

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR AND WASTE MANAGEMENT

TANK MANAGEMENT BRANCH

Statutory Authority: 7 Delaware Code, Chapters 60 and 74 (7 Del.C. Ch. 60 & 74)
7 DE Admin. Code 1351

PROPOSED

SAN # 2008-20 and 2008-23

1. Title of the Regulations:

1351 Delaware Regulations Governing Underground Storage Tank Systems

2. Brief Synopsis of the Subject, Substance and Issues:

The Delaware Regulations Governing Underground Storage Tank Systems were first effective July 11, 1986. The most recent revision date is January 11, 2008. The DNREC is proposing changes to the UST Regulations to incorporate federal requirements, to add clarifying language, and to ensure the greatest protection of human health, safety and the environment in Delaware.

The changes to the Delaware UST Regulations are proposed for the following reasons:

"Addition of requirements for a Tank Operator training program are required by the Federal Energy Policy Act of 2005 (EPACT). The EPACT requires the state to promulgate regulations by August 8, 2009.

"Requirements prohibiting the installation of new USTs within specific distances of public, industrial and domestic wells have been added to ensure protection of drinking water supplies.

"Clarification language added to specific sections in response to public comment requesting such.

"Corrections to errors in January 11, 2008 edition of the UST Regulations

3. Possible Terms of the Agency Action:

None

4. Statutory Basis or Legal Authority to Act:

7 Del.C., Chapter 74, 7 Del. C., Chapter 60

5. Other Regulations that May be Affected by the Proposal:

N/A

6. Notice of Public Comment:

The DNREC will conduct a Public Hearing on Tuesday, April 21, 2009. The hearing is scheduled to begin at 7:00 pm in the conference room at the DNREC office located at 391 Lukens Drive, New Castle, DE. The public and interested parties are invited to attend the hearing and to make comments orally or in writing at the hearing. Written comments not presented at the hearing should be addressed to Ms. Jill Williams Hall, DNREC/TMB, 391 Lukens Drive, New Castle, DE 19720 and must be received by the Department by the end of the comment period, as designated by the hearing officer at the hearing.

Copies of the proposed regulations are available online at <http://www.dnrec.delaware.gov/info/Pages/Rules.aspx>

Copies may be viewed during regular business hours at the following DNREC offices:

DNREC, 391 Lukens Drive, New Castle, DE

DNREC, R&R Building, 89 Kings Highway, Dover, DE

7. Prepared by:

Jill Williams Hall, Planner IV, 395-2500, 3/6/09, jill.hall@state.de.us

Regulatory Flexibility Act Compliance

The purpose of the *Regulatory Flexibility Act*, 29 **Del.C.** Ch. 104 (RFA) is “to establish as a principle of regulatory policy that regulatory and reporting requirements fit the scale of those being regulated, that fewer simpler requirements be made of individuals and small businesses and that to achieve these ends agencies be empowered and encouraged to issue regulations which apply differently to individuals and small businesses than to larger businesses” 29 **Del.C.** 10402 (b). This purpose is served by each agency considering “whether it is lawful, feasible and desirable for the agency to exempt individuals or small businesses from the effect of the rule or regulation or whether the agency may or should promulgate a rule or regulation which sets less stringent standards for compliance by individuals and/or small businesses.” 29 **Del.C.** 10404(a).

To qualify for consideration under the RFA, all persons and business entities must first qualify as either an “individual” or a “small business” within the meaning of RFA. The majority of underground storage tank (USTs) systems subject to the Delaware *Regulations Governing Underground Storage Tank Systems* are owned by persons or business that do not meet the definition of individual or small business as defined in 29 **Del.C.** 10403.

1. The nature of any reports and the estimated cost of their preparation by individuals and/or small business which would be required to comply with the new rule.

Reporting requirements under the UST Regulations are typically simple paperwork submissions to ensure that the Department is kept abreast of situations where a threat to human health, safety or the environment exists as in the case of a release of a pollutant into the environment from an UST or when physical changes to the tank equipment occur. For the Department to provide protection of the environment and human health all releases must be reported to ensure that prompt and proper cleanup is completed. The cost to an individual or small business would be the cost of personnel to complete required paperwork. A small business with 3 USTs would spend approximately 6-8 man hours per month completing required reports. The cost to a business in completing reports is small but is essential to protecting the environment.

2. The nature and estimated cost of other measures or investments that would be required by individuals and/or small businesses in complying with the rule.

There may be no cost to individuals or small businesses to comply with new technical requirements in the UST Regulations, depending upon the equipment currently in place. The Department has however taken into account the impact the new regulations may have on small businesses or individuals and has provided for low cost options such as the use of statistical inventory reconciliation as an alternative to costly technological equipment for release detection and has given tank owners five years to comply with upgrade requirements to ensure individuals and small businesses have adequate time to plan for capital improvements.

The cost to individuals to comply with the new operator training requirements is estimated to be a one time cost of \$100.00. This is the estimated cost to attend the required operator training class.

3. The nature and estimated costs of any legal, consulting and accounting services that would be required by individuals and/or small businesses in complying with this rule.

There are no intrinsic legal or accounting services required to comply with the Regulations. To ensure adequate protection of human health, safety and the environment, qualified environmental consultants must be utilized when remediation of contamination is necessary. Other state statutes also require the use of professional engineers or professional geologists in certain circumstances when remediation of contamination is necessary.

4. *The ability of individuals and/or small businesses to absorb the costs estimated under questions 1, 2 and 3 of this form without suffering economic harm and without adversely affecting competition in the marketplace.*

The ability of individuals or small businesses to absorb the costs associated with compliance with the Regulations is somewhat unknown, as the Regulations allow tank owners a variety of choices to achieve compliance. The tank owner may choose to invest in high cost technology or lower cost manual operations. The upgrades to existing systems are not required until 5 years after promulgation allowing tank owners adequate time to plan for capital improvements.

5. *The additional cost, if any, to the agency of administering or enforcing a rule which exempts or sets lesser standards for compliance by individuals and/or small businesses.*

The additional cost to the Department of administering or enforcing a rule which exempts or sets a lesser standard for compliance by individuals or small businesses would be significant as all federal UST grant funding would be lost, because the federal requirements require the state regulations to be at least as stringent as the federal requirements in order to receive federal funding. The federal requirements make no provision for lesser standards for individuals or small businesses. As a practical matter it would be virtually impossible to enforce such a rule as tank ownership changes frequently. The nature of the fuel dispensing business is such that an UST may change ownership several times in one year. Thus an UST would be subject to differing rules simply via a real estate transaction.

6. *The impact on the public interest of exempting or setting lesser standards of compliance for individuals and/or small businesses.*

The impact on the public interest in exempting or setting lesser standards of compliance for individuals or small businesses with the Regulations is potentially devastating in terms of environmental harm. The size and impact of a release of a pollutant from an UST has no correlation to the size of the tank owner. The harmful impact of a release from an UST owned by an individual as compared to an UST owned by a corporation is the same. Exempting tanks owned by individuals or small businesses would result in the potential for releases from those certain USTs to go undetected and unchecked. Significant harm to the environment, in particular the State's groundwater resources, would ensue. Releases from USTs have dropped significantly since the inception of the UST program. The reduction in releases correlates directly to the enforcement of the UST Regulations for all USTs, regardless of type of owner. Furthermore, an exemption would cause Delaware to be less stringent than the federal UST requirements and the Department would lose all federal UST grant funds. Without federal funding the Department could not support the staff necessary to ensure enforcement of the UST Regulations. In the absence of a regulatory program releases from USTs would increase dramatically resulting in pollution of public groundwater which is the source of 80% of the State's drinking water supply.

7. *What accommodations, if any, have been made in the regulations to address individual and/or small business concerns identified above?*

The Department has provided for lower cost options where feasible, such statistical inventory reconciliation as opposed to installation of higher cost technology. The Department has given tank owners five years to comply with upgrade requirements to allow businesses adequate time to plan for capital improvements.

Regulation Reference	Change
"Effective Date of Regulations" throughout Regulations	Date these Regulations became effective inserted = January 11, 2008
PART A	
Part A, Definitions, Class A, B, C Operators	Class A,B and C Operator definitions for Operator Training
Part A, Definitions, Containment Sump	Added "Piping" to Containment Sump definition to capture transition sumps in the definition

Part A, Definitions Heating Fuel UST System	Clarification added to define Heating Fuel UST as one connected directly to heat generating equipment
Part A, Definitions, Domestic, Public and Industrial Wells	Added definition of Public well, Industrial well and Domestic well for new UST citing requirements
Part A, Definitions, Regulated Substance	Verbage in definition of 'Petroleum" that was inadvertently deleted in Jan 2008 promulgation added.
Part A, Definitions -Secondary Containment	Deleted "primary containment"
Part A, Definitions, Tank	Clarification added to define a "tank" solely as the stationary storage vessel and not any of the Ancillary equipment
Part A, Definitions Pipe	Added "line" to mean the same as "pipe"
Part A, Definitions, UST System	means an Underground Storage Tank, connected underground product, vent and vapor recovery Piping and its associated Ancillary Equipment, and containment systems <i>and all appurtenances</i> . Appurtenances added to include equipment such as spill containment as part of the UST System.
Part A, Section 4.1.5.	change "tank fee" to "Tank registration fee" to mirror statute
Part A, Section 4.1.7.	"change in product stored" to defined term "Change in Substance Stored". Added Retrofit and Upgrade to list of changes to the UST System that require notification to the Dept.
Part A, Section 4.4.11.	Added Upgrade and Retrofit records to documentation that must be given to a new Owner
Part A, Section 4.6.10.	Correction of title of the State of Delaware Fire Regulations
Part A, Section 4.6.12., Installation Notification Requirements	changed 'tank' to 'UST System" for clarification
Part A, 5.1.3.3.	Added requirement that repair records be kept for the life of the UST system to comply with federal requirements
Part A, Section 10	Added Operator Training requirements as required by the federal Energy Policy Act
PART B	
Part B, §1.2.4. & §1.2.5.	For UST Systems installed after the revised 2008 Regulations are effective - Added minimum distance requirements from domestic, public and industrial wells to a new UST System to mirror the Delaware Regulations Governing the Construction and Use of Water Wells.

Part B, Section 1.2.3.3.	change "tank location" to "UST System location" for clarification
Part B, Section 1.4.3.3.	Containment sumps installed to meet secondary containment requirements must comply with the testing and maintenance requirements for containment sumps
Part B, Section 1.4.3.4.	Interstitial monitoring installed to meet secondary containment requirements must comply with the preventative maintenance requirements for interstitial monitoring in Section 1.9.4.4.
Part B, Section 1.9.1.3.	change "tank tightness test" to "UST System tightness test"
Part B, Section 1.9.3.1.1.	Changed "once a week" to "once every 7 calendar days" for clarification
Part B, Section 1.9.3.1.1.9.1.	Inventory reconciliation: Changed "once during each calendar month" to "at the end of each calendar month"
Part B, Section 1.9.3.1.1.9.4.	Automatic systems utilized for performing inventory procedures must comply with preventative maintenance program requirements in Section 1.9.5.3.
Part B, Section 1.9.3.3.	change "tank tightness test" to "UST System tightness test"
Part B, Section 1.9.4.2.	Change "once during each calendar month" to "once every 30 calendar days" for Interstitial monitoring testing when used for tank release detection to meet federal requirements
Part B, Section 1.9.4.3.	Added - interstitial monitoring equipment must be capable of producing are record of Release detection monitoring results.
Part B, Section 1.9.5.1.3.	Change "once during each calendar month" to "once every 30 calendar days" for ATG when used for tank release detection to meet federal requirements
Part B, Section 1.9.5.1.4.	Added - Records of ATG tests must be kept for the life of the UST System
Part B, Section 1.19.1.4.	Line Leak Detector Testing - Deleted "in accordance with manufacturer's test protocols" as not all manufacturer's have a test protocol. Added testing must be done in-line under normal operating conditions. Eliminates "bench testing" of LLD.
Part B, Section 1.19.2.3.	Added language to allow continuous interstitial monitoring of double wall piping in lieu of an annual piping tightness test. Inadvertently omitted in Jan 2008 draft.

Part B, Section 1.20.3.	Added requirements for D/W Suction Piping systems to utilize to comply with release detection requirements
Part B, Section 1.21.8.	Added specific requirements for interstitial monitoring of double wall spill containment for clarification
Part B, Sections 1.24.2.8.	Added requirements: Before a repair can be made to a Sacrificial Anode CP system, results of the 2 most recent CP tests and release detection records must be submitted to the Dept.
Part B, Section 1.24.2.9.	Added: No internal assesment will be accepted for the purpose of determining the integrity of an UST System if the tank has an internal lining.
Part B, Section 1.25.6	Added: "Owners and Operators shall immediately remove water, Regulated Substance or debris that accumulates in any Containment Sump"
Part B, Section 1.27.3.	All sensors installed in a sump for the purpose of detecting a Release from the UST System shall be installed no more than 1" from the bottom of the sump.
Part B, Section 1.28.	Changed section to include Retrofit and Upgrade requirements in addition to Repair Requirements; added site assessment req. and record documentation
Part B, Section 1.28.2.	Cross referenced requirement to report abnormal operating conditions with Part E, Section 1.2.
Pat B, Section 1.29.3.3	Added option to use modified inventory control procedures to comply with inventory control req. for Used Oil USTs.
Part B, Section 1.29.5.	Added requirements for modified inventory control for Used Oil USTs.
Part B, Section 1.30.4.	Added requirement for piping on emergency generator UST Systems that
Part B, Section 1.31	Routine Inspection: Changed 'once every calendar month' to "an interval no less frequently than once every 28-31 calendar days" to accommodate months with days ranging from 28-31 days
Part B, Section 1.32.3.3.	Deleted requirement that lined USTs be inspected as lining cannot be used to meet corrossion protection requirements.
Part B, Section 2.2.3.	change "Tank Facility" to "UST System Facility"

Part B, Section 2.4.2.3.	Change "once during each calendar month" to "once every 30 calendar days" for clarification
Part B, Section 2.9.3.1.1.	Changed "once a week" to "once every 7 calendar days" for clarification
Part B, Section 2.9.3.1.1.9.1.	Inventory reconciliation: Changed "once during each calendar month" to "at the end of each calendar month"
Part B, Section 2.9.3.1.1.9.4.	Added requirement that automatic systems utilized for performing inventory must comply with preventative maintenance requirements
Part B, Section 2.9.5.1.3.	Change "once during each calendar month" to "once every 30 calendar days" for ATG when used for tank release detection to meet federal requirements
Part B, Section 2.9.9.9.2. And 2.9.9.9.5.	change "Tank system" to "UST System"
Part B, Section 2.9.10.4.3.	Change "once during each calendar month" to "once every 30 calendar days" for clarification
Part B, Section 2.16.1.3.	Changed time frame for repair of cathodic protection systems on metallic piping from 30 to 60 days to be consistent with time frames for repair of cathodic protection on Tanks.
Part B, Section 2.16.1.5.	Clarification language added to define what "restore cathodic protection" requires
Part B, Section 2.20.1.4.	Line Leak Detector Testing - Deleted "in accordance with manufacturer's test protocols" as not all manufacturer's have a test protocol. Added testing must be done in-line under normal operating conditions. Eliminates "bench testing" of LLD.
Part B, Section 2.20.2.3.2.	Changed "automatic tank gauge" to "interstitial monitoring equipment" for clarification
Part B, Section 2.20.2.3.5.	Cross referenced with Section 2.26 for clarification
Part B, Section 2.21.3.	Added requirements for D/W Suction Piping systems to utilize to comply with release detection requirements
Part B, Section 2.22.7.	Added specific requirements for interstitial monitoring of double wall spill containment for clarification
Part B, Section 2.25.2.8.	Added requirements: Before a repair can be made to a Sacrificial Anode CP system, results of the 2 most recent CP tests and release detection records must be submitted to the Dept.

Part B, Section 2.25.2.9. and 2.25.3.9.	Added: No internal assesment will be accepted for the purpose of determining the integrity of an UST System if the tank has an internal lining.
Part B, Section 2.25.3.8.	Added requirement: Before a repair can be made to an impressed current CP system, results of the 2 most recent CP tests, rectifier reading records and release detection records must be submitted to the Dept.
Part B, Section 2.26.3.	Added: "Owners and Operators shall immediately remove water, Regulated Substance or debris that accumulates in any Containment Sump"
Part B, Section 2.28.1.	Added annual testing of sensors used for continuous IM monitoring of DW spill buckets when used instead of annual testing of spill containment
Part B, Section 2.28.2.	Added: All sensors installed in a sump for the purpose of detecting a Release from the UST System shall be installed no more than 1" from the bottom of the sump
Part B, Section 2.29.	Changed section to include Retrofit and Upgrade requirements in addition to Repair Requirements. Includes req. for soil sampling and documentation submittal to DNREC.
Part B, Section 2.29.2.	Cross referenced requirement to report abnormal operating conditions with Part E, Section 1.2.
Part B, Section 2.30.2.1.	Deleted "as prescribed in section 2.9. of this Part" as not all Used Oil Release detection methods are listed in section 2.9.
Part B, Section 2.30.2.3.	Changed heading to "Manual Tank Gauging Requirements for Used Oil USTs"
Part B, Section 2.30.6.1.3.	Deleted requirement that amount added to Used Oil be measured and recorded; added "2.30.6.1.3. The amount of Used Oil added shall be such that the UST is not more than ninety percent (90%) full"
Part B, Section 2.30.5.	Added requirements for modified inventory control for Used Oil USTs.
Part B, Section 2.30.6.1.	Correct section reference that is incorrect; Section 1.22. changed to Section 2.23.
Part B, Section 2.32.	Routine Inspection: Changed 'once every calendar month' to "an interval no less frequently than once every 28-31 calendar days" to accommodate months with days ranging from 28-31 days

Part B, Section 2.33.3.4.	If an internally lined tank is not inspected on the required schedule and subsequently fails an internal inspection test the tank must be removed or closed in place.
Part B, Section 2.34.2.3.	Added "Internal Lining only" to allowable upgrades for existing tanks. Inadvertently omitted in original
Part B, Section 3.2.4.	Routine inspections are required on an Out Of Service UST System if the system is not empty.
Part B, Section 3.3.1.	Modified requirements for USTs changing from out of service to in service, to require testing of the system only if the UST System has been out of service for 3 months or more
Part B, Section 3.3.1.1.	Added Section 1 to requirements to correct omission from Jan 2008 regulations
Part B, Section 3.3.1.2.	Deleted reference to Section 2.9.7. because this is only tank tightness testing and the requirement is for the entire UST System to be tightness tested as applicable.
Part B, Section 5.5.1.	5.5. "Owners and Operators shall comply with the requirements of Part F of these Regulations <i>until the UST System is permanently Removed or Closed In Place in accordance with these Regulations or does not store a Regulated Substance</i> and all requirements of Part E of these Regulations are completed." Italicized wording adding for clarification
PART C	
Part C, Section 1.2.3.3.	change "tank location" to "UST System location" for clarification
Part C, Section 1.2.4. and 1.2.5.	For UST Systems installed after the revised 2008 Regulations are effective - Added minimum distance requirements from domestic, public and industrial wells to a new UST System to mirror the Delaware Regulations Governing the Construction and Use of Water Wells.
Part C, Section 1.4.3.3.	Containment sumps installed to meet secondary containment requirements must comply with the testing and maintenance requirements for containment sumps

Part C, Section 1.4.3.4.	Interstitial monitoring installed to meet secondary containment requirements must comply with the preventative maintenance program for interstitial monitoring in Section 1.9.4.3.
Part C, Section 1.9.3.1.1.6.4.	Added requirement that automatic systems utilized for performing inventory must comply with preventative maintenance requirements
Part C, Section 1.9.4.1.3.	Change "once during each calendar month" to "once every 30 calendar days" for ATG when used for tank release detection
Part C Section 1.19.1.4.	Deleted "in accordance with manufacturer's test protocols" as not all manufacturer's have a test protocol. Added testing must be done in-line under normal operating conditions. Eliminates "bench testing" of LLD.
Part C, Section 1.19.2.3.	Added language to allow continuous interstitial monitoring of double wall piping in lieu of an annual piping tightness test. Inadvertently omitted in Jan 2008 draft.
Part C, Section 1.20.3.	Added requirements for Double wall Suction Piping systems to utilize to comply with release detection requirements
Part C, Section 1.21.8.	Added specific requirements for interstitial monitoring of double wall spill containment for clarification
Part C, Sections 1.24.2.8.	Before a repair can be made to a Sacrificial Anode CP system, results of the 2 most recent CP tests and release detection records must be submitted to the Dept.
Part C, Section 1.24.2.9.	Added: No internal assesment will be accepted for the purpose of determing the integrity of an UST System if the tank has an internal lining.
Part C, Section 1.25.6.	Added: "Owners and Operators shall immediately remove water, Regulated Substance or debris that accumulates in any Containment Sump."
Part C, Section 1.26.3.	All sensors installed in a sump for the purpose of detecting a Release from the UST System shall be installed no more than 1" from the bottom of the sump.

Part C, Section 1.27.	Changed section to include Retrofit and Upgrade requirements in addition to Repair Requirements. ncludes req. for soil sampling and documentation submittal to DNREC.
Part C, Section 1.27.2	Cross referenced requirement to report abnormal operating conditions with Part E, Section 1.2.
Part C, Section 1.28.	Routine Inspection: Changed 'once every calendar month' to "an interval no less frequently than once every 28-31 calendar days" to accommodate months with days ranging from 28-31 days
Part C, Section 1.29.3.3.	Deleted requirement that lined USTs be inspected as lining cannot be used to meet corrossion protection requirements.
Part C, Section 2.2.3.	change "Tank Facility" to "UST Facility"
Part C, Section 2.9.5.7.	Correct incorrect Section reference from 2.9.6.6. to 2.9.5.6.
Part C, Section 2.16.1.3.	Changed time frame for repair of cathodic protection systems on metallic piping from 30 to 60 days to be consistent with time frames for repair of cathodic protection on Tanks.
Part C, Section 2.16.1.5.	Clarification language added to define what 'restore cathodic protection" requires
Part C, Section 2.20.1.4.	Deleted "in accordance with manufacturer's test protocols" as not all manufacturer's have a test protocol. Added testing must be done in-line under normal operating conditions. Eliminates "bench testing" of LLD.
Part C, Section 2.20.2.3.5.	Cross referenced with Section 2.26. for clarification
Part C, Section 2.21.3.	Added requirements for Double wall Suction Piping systems to utilize to comply with release detection requirements
Part C, Section 2.22.7.	Added specific requirements for interstitial monitoring of double wall spill containment for clarification
Part C, Section 2.25.2.8.	Before a repair can be made to a Sacrificial Anode CP system, results of the 2 most recent CP tests and release detection records must be submitted to the Dept.
Part C, Section 2.25.2.9. and 2.25.3.9.	Added: No internal assesment will be accepted for the purpose of determing the integrity of an UST System if the tank has an internal lining.

Part C, Section 2.25.3.8.	Before a repair can be made to an impressed current CP system, results of the 2 most recent CP tests, rectifier reading records and release detection records must be submitted to the Dept.
Part C, Section 2.26.3.	Added: "Owners and Operators shall immediately remove water, Regulated Substance or debris that accumulates in any Containment Sump."
Part C, Section 2.27.1.	Added annual testing of sensors used for continuous IM monitoring of DW spill buckets when used instead of annual testing of spill containment
Part C, Section 2.27.2.	All sensors installed in a sump for the purpose of detecting a Release from the UST System shall be installed at the lowest point in the sump
Part C, Section 2.28.	Changed section to include Retrofit and Upgrade requirements in addition to Repair Requirements
Part C, Section 2.28.2.	Cross referenced requirement to report abnormal operating conditions with Part E, Section 1.2.
Part C, Section 2.29.	Routine Inspection: Changed 'once every calendar month' to "an interval no less frequently than once every 28-31 calendar days" to accommodate months with days ranging from 28-31 days
Part C, Section 2.31.3.4.	If an internally lined HF tank is not inspected on the required schedule and subsequently fails an internal inspection test the tank must be removed or closed in place.
Part C, Section 2.32.	Reworded for clarity and added "internal lining only" to allowable upgrades for existing tanks. Inadvertently omitted in original.
Part C, Section 3.2.3.	Section 3.2.3. is created by splitting 3.2.2. into 2 sections. The verbage is the same.
Part C, Section 3.2.4.	Routine inspections are required on an Out Of Service UST System if the system is not empty.
Part C Section 3.3.1.	Modified requirements for USTs changing from out of service to in service, to require testing of the system only if the UST System has been out of service for 3 months or more

Part C Section 3.3.1.1.	Added Section 1 to requirements to correct omission from Jan 2008 regulations
Part C, Section 3.3.1.2.	Deleted reference to Section 2.9.7. because this is only tank tightness testing and the requirement is for the entire UST System to be tightness tested as applicable.
PART D	
Part D, Section 1.2.3.3.	change "Tank Facility" to "UST System Facility"
Part D, Sections 1.2.4. and 1.2.5.	For UST Systems installed after the revised 2008 Regulations are effective - Added minimum distance requirements from domestic, public and industrial wells to a new UST System to mirror the Delaware Regulations Governing the Construction and Use of Water Wells.
Part D, Section 1.4.3.3.	Containment sumps installed to meet secondary containment requirements must comply with the testing and maintenance requirements for containment sumps
Part D, Section 1.4.3.4.	Interstitial monitoring installed to meet secondary containment requirements must comply with the preventative maintenance program for interstitial monitoring in Section 1.9.4.3.
Part D, Section 1.9.2.1.2.	Deleted ATG performing a tank tightness test as an option for Release Detection to comply with federal requirements which require interstitial monitoring
Part D, Section 1.9.3.1.1.	Changed "once a week" to "once every 7 calendar days" for clarification
Part D, Section 1.9.3.1.1.3.	Changed drop tube from 6 inches to 5.9 inches from tank bottom to be consistent with Part B and C
Part D, Section 1.9.3.1.1.6.4.	Inventory reconciliation: Changed "once during each calendar month" to "at the end of each calendar month"
Part D, Section 1.9.5.1.	Deleted ATG performing a tank tightness test as an option for Release Detection to comply with federal requirements which require interstitial monitoring
Part D, Section 1.9.5.1.2.	Change "once during each calendar month" to "once every 30 calendar days" for ATG when used for tank release detection to meet federal requirements

Part D, Section 1.19.1.4.	Deleted "in accordance with manufacturer's test protocols" as not all manufacturer's have a test protocol. Added testing must be done in-line under normal operating conditions. Eliminates "bench testing" of LLD.
Part D, Section 1.19.2.	Deleted option for annual piping tightness test for Hazardous Substance piping to comply with Federal requirements that require interstitial monitoring
Part D, Section 1.19.2.1.	Added requirements for continuous interstitial monitoring of pressurized Piping systems to comply with federal release detection requirements.
Part D, Section 1.19.3.1.3.	Change "once during each calendar month" to "once every 30 calendar days"
Part D, Section 1.20.3.	Added requirements for D/W Suction Piping systems to utilize to comply with release detection requirements
Part D, Section 1.21.8.	Added specific requirements for interstitial monitoring of double wall spill containment for clarification
Part D, Section 1.24.2.8.	Added: Before a repair can be made to an impressed current CP system, results of the 2 most recent CP tests, rectifier reading records and release detection records must be submitted to the Dept.
Part C, Section 1.24.2.9.	Added: No internal assesment will be accepted for the purpose of determining the integrity of an UST System if the tank has an internal lining.
Part D, Section 1.25.7.	Added: "Owners and Operators shall immediately remove water, Regulated Substance or debris that accumulates in any Containment Sump."
Part B, Section 1.27.3.	Added annual testing of sensors used for continuous IM monitoring of DW spill buckets when used instead of annual testing of spill containment
Part D, Section 1.27.4.	All sensors installed in a sump for the purpose of detecting a Release from the UST System shall be installed at the lowest point in the sump
Part D, Section 1.28.	Changed section to include Retrofit and Upgrade requirements in addition to Repair Requirements including addition of site assessment req and documentation submittal

Part D, Section 1.28.2.	Cross referenced requirement to report abnormal operating conditions with Part E, Section 1.2.
Part D, Section 1.29.	Routine Inspection: Changed 'once every calendar month' to "an interval no less frequently than once every 28-31 calendar days" to accommodate months with days ranging from 28-31 days
Part D, Section 1.30.3.4.	If an internally lined Hazardous Substance tank is not inspected on the required schedule and subsequently fails an internal inspection test the tank must be removed or closed in place.
Part D, Section 2.2.3.	Section 2.2.3. is created by splitting 2.2.2. into 2 sections. The verbage is the same.
Part D, Section 2.2.4.	Routine inspections are required on an Out Of Service UST System if the system is not empty.
Part D Section 2.3.1.	Modified requirements for USTs changing from out of service to in service, to require testing of the system only if the UST System has been out of service for 3 months or more
Part D, Section 2.3.1.2.	Deleted reference to Section 2.9.7. because this is only tank tightness testing and the requirement is for the entire UST System to be tightness tested as applicable.
Part D, Section 4.5.	4.5. "Owners and Operators shall comply with the requirements of Part F of these Regulations <i>until the UST System is permanently Removed or Closed In Place in accordance with these Regulations or does not store a Regulated Substance</i> and all requirements of Part E of these Regulations are completed." Italicized wording adding for clarification
PART E	
Part E, Section 1.1.1.2.	Changed to require notification of the DNREC hotline of an indicated release only when required to do by Chapter 60 statute and regulations
Part E, Section 1.1.1.1. and 1.3.2.1.	Deleted in-state hot line number. 800 number is now nationwide.

Part E, Section 1.1.1.3.	If the phone numbers listed in these Regulations are not valid it is the responsibility of the <i>Person discovering the Release (changed from Responsible Party)</i> to take all reasonable steps to ascertain a valid phone number.
Part E, Section 1.1.3.1.	Added Repair and Upgrade to situations where a site assessment is required.
Part E, Section 1.3.2.1., Section 1.4. and Section 1.5.	Corrected phone number for release reporting
Part E, Section 1.6. Public Notice Requirements for Confirmed Releases	Requires DNREC to inform the public of any confirmed release that requires cleanup; posting on the internet is an appropriate mechanism
Part E, Section 2.1.1. and 2.2.1.	Changed "Owner and Operator" to "Responsible Party"
Part E, Section 2.2.2.	Deleted section in Part E; included in Parts B, C and D in Repair, Retrofit and Upgrade requirements sections
Part E, Section 3.1.1.	Added situation where there is an Indicated Release to situations where the Dept can assume control.
Part E, Section 3.3.5.	Added req. that LCSM when updated must be submitted to the Dept.
Part E, Section 4.2.2.	Added path to go directly to a request for a NFA if the results of the investigation do not require remedial action.
Part E, Section 4.2.3.	Investigation reports must be organized in a report form in accordance with Department guidance
Part E, Section 4.4. and 5.4.	Site safety plans must be submitted only if the Department requests.
Part E, Section 6.1.	"Site Closure" changed to "No Further Action" throughout the Section
Part E, Section 6.1.3.	Request for NFA must be signed by a PG or PE when required by the Department.
PART F	
Part F, Section 1.11.	Added requirement that Owners/Operators send documentation of current FR mechanism to the Dept within 30 days of confirmation of a Release, as req. by Federal regulations
Part F, Section 1.12.	Any UST System that does not have current FR must immediately empty the UST.
Part F	All Appendices changed to Forms and each Form given a section number to conform with the Del Registrar Style Manual

PART H	
No Changes	

12 DE Reg. 1267 (04/01/09) (Prop.)