August 2010;

(*4*) API Standard 620, February 2008;

(*5*) API Standard 650, March 2013; or

(*6*) ULC-S601-07, 2007.

(iii) Every AST must have a surface coating designed to prevent corrosion and deterioration.

(iv) Every AST, if in contact with the ground, must be protected from corrosion in accordance with API Standard 651, January 2007.

(v) ASTs storing Class IIIB petroleum must be constructed of steel, and meet the design and manufacturing standards of UL-142. The classes of petroleum are described in NFPA 30-2012 Edition.

Note: The New York State Department of Environmental Conservation and the Department recognize that some petroleum mixtures cannot be safely stored in steel ASTs. A facility owner seeking to store such petroleum mixtures should, pursuant to the provisions of section 1.8 of this Article, request a variance from the Department from the requirements of subparagraph (ii) of this paragraph.

(vi) Secondary containment.

(a) Secondary containment must be installed around every AST or group of ASTs.

(*b*) The secondary containment must be able to contain petroleum leaked from any portion of the AST until it is detected and removed; and be able to prevent the release of petroleum.

(*c*) The secondary containment system must be constructed of reinforced concrete, steel, or epoxy coated concrete block, forming an impermeable barrier under an AST that must have a permeability rate to water equal to or less than 1×10-6 cm/sec and must not deteriorate in an underground environment or in the presence of petroleum. All ASTs must be capable of being monitored electronically or, subject to approval of the Department, visually, between the tank bottom and the impermeable barrier.

(*d*) All outdoor secondary containment areas must be suitably protected from the weather. Stormwater which collects within the secondary containment system must be removed by a manually operated pump or siphon. Sump pumps shall be equipped with a switch which must be held manually in the “on” position. Automatic float switches or standard on-off switches for electric pumps will not be permitted. Gravity drain pipes with valves are prohibited.

(2) Piping.

(i) Piping that routinely contains petroleum and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with clauses (*a*) or (*b*) of this subparagraph, and be secondarily contained in accordance with clause (*c*) of this subparagraph.

(*a*) Piping made of a non-corrodible material must meet the following conditions.

(*1*) The materials, joints, and joint adhesives must be compatible with petroleum, petroleum additives, and corrosive soils.

(2) All underground piping must be designed, constructed, and installed with access ports to permit tightness testing without the need for extensive excavation.

(*3*) All joints must be liquid and air tight.

(*4*) All underground piping must be tested for tightness before being covered, enclosed or placed in use.

(*5*) All piping must be designed and constructed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*i*) UL 971, February 2006; or

(*ii*) ULC-S660-08, 2008.

(*b*) Piping made of steel that is cathodically protected must meet the following conditions.

(*1*) The cathodic protection system must provide a minimum of 30 years of protection in corrosive soils.

(*2*) Cathodic protection must be provided by the use of sacrificial anodes or impressed current.

(*3*) Where sacrificial anodes or impressed current systems are used, monitors to check on the adequacy of the system must be installed and kept in proper working condition. If at any time the monitor shows that the electrical current necessary to prevent corrosion is not being maintained, the system must be repaired or the piping will be considered unprotected and must be tested for tightness in accordance with section 4.3(d)(2) of this Article.

(*4*) Except where cathodic protection is provided by impressed current, underground piping must have dielectric bushings, washers, sleeves, or gaskets installed at the end to electrically isolate the piping from the AST and the dispenser. These dielectric connectors must be compatible with petroleum, petroleum additives, and corrosive soils.

(*5*) All underground piping must be designed, constructed, and installed with access ports to permit tightness testing without the need for extensive excavation.

(*6*) All joints must be liquid and air tight.

(*7*) All underground piping must be tested for tightness in accordance with section 4.3(d)(2) of this Article before being covered, enclosed, or placed in use.

(*8*) All piping must meet the following conditions:

(*i*) The piping must be designed and constructed according to UL 971A, October 2006 (refer to section 1.10 of this Article for complete citation of references);

(*ii*) The piping must be coated with a suitable dielectric material;

(*iii*) The cathodic protection system must be designed, fabricated, and installed according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*A*) API RP 1632, January 1996 (revised 2002);

(*B*) STI R892, January 2006;

(*C*) NACE SP0169-2013, 2013; or

(*D*) NACE SP0285-2011, 2011.

(*iv*) Every field-installed cathodic protection system must be designed by a corrosion expert;

(*v*) Every impressed current system must be designed to allow determination of current operating status as required in section 4.2(b)(2) of this Article; and

(*vi*) Every cathodic protection system must be operated and maintained in accordance with section 4.2(b) of this Article.

(*c*) All piping must be secondarily contained and meet the following conditions:

(*1*) be able to contain petroleum leaked from the primary containment until it is detected and removed;

(*2*) be able to prevent the release of petroleum; and

(*3*) be double-walled pipe with Underwriters Laboratories (UL) approval for the intended use.

(ii) Outdoor piping not in contact with the ground must be constructed of galvanized steel or copper. Indoor piping must be constructed of steel or copper. All piping installed above non-paved areas must comply with the requirements of section 4.1(b)(2)(i)(*c*).

(3) Overfill prevention equipment.

(i) Every AST must be equipped with a gauge which accurately shows the level of petroleum in the AST. The gauge must be accessible to the carrier and be installed so it can be conveniently read.

(ii) Every AST must be provided with spill prevention equipment at the fill port that will prevent the release of petroleum when the transfer hose is detached from the fill pipe.

(iii) Overfills must be directed into the secondary containment.

(iv) Every AST must be equipped with a high-level warning alarm to alert the operator when the AST is no more than 90 percent full. In addition, pump-filled tanks storing used oil must also have a high-level petroleum pump cut-off controller, or equivalent device.

(a) High-level alarm components:

(*1*) The high-level alarm systems must consist of, but not be limited to, a petroleum level sensing unit and an alarm panel. The level sensing element may be any type (for example, mechanical float, optical, ultrasonic, capacitance, or conductance).

(*2*) The alarm panel must be equipped with both audible and visual warning devices. The audible element may be a horn or bell which can be heard by the person filling the tank. The visual element may be a steady burning or

flashing light which can be seen in daylight by the person filling the tank. The alarm panel must be equipped with a reset button which will deactivate the audible alarm at high petroleum level indication, but the visual alarm must remain on until the petroleum level drops below the high-level. Subsequent high-level conditions must activate both the audible and visual alarms.

(*3*) The alarm panel must be equipped with a test button capable of monitoring the working condition of the audible and visual alarms.

(*4*) The alarm panel must be located where it will be seen and heard by the person filling the tank. For multiple tank system configurations, one visual alarm must be furnished for each tank. One audible alarm for multiple tank system configurations is acceptable, but the audible alarm must be independently activated by each tank probe.

(*5*) The alarm system must be UL approved. Electrical enclosures mounted on the tank systems must be explosion proof where dictated by the tank system contents. Outdoor electrical enclosures must be weatherproof. Power on/off switches on the level sensor or alarm panel or any other component of the level alarm system are not acceptable.

(*6*) All components must be hard wired; plug-in type cords are not acceptable. Upon high petroleum level the audible and visual alarms must activate. On pump-filled tank or pressure fed tanks, the high-level alarm system must be interlocked with on-site pumps used to fill tanks. The high-level alarm system must shut down the pumps and activate the audible/visual alarms upon high-level. The pump starter and level alarm system must be interlocked such that the pump filling the tank cannot be restarted until the petroleum level drops below the high-level alarm condition.

(*b*) High-level alarm exemptions:

(*1*) When approved by the Department, a heating oil tank with a design capacity of no more than 550 gallons may use a whistle vent alarm in lieu of an audible and visible high-level alarm provided that the vent pipe terminates adjacent to the fill pipe and higher than the fill pipe opening.

(*2*) A tank which meets either of the following criteria is completely exempt from the high-level alarm system requirement:

(*i*) An open top tank where petroleum level is clearly visible to the person filling the tank at all times.

(*ii*) A tank that is manually filled at the tank and receives fewer than 25 gallons at a time.

(4) Installation.

(i) Every AST system must be installed in a manner consistent with National Fire Protection Association (NFPA) No. 31, "Standard For The Installation Of Oil Burning Equipment," 2016 edition.

(ii) Every AST system must be supported on a concrete pad or a concrete floor that provides a well-drained stable foundation which prevents movement, rolling, or settling of the AST and is designed to minimize corrosion of the tank bottom.

(iii) Every AST system located in a parking lot, near a commercial driveway or exposed to physical damage that may result from vehicles must be protected with crash posts.

(iv) Prior to first receipt of petroleum, every AST must be tested for tightness. The tank in a Category 3 AST system must be tested for tightness and inspected according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*a*) API Standard 650, March 2013;

(*b*) API Standard 653, April 2009;

(*c*) PEI RP200, 2013 edition;

(*d*) STI SP001, September 2011; or

(*e*) UL 142, December 2006.

(v) As-built plans. The facility must maintain at the facility the as-built plans required under section 1.9(i)(3) for the life of every Category 3 AST system.

(5) Valves.

(i) Every dispenser of motor fuel under pressure from a remote pumping system must be equipped with a shear valve (impact valve) that is located in the supply line at the inlet of the dispenser. The valve must be designed to close

automatically in the event that the dispenser is accidentally dislodged from the inlet pipe. For a valve installed on or before October 11, 2015, a valve meeting the standards set forth in NFPA 30A (1984 edition), section 4-3.6 meets the requirements of this subparagraph. For a valve installed after October 11, 2015, a valve meeting the standards set forth in NFPA 30A (2012 edition), section 6.3.9 meets the requirements of this subparagraph.

(ii) Every dispenser of motor fuel that causes a gravity head must be equipped with a device such as a solenoid valve that is positioned adjacent to and downstream from the operating valve. The valve must be installed and adjusted so that liquid cannot flow by gravity from the AST system in case of piping or dispenser hose failure. For a valve installed on or before October 11, 2015, a valve meeting the standards set forth in NFPA 30A (1984 edition), section 2-1.7 meets the requirements of this subparagraph. For a valve installed after October 11, 2015, a valve meeting the standards set forth in NFPA 30A (2012 edition), section 4.2.4 meets the requirements of this subparagraph.

(iii) Every fill pipe leading to a pump-filled AST must be equipped with a properly functioning check valve or equivalent device which provides automatic protection against backflow. A check valve is required only when the piping arrangement of the fill pipe is such that backflow from the receiving tank is possible.

(iv) Each connection on a gravity-drained AST through which petroleum can normally flow must be equipped with an operating valve to control the flow. For a valve installed on or before October 11, 2015, a valve which meets the standards set forth in NFPA 30 (1984 edition), section 2-2.7.1 meets the requirements of this subparagraph. For a valve installed after October 11, 2015, a valve meeting the standards set forth in NFPA 30 (2012 edition), section 22.13.1 meets the requirements of this subparagraph.

15-4.2 General operating requirements

(a) *Spill and overfill prevention*.

(1) Every facility must ensure that releases due to spilling or overfilling do not occur. One of the transfer procedures described in NFPA 385 (2012 edition) or API RP 1007 (March 2001 edition) must be used in order to comply with the requirement of this paragraph, unless those procedures are technically infeasible. In circumstances of technical infeasibility, the facility must develop and employ practices to ensure that releases due to spilling or overfilling do not occur.

(2) The facility must report, investigate, and clean up any spills and overfills in accordance with section 4.4 of this Article.

(3) Every AST must be marked (for example, with stenciled letters) with the tank registration identification number, as well as the tank design and working capacities.

(4) Every AST system must be color coded in accordance with API RP 1637 at or near the fill port. If an AST system contains petroleum that does not have a corresponding API color code, the facility must otherwise mark the AST (for example, with stenciled letters) to identify the petroleum currently in the AST system. If the fill port is remote from the AST such that the AST cannot be properly identified by sight from the fill port, the facility must also place the marking near the fill port to identify the petroleum currently in the AST system. For any fill port connected to multiple AST systems storing different types of petroleum, the facility may place the marking near the fill port (for example, with a label or placard) to identify the types of petroleum in the AST systems.

(5) Where there are monitoring wells located at a facility, every monitoring well must be clearly identified as a monitoring well to prevent accidental delivery of petroleum to the monitoring well and must be sealed or capped so as to prevent liquid from entering the well from the surface.

(6) The facility must inspect tank systems weekly and keep all gauges, valves, pumps, electronic monitoring systems, high level alarm systems, and spill prevention equipment in good working order, and maintain a log book (hard copy or electronic format) on site documenting the inspections.

(7) Immediately prior to a delivery, the carrier must determine that the AST has available working capacity to receive the volume of petroleum to be delivered. Every aspect of the delivery must be monitored and immediate action must be taken to stop the flow of petroleum when the working capacity of the AST has been reached or should an equipment failure or emergency occur.

(b) *Operation and maintenance of corrosion protection*. Every facility having a metal AST system with corrosion protection must comply with the following requirements to ensure that a release due to corrosion is prevented until the AST system is permanently closed pursuant to section 4.5(b) of this Article:

(1) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the AST and piping that routinely contains petroleum and is in contact with the ground.

(2) All AST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(i) Frequency. Every cathodic protection system must be tested at yearly intervals; and

(ii) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this section must be according to one of the following codes of practice (refer to section 1.10 of this Article for complete citation of references):

(*a*) API RP 651, January, 2007; or

(*b*) NACE RP0193-2001, 2001 edition.

(3) Every AST system with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly.

(4) For AST systems using cathodic protection, records of the operation of the cathodic protection must be maintained to demonstrate compliance with the requirements of this section. The records generated to meet the provisions of paragraphs (2) and (3) of this subdivision must be kept for three years.

(c) *Compatibility*. Every facility must use an AST system made of or lined with materials that are compatible with the petroleum stored in the AST system.

(d) *Repairs*.

(1) Permanent repairs.

(i) All repairs must be equal to or better than the standards of original construction. Such repairs must consist of:

(*a*) steel welds or steel patches which are welded in place; or

(*b*) practices set forth in paragraph (3) of this subdivision.

(ii) All welds associated with the repair of an AST must be inspected and tested for tightness before the AST is returned to service.

(2) Cleaning of tank prior to repair.

(i) Prior to repair, an AST must be cleaned. Wash water must not be discharged to the lands or waters of the State unless the discharge is in conformance with the standards of 6 NYCRR Parts 701, 702, 703, and 750, as applicable.

(ii) Sludge which has accumulated on the bottom of the AST must be removed, transported, and disposed of in a manner consistent with all applicable State and federal requirements for solid waste disposal.

(3) Lining specifications.

(i) Any noncorrodible epoxy-based resins or equivalent lining which is bonded firmly to the interior surfaces may be used as a lining to protect an AST from future corrosion.

(ii) The lining must be of sufficient thickness, density, and strength to form a hard impermeable shell which will not crack, soften, or separate from the interior surface of the AST.

(iii) The lining's coefficient of thermal expansion must be compatible with steel so that stress due to temperature changes will not be detrimental to the soundness of the lining.

(iv) The lining must be compatible with petroleum products and petroleum additives.

(v) The lining material must be applied and cured in strict accord with manufacturer's specifications.

(vi) Linings used to protect the bottom of an AST must extend up the side of the tank a minimum of 18 inches.

(4) Inspection of lining. The lining must be checked for air pockets and blisters, and electrically tested for pinholes. The lining thickness must be checked with an Elcometer Thickness Gauge or equivalent and the hardness checked with a Barcol Hardness Tester or equivalent to assure compliance with manufacturer's specifications. Any defects must be repaired.

(5) Manufacturer's guarantee. A lining must be installed under the direction of the lining manufacturer or a certified representative. The manufacturer or representative must guarantee to the owner in writing that the lining will not leak the product specified in storage and the lining will not deteriorate in any way for a period of 10 years. A copy of the guarantee must be kept by the owner for the life of the AST.

(e) *Tank systems in locations subject to flooding*. For Category 1, 2 and 3 AST systems located in an area where the AST may become buoyant because of a rise in the water table, flooding, or accumulation of water, the facility must mechanically anchor the ASTs to prevent floatation and lateral movement or maintain safeguards in accordance with sections 2-5.6 of NFPA 30 (1984 edition). If such safeguards include ballasting of an AST with water during flood warning periods, tank system valves and other openings must be closed and secured in a locked position in advance of the flood. Ballast water removed from the AST after the flood must not be discharged to the waters of the State unless the discharge is in conformance with the standards of 6 NYCRR Parts 701, 702, 703, and 750, as applicable.

(f) *Stormwater management*. Stormwater which collects within the secondary containment system must be controlled by a manually operated pump or siphon. All pumps, siphons and valves must be properly maintained and kept in good condition. Stormwater or any other discharge at a facility must be uncontaminated and free of sheen prior to discharge. Stormwater which is contaminated must not be discharged to the

waters of the State unless the discharge is in conformance with the standards of 6 NYCRR Parts 701, 702, 703, and 750, as applicable.

15-4.3 Inspections and leak detection

(a) *Specific requirements for Category 1, 2, and 3 AST systems*.

(1) Tank systems. Every AST installed on an impermeable barrier must have equipment for monitoring the presence of petroleum between the tank bottom and the barrier. This includes, but is not limited to, channels in the concrete support pad which may be monitored for the presence of product visually or electronically, or raising the tank on legs, channels or saddles. Other systems which monitor the secondary containment area do not satisfy the leak detection requirements for monitoring between the tank bottom and the impermeable barrier.

(2) Underground piping that routinely contains petroleum must be monitored for leaks as follows:

(i) Underground pressurized piping.

Underground piping that conveys petroleum under pressure and is part of an AST system storing motor fuel must be equipped with an automatic line leak detector that is operated in accordance with section 4.3(d)(1) of this Article.

(ii) Underground suction piping and gravity-fed piping. Underground piping that conveys petroleum under suction or hydrostatic pressure from the AST must have continuous electronic interstitial monitoring or, subject to approval by the Department, manual monitoring.

(3) All piping described in subparagraph (i) and (ii) of this paragraph must be provided with a means of monitoring for leakage and must have provisions for electronic interstitial monitoring or, subject to approval by the Department, manual monitoring.

(i) Piping that routinely contains petroleum and is in contact with the ground but is not wholly underground.

(ii) Piping that routinely contains petroleum and is not in contact with the ground but is situated above a non-paved area.

(b) *Inspections of AST systems*. Inspections of AST systems must be conducted in accordance with the following:

(1) Monthly inspections. The inspection must include, as applicable, identification of leaks, cracks, areas of wear, corrosion and thinning, poor maintenance and operating practices, excessive settlement of structures, separation or swelling of

tank insulation, malfunctioning equipment, and structural and foundation weaknesses.

(i) For an AST system that includes a tank that is fully enclosed within pre-fabricated secondary containment, the inspection must cover the exterior surfaces of:

(*a*) the secondary containment of the AST; and

(*b*) the accessible portions of piping and ancillary equipment.

(ii) For an AST system that includes a tank that is insulated in order to store heated petroleum and is within secondary containment, the inspection must cover the exterior surfaces of:

(*a*) the insulation of the AST; and

(*b*) the accessible portions of piping and ancillary equipment.

(iii) For an AST system not covered under paragraphs (i) or (ii) of this subdivision, the inspection must cover the exterior surfaces of the tank, piping, ancillary equipment and secondary containment.

(iv) For every AST system, the inspection must cover any leak detection system, high level alarm system, cathodic protection monitoring equipment, or other monitoring or warning system which may be in place.

(2) Ten-year inspections. The inspection must include an inspection that is conducted in accordance with API Standard 653 (April 2009) or STI SP001 (September 2011), and a tightness test of any underground piping.

(c) *Tightness testing of ASTs*.

(1) Qualifications of test technicians. All tightness tests must be performed by a technician who has an understanding of variables which affect the test and is trained in the performance of the test.

(2) The Department must be notified at least five days prior to the performance of any tightness test.

(3) Test reports.

(i) A copy of the test report must be provided by the facility to the Department within 30 days after performance of the test.

(ii) All test reports must be in a form satisfactory to the Department and must include the following information:

(*a*) facility registration number;

(*b*) tank identification number used on the application form required in section 1.9 of this Article for the AST tested;

(*c*) date of test;

(*d*) results of test;

(*e*) test method;

(*f*) certification by the technician that test complies with criteria for a tightness test in subparagraph (iii) of this paragraph;

(*g*) statement of technician's qualifications;

(*h*) address of technician; and

(*i*) signature of technician.

(iii) Tank tightness testing must be capable of detecting a leak at the rate of 0.1 gallons per hour from any portion of the AST that routinely contains petroleum 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.

(d) *Methods of leak detection for underground piping*. Each method of leak detection for piping used to meet the requirements of section 4.3(a)(2) of this Article must be conducted in accordance with the following:

(1) Automatic line leak detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of petroleum through piping or triggering an audible or visual alarm may be used only if it will detect a leak of three gallons per hour at ten pounds per square inch line pressure within one hour.

(2) All suction piping systems must have continuous electronic interstitial space monitoring.

(e) *Inspection and leak detection recordkeeping*. Every facility must maintain records demonstrating compliance with all applicable requirements of this section. Inspection records shall be kept in a log book (hard copy or electronic) and must be maintained on-site for at least three years. Ten year inspection records must be maintained for at least ten years. A copy of the results of tank tightness testing must be submitted to the Department within 30 days after performance of the test. At a minimum, the records must list each component tested and describe any action taken to correct an issue.

(f) *Additional testing and inspection*. When a leak is suspected, or where inspections or tests required by this Article have not been performed, the Department may order the facility to inspect and to test the AST system or equipment for tightness. If the facility fails to conduct such inspections and tests within 10 days after receipt of the

Department's order, the Department may conduct inspections or tests for tightness. The expenses of conducting such tests as ordered by the Department must be paid by the tank system owner.

15-4.4 Reporting, investigation, and confirmation

Any facility or entity with a contractual relationship to the facility that has knowledge of a spill must report it to the Department and to the NYSDEC's Spill Hotline (518-457-7362) within two hours after discovery.

A facility must act in accordance with the provisions of the Environmental Conservation Law, the Navigation Law, and 6 NYCRR section 613-4.4 as implemented by the NYSDEC with respect to any suspected or known spill. The citations to 6 NYCRR sections 613-4.3(a), found in 6 NYCRR section 613-4.4(a)(2), must be read as a citation to section 4.3(a) of this Article.

A release or spill of petroleum which meets all of the following conditions is not required to be reported:

(a) It is known to be less than five gallons in total volume;

(b) It is contained and under the control of the spiller;

(c) It has not reached and will not reach the land or waters of the State; and,

(d) It is cleaned up within two hours after discovery.

15-4.5 Out-of-service AST systems and closure

(a) *Out-of-service AST systems*.

(1) (i) When an AST system is out-of-service, the facility must continue operation and maintenance of corrosion protection in accordance with section 4.2(b) of this Article, and inspections and leak detection in accordance with section 4.3(a) of this Article. The facility must comply with the requirements of the Environmental Conservation Law, the Navigation Law, and 6 NYCRR Subpart 613-6 as implemented by NYSDEC if a release is confirmed.

(ii) Inspections and leak detection required under section 4.3(a) of this Article are not required as long as the AST system is empty. (The AST system is considered empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue remain in the system.) However, inspections and leak detection required under section 4.3(a) of this Article must resume consistent with the original schedule or upon resumption of delivery of petroleum into the AST system, whichever is later.

(iii) Tanks must continue to be protected from floatation in accordance with section 4.2(e).

(2) When an AST system is out-of-service for more than three months, the facility must also comply with the following requirements:

(i) Leave vent lines open and functioning; and

(ii) Cap and secure all other piping, ancillary equipment, and manways.

(iii) For tank systems containing gasoline, diesel or kerosene, the facility must submit to the Department notification of the out-of-service status of the tank system using forms or electronic means as provided by the Department. Forms are available on the Department website and at the Department office.

(3) When an AST system is out-of-service for more than 12 months, it must be removed unless such removal would result in damage to structures, and permanent closure in place is approved by the Department in writing.

(b) *Permanent closure*.

(1) At least 30 days before beginning permanent closure, a facility must notify the Department of its intent to permanently close, unless such action is in response to corrective action. Within 30 days after permanent closure, a facility must submit a registration application to the Department, in accordance with section 1.9(f) of this Article, indicating that the AST system has been permanently closed.

(2) The facility must notify the Department at least five days prior to the permanent closure of an AST system in order to allow the Department to conduct an inspection.

(3) To permanently close an AST system, the facility must empty and clean the tank by removing all liquids, accumulated sludge, and rendering it vapor free. All connecting and fill lines must be disconnected and removed or securely capped or plugged. Manways must be securely fastened in place. All monitoring and ancillary equipment must be removed. The facility should ensure that all deliveries to the AST are eliminated. One of the following codes of practice (refer to section 1.10 of this Article for complete citation of references) must be adhered to in order to comply with this paragraph:

(i) API RP 2016, August 2001; or

(ii) NFPA 326, 2010 edition.

(4) Every tank that is part of an AST system that is permanently closed must, if not removed, be stenciled with the date of permanent closure.

(5) ASTs that are permanently closed that remain at the facility must be protected from flotation as required in section 4.2(e).

(6) AST systems that have been permanently closed may not be returned to service unless the entire AST system meets the requirements for Category 3 AST systems.

(c) *Records for permanent closure*. The facility must maintain for three years records that are capable of demonstrating compliance with closure requirements under this Subarticle. In addition, the facility must transmit a copy of the records to the Department within 30 days after permanent closure.

Article 15-5 Delivery Prohibition

15-5.1 Circumstances and process for imposing a delivery prohibition

(a) *Tier 1 conditions*.

(1) When the Department finds that a Tier 1 condition exists at a facility, the Department will affix a tag on the fill pipe of the relevant tank system.

(2) At the time that it affixes a tag, the Department will provide to the facility operator, if one is present, a written notification of the imposition of the delivery prohibition that will include the finding of the relevant condition(s) at the facility. The Department will then send the written notification to the facility via certified mail to the correspondence address listed in the current facility registration or license within five business days following the time that the tag is affixed to the tank system.

(3) The following are Tier 1 conditions:

(i) A tank system is known to be releasing petroleum. If the source of the release cannot be determined upon inspection, then all tank systems at the facility that are probable sources of the release will be tagged.

(ii) A UST system covered under sections 2.1(a), 3.1(a)(2), or 3.1(a)(4) of this Article does not have one or more of the following:

(*a*) secondary containment equipment required under sections 2.1(b)(1)(vi), 2.1(b)(2)(ii)(*c*), and 3.1(b)(1)(vi) of this Article;

(*b*) spill and overfill prevention equipment required under section 2.1(b)(3) of this Article or overfill prevention equipment required under section 3.1(b)(3) of this Article;

(*c*) corrosion protection equipment required under sections 2.1(b)(1)(iv), 2.1(b)(2)(ii), 3.1(b)(1)(iv), or 3.1(b)(2)(ii) of this Article; or

(*d*) leak detection equipment required under sections 2.3(a) and (b), or 3.3(a) and (b) of this Article.

(b) *Tier 2 conditions*.

(1) When the Department finds that a Tier 2 condition exists at a facility, the Department may affix a tag on the fill pipe of the relevant tank system.

(2) Prior to affixing a tag, the Department will send a written statement to the facility informing the facility of the relevant condition(s). The Department will send the statement via certified mail to the correspondence address listed in the current facility registration or license.

(3) At the time that it affixes a tag, the Department will provide to the facility operator, if one is present, a written notification of the imposition of the delivery prohibition that will include the finding of the relevant condition(s) at the facility. The Department will then send the written notification to the facility via certified mail to the correspondence address listed in the current facility registration or license within five business days following the time that the tag is affixed to the tank system.

(4) The following are Tier 2 conditions:

(i) The results of leak detection required by sections 2.3(a) and (b) of this Article, sections 3.3(a) and (b) of this Article, or inspections and leak detection required by sections 4.3(a) and (b) of this Article indicate that the tank system may be leaking petroleum or would not contain a leak if one were to occur, unless the facility submits, within ten days after receipt of the Department's statement issued pursuant to paragraph (2) of this subdivision, acceptable documentation to the Department that demonstrates that the relevant tank system is not leaking or has been appropriately repaired.

(ii) With respect to the operation of a UST system covered under sections 2.1(a), 3.1(a)(2), or 3.1(a)(4) of this Article, the facility has not demonstrated within 30 days following receipt of the Department's statement issued pursuant to paragraph (2) of this subdivision compliance with the following standards:

(*a*) spill and overfill prevention operating standards under section 2.2(a) of this Article;

(*b*) corrosion protection operating standards under section 2.2(b) of this Article; or

(*c*) applicable leak detection methods under section 2.3(c) and (d) of this Article.

(iii) With respect to the operation of a UST system covered under sections 3.1(a)(1) or 3.1(a)(3) of this Article, one or more of the following is missing and the facility has not documented to the Department that the missing component has been put in place within 30 days after receipt of the Department's statement issued pursuant to paragraph (2) of this subdivision:

(*a*) secondary containment equipment required under section 3.1(b)(1)(vi) of this Article;

(*b*) overfill prevention equipment required under section 3.1(b)(3) of this Article;

(*c*) corrosion protection equipment required under sections 3.1(b)(1)(iv) and 3.1(b)(2)(ii) of this Article; or

(*d*) leak detection equipment required under sections 3.3(a) and (b) of this Article.

(iv) With respect to the operation of an AST system covered under section 4.1(a) of this Article, one or more of the following is missing and the facility has not documented to the Department that the missing component has been put in place within 30 days after receipt of the Department's statement issued pursuant to paragraph (2) of this subdivision:

(*a*) secondary containment equipment required under sections 4.1(b)(1)(vi) of this Article;

(*b*) overfill prevention equipment required under sections 4.1(b)(3) of this Article;

(*c*) corrosion protection equipment required under sections 4.1(b)(1)(iii) and (iv), and 4.1(b)(2)(i) of this Article; or

(*d*) leak detection equipment required under section 4.3(a) of this Article.

(c) The Department may issue the written finding, consistent with paragraphs (a)(2) or (b)(3) of this section, that a Tier 1 or Tier 2 condition exists, but withhold the imposition of the delivery prohibition for a period that may not exceed 180 days, where:

(1) there is no evidence that the tank system is leaking; and

(2) imposing the delivery prohibition would jeopardize public health or safety or the availability of, or access to, fuel in a rural and remote area.

15-5.2 Prohibitions

(a) *Delivery prohibition*. No person may deliver or cause the delivery of petroleum to any tank system to which a tag is affixed. No person may accept petroleum to any tank system to which a tag is affixed.

(b) *Tag tampering and removal prohibition*. Unless authorized by the Department, no person may tamper with or remove a tag affixed to a tank system or cause such tampering or removal.

15-5.3 Notifications

(a) *Notice of delivery prohibition to facility and carrier*. The presence of a tag affixed to the fill pipe of a tank system constitutes notice of the delivery prohibition.

(b) *Notification to carrier by facility*. After the Department affixes a tag to the fill pipe of a tank system, the facility must, prior to the next scheduled delivery of petroleum, inform

all carriers that normally deliver to the tank system that delivery is prohibited. The facility must retain a record of any correspondence regarding the delivery prohibition.

15-5.4 Termination of delivery prohibition

(a) A delivery prohibition may be terminated by the Department on its own initiative, or following the conclusion of review of compliance submissions or an expedited hearing.

(1) Department initiative. If the Department terminates a delivery prohibition on its own initiative, the Department will send a written notification to the facility confirming that the prohibition has been terminated. The Department will send the notification via certified mail to the correspondence address listed in the current facility registration or license.

(2) Review of compliance submissions.

(i) A facility may, at any time, submit information to the Department demonstrating that the facility is in compliance or has corrected the condition(s) that prompted the Department to impose the prohibition.

(ii) Upon submission of information to the Department, the Department will designate an individual to review submissions and provide a written decision as set forth below.

(iii) The designated individual will provide a written decision to the facility within five business days after the Department receives the facility's submission. If the designated individual decides to deny termination of the delivery prohibition, the decision will set forth the reasons for the denial including a description of any deficiency in the information supplied by the facility.

(iv) The decision of the designated individual will constitute a final agency determination subject to challenge under Article 78 of the Civil Practice Law and Rules.

(v) The Department will retain the record generated during the staff review process for one year.

(3) Expedited hearing.

(i) Not later than 15 days after a tag has been affixed to a tank fill port, the Department will provide the facility with an opportunity to present proof on the limited issue of whether the Department incorrectly determined that any Tier 1 or Tier 2 conditions existed at the facility. Notice of such hearing will be sent together with the written notification of any delivery prohibition issued pursuant to sections 5.1(a)(2) or (b)(3) of this Article.

(ii) The Department will bear the burden of proof at the expedited hearing.

(iii) The failure of the facility to appear at the time and place scheduled for the expedited hearing will constitute a waiver of the opportunity for an expedited hearing.

(iv) The expedited hearing will be held before an administrative hearing officer. The hearing officer will make a report to the Nassau County Board of Health setting forth the appearances, the arguments presented at the hearing, findings of fact and conclusions of law, and a recommended determination for consideration by the Nassau County Board of Health.

(v) The hearing officer may, to the extent practicable and without prejudice to the facility's right to have a timely expedited hearing, consolidate the expedited hearing regarding the existence of Tier 1 or 2 conditions with any hearing regarding the facility's violation of other provisions of the Environmental Conservation Law, or any order, rule, or regulation issued or promulgated thereunder.

(vi) The hearing officer will have the powers and authority provided to a presiding officer under the New York State Public Health Law and the Nassau County Public Health Ordinance.

(vii) The expedited hearing will be recorded. The hearing officer will cause a typed transcript of the record to be prepared for the Department files, but will not wait for the preparation of this transcript before issuing a report.

(viii) The hearing officer will issue his or her report within 30 days after the close of the hearing, unless the parties agree to an extension of this time.

(b) *Removal of a tag*. Within two business days after a decision by the Nassau County Commissioner of Health that all Tier 1 and Tier 2 conditions at a facility have been resolved, the Department will remove, or authorize the removal of, the tag.