



APPROVED BY DSS
DATE 9/14/16

START ACTION NOTICE 2016-14

1. **TYPE OF ACTION:** Amend 7 Del. Admin Code 1352, the Delaware *Regulations Governing Aboveground Storage Tanks (ASTs)* (the Regulations)

2. **PURPOSE OF ACTION:** The Regulations were originally completed in 2004 and were amended in 2005 and 2014. When originally promulgated Delaware was one of very few states with an AST regulatory program. The federal government does not have a regulatory program, therefore there was very little information available for Delaware in constructing Regulations. In the ensuing twelve years the DNREC-Tank Management Section has, through education and field experience, identified several technical aspects of the Regulations that need revisions. The reasons include Regulations that are not specific in nature, technical areas that are not addressed, new technologies that are not included, and new industry standards. The proposed revisions will add clarity and will ensure the requirements in the Regulations are up to date and in line with current industry practices and standards. This Start Action Notice replaces SAN 2013-28 and better describes proposed changes to the Regulations that are consistent with changes that were recently made to the Jeffrey Davis Aboveground Storage Tank Act 7 Del. C., Chapter 74A. in July 2016. DNREC has completed a preliminary draft of the regulatory changes and held regulatory workshops under the previous SAN 2013-28 in both March 2015 and June 2016. The regulatory changes will be consistent with changes made to the statute as described below:

- The changes to the Jeffrey Davis Aboveground Storage Tank Act, 7 Del. C, Chapter 74A include: (1) New definitions – “Imminent threat of a release” and “Indicated Release” (2) Revisions to existing definitions of “In service tank” and “Out of service tank” (3) The Department reserves the right to assume control of any Release and Indicated Release situation if it is determined that the Owner and Operator are not responding promptly and effectively. In such cases all liability, including payments to the Department of response costs, will remain with the Owners and Operators. The Department will not step in and take control of the situation unless the owner or operator fails to take action. If the Department steps in and performs the work, the Department will have the authority to cost recover from responsible parties and receive payment within 90 days. If the owner or operator doesn't respond to the cost recovery demand, the Department may file an action in Superior Court to recover funds spent on the project. (4) HSCA Funds can be used for five different situations including: Preventing release from ASTs; Rendering a tank empty if it's been out of service for over 18 months; Performing an out of service site assessment if the owner fails to do the work; Provide financial assistance to remove ASTS, perform investigations, and corrective actions for tanks less than 1000 gallons in size; Investigate groundwater releases and perform corrective actions

3. **STATUTORY BASIS:** 7 Del.C. Chapter 74A

