



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE: (302) 739-4403
FAX: (302) 739-6242

Secretary's Order No.: 2016-WH-0001

**RE: Approving Final Regulations to Amend 7 DE Admin. Code 1351:
*Delaware Regulations Governing Underground Storage Tank Systems***

Date of Issuance: January 12, 2016

Effective Date of the Amendment: February 11, 2016

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 *Del.C.* §§6006, 6010, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory proceeding.

Background, Procedural History and Findings of Fact

This Order relates to proposed regulation Amendments to 7 DE Admin. Code 1351: *Delaware Regulations Governing Underground Storage Tank Systems*. The Department's Division of Waste and Hazardous Substances, Tank Management Section, commenced the regulatory development process with Start Action Notice 2015-04 dated June 24, 2015. The Department published its initial proposed regulation Amendments in the November 1, 2015 *Delaware Register of Regulations*. The Department then held a public hearing on December 1, 2015. Consistent with 29 *Del.C.* §10118(a), the public hearing record remained open for public comment through December 16, 2015.

Delaware's good nature depends on you!

The purpose of this proposed regulatory promulgation is to adopt as final the aforementioned proposed Amendments to the *Delaware Regulations Governing Underground Storage Tank Systems* (“Amendments”), in order to remain consistent with current Delaware law. Specifically, DNREC is taking this action to clarify several issues resulting from amending 7 *Del.C.*, Ch. 74, the *Delaware Underground Storage Tank Act*, in October of 2014 (note: said amendments have an effective date of January 1, 2016), to wit: (1) amend the existing regulatory language concerning cleanup liability relating to releases from USTs from the proximate cause standard to that of strict (joint and several) liability, effective January 1, 2016; (2) update the ways by which owners and operators of UST facilities currently and in the future may manage and reduce their cleanup liability; (3) add regulatory language that describes “All Appropriate Inquiry for Residential Properties”; and (4) clarify how the Department will use environmental covenants and deed notices to ensure the long term stewardship of leaking underground storage tank sites that are either undergoing or have had corrective actions completed in the past.

It should be noted that the changes to the aforementioned UST cleanup liability also apply to residential properties that have had a release from a home heating fuel UST. DNREC’s new Heating Fuel UST Closure Assistance Program, launched in March of 2015, now provides for the Department to pay to remove or close in place residential and commercial tanks buried below ground that hold 1,100 gallons or less of heating fuel. Since its inception, DNREC has received over 175 applications for the program, and has removed or closed in place over 111 tanks. Response from property owners in Delaware has been overwhelmingly positive, as they are grateful for the financial assistance, and are relieved to be rid of a potential liability on their property.

The above-referenced proposed Amendments, which reflect the statutory changes referenced above, were presented and thoroughly vetted by the Department at the public hearing on December 1, 2015. Members of the public attended the December 1, 2015 hearing, however, no comment was received by the Department with regard to this proposed regulatory promulgation. It should be noted that all proper notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

The Department's presiding hearing officer, Lisa A. Vest, prepared a Hearing Officer's Report dated January 7, 2016 ("Report"). The Report documents the proper completion of the required regulatory amendment process, establishes the record, and recommends the adoption of the proposed Amendments as attached to the Report as Appendix "A".

Reasons and Conclusions

Based on the record developed by the Department's experts and established by the Hearing Officer's Report, I find that the proposed regulatory Amendments to 7 DE Admin. Code 1351: *Delaware Regulations Governing Underground Storage Tank Systems* are well-supported. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the proposed regulatory Amendments be promulgated as final.

I find that the Department's experts in the Division of Waste and Hazardous Substances, Tank Management Section, fully developed the record to support adoption of these regulatory Amendments. The adoption of these regulatory Amendments will allow Delaware to modify existing regulatory language concerning cleanup liability relating to

releases from USTs from the proximate cause standard to that of strict (joint and several) liability, effective January 1, 2016, update the ways by which owners and operators of UST facilities currently and in the future may manage and reduce their cleanup liability, add regulatory language that describes “All Appropriate Inquiry for Residential Properties”, and clarify how the Department will use environmental covenants and deed notices to ensure the long term stewardship of leaking underground storage tank sites that are either undergoing or have had corrective actions completed in the past.

In conclusion, the following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to the proposed Amendments to 7 DE Admin. Code 1351: *Delaware Regulations Governing Underground Storage Tank Systems*, pursuant to 7 *Del.C.*, Ch. 74;

2. The Department has jurisdiction under its statutory authority, pursuant to 7 *Del.C.* Ch. 60, to issue an Order adopting these proposed regulatory amendments as final;

3. The Department provided adequate public notice of the proposed regulatory amendments and all proceedings in a manner required by the law and regulations, provided the public with an adequate opportunity to comment on the proposed regulatory amendments, including at the time of the public hearing held on December 1, 2015, and held the record open through close of business on December 16, 2015, consistent with 29 *Del.C.* §10118(a), in order to consider public comment on these proposed regulatory amendments before making any final decision;

4. The Department’s Hearing Officer’s Report, including its established record and the recommended proposed regulatory Amendments as set forth in Appendix “A”, are hereby adopted to provide additional reasons and findings for this Order;

5. The adoption of these proposed regulatory Amendments will allow Delaware to (1) modify existing regulatory language concerning cleanup liability relating to releases from USTs from the proximate cause standard to that of strict (joint and several) liability, effective January 1, 2016; (2) update the ways by which owners and operators of UST facilities currently and in the future may manage and reduce their cleanup liability; (3) add regulatory language that describes “All Appropriate Inquiry for Residential Properties”; and (4) clarify how the Department will use environmental covenants and deed notices to ensure the long term stewardship of leaking underground storage tank sites that are either undergoing or have had corrective actions completed in the past;

6. The Department has reviewed these proposed regulatory Amendments in the light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* Ch. 104 (version applicable to all regulations initially published on or before December 31, 2015), and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally;

7. The Department’s proposed regulatory Amendments, as published in the November 1, 2015 *Delaware Register of Regulations*, and as set forth in Appendix “A” as noted above, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they are approved as final regulatory amendments, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*; and

8. The Department shall submit this Order approving as final the proposed Amendments to 7 DE Admin. Code 1351: *Delaware Regulations Governing Underground Storage Tank Systems* to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.



David S. Small
Secretary

HEARING OFFICER'S REPORT

TO: The Honorable David S. Small
Cabinet Secretary, Department of Natural Resources and Environmental Control

FROM: Lisa A. Vest 
Public Hearing Officer, Office of the Secretary
Department of Natural Resources and Environmental Control

RE: **Proposed Regulation Amendments to 7 DE Admin. Code 1375: *Delaware Regulations Governing Underground Storage Tank Systems***

DATE: January 7, 2016

I. BACKGROUND AND PROCEDURAL HISTORY:

A public hearing was held on Tuesday, December 1, 2015, at 6:00 p.m. at the Department of Natural Resources and Environmental Control (“DNREC”, “Department”) office located at 391 Lukens Drive, New Castle, Delaware to receive comment on proposed amendments (“Amendments”) to 7 DE Admin. Code 1351: *Delaware Regulations Governing Underground Storage Tank Systems*. The *Delaware Underground Storage Tank Act* (“DUSTA”) was enacted in 1985. Delaware Code and existing State regulations assign cleanup liability to responsible parties that cause and contribute to releases from underground storage tanks (“USTs”). Owners and operators of USTs may be considered responsible parties under such situations, and are required by regulation to maintain a financial responsibility mechanism, such as insurance, letter of credit, bond, or self-insurance to pay for corrective action and third party damages associated with a release. Historically, DNREC has had to provide evidence that a responsible party caused the release before that responsible party could be held liable for the cleanup.

Since many UST facilities in Delaware have had multiple owners and operators (as well as multiple releases over the years), it has become very difficult for the Department to determine (1)

the timeframe as to when any given release occurred; and (2) which responsible party may have caused the release. Additionally, as responsible parties leave a business, they often do not have the means to perform necessary work, and thus no longer maintain their financial assurance. Other problems, such as bankruptcy and continuing compliance violations, may create complicated situations which make it increasingly difficult for DNREC to hold responsible parties liable for the cleanup associated with releases. Such issues have resulted in DNREC having to use already limited State funds to perform necessary cleanup actions.

In order to address the above problems, amendments to DUSTA were signed into law on October 6, 2014 by Governor Jack Markell. These changes to Delaware's UST law provide more certainty to the regulated community, and allow DNREC to fairly apportion costs to those responsible for contamination from leaking tanks. Specifically, the Department's proposed Amendments to the *Delaware Regulations Governing Underground Storage Tank Systems* will allow Delaware to (1) modify existing regulatory language concerning cleanup liability relating to releases from USTs from the proximate cause standard to that of strict liability (joint and several), effective January 1, 2016; (2) update the ways by which owners and operators of UST facilities currently, and in the future, may manage and reduce their cleanup liability; (3) add regulatory language that describes "All Appropriate Inquiry for Residential Properties"; and (4) clarify how the Department will use environmental covenants and deed notices to ensure the long term stewardship of leaking underground storage tank sites that are either undergoing or have had corrective actions completed in the past.

The Department has the statutory basis and legal authority to act with regard to the proposed amendments to 7 DE Admin. Code 1351, pursuant to 7 Delaware Code, Chapter 74. Members of the public attended the December 1, 2015 public hearing, however, no comment

was received by the Department at any time during the course of this proposed promulgation. It should also be noted that all proper notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

II. SUMMARY OF THE PUBLIC HEARING RECORD:

The public hearing record consists of the following documents: (1) a verbatim transcript; (2) fourteen documents introduced by responsible Department staff at the public hearing held on December 1, 2015, and marked by this Hearing Officer accordingly as Department Exhibits 1-14 accordingly. The Department's person primarily responsible for the drafting and overall promulgation of these proposed Amendments, Alex Rittberg, developed the record with the relevant documents in the Department's files.

The purpose of this proposed regulatory promulgation is to adopt revisions to DNREC's existing UST regulations, in order to meet current Departmental practices and to remain consistent with current Delaware law. As noted previously, as of January 1, 2016, Delaware law now provides that property owners and/or operators will be potential responsible parties, subject to strict liability (joint and several), for the cleanup of property that contains a previously contained and underground storage tank, regardless of whether said owner and/or operator caused the release, or how and when such release occurred, similar to the liability imposed in Delaware's *Hazardous Substances Cleanup Act* ("HSCA"), 7 *Del.C.* Ch. 91. Accordingly, a person may now be considered a responsible party simply by their ownership or operation of a UST facility. The Department no longer has the burden to prove who caused the release prior to the determination that a responsible party should pay for cleanup associated with such release, as the cleanup liability relating to releases from underground storage tanks has now changed from a standard of proximate cause to that of strict liability.

It should be noted that there are some exceptions to the above law. If a person owned or operated a facility *prior* to January 1, 2016, but no longer owns or operates the same after January 1, 2016, then such responsible parties remain subject to the “proximate cause” standard regarding liability. The aforementioned strict liability standard applies only to property owners and/or facility operators on or after January 1, 2016. There are some defenses which have been built into the law, including, but not limited to: (1) owners and/or operators not liable when a release is solely caused by either an act of war or an act of God; (2) a responsible party not liable if the release was caused by an action of a third party (other than the owner’s employee, or a third party with a contractual relationship with the owner not related to the sale or transfer of the property), assuming that owner and/or operator expressed due care at the facility, having taken into account the foreseeable acts and/or omissions of the third party; (3) buyers not liable for past releases when the buyer has no knowledge or reason to know of any prior releases at the time of purchase (this requires an “All Appropriate Inquiry” at the time of purchase; for commercial property, this is a Phase 1 and Phase 2 environmental assessment); (4) sellers not liable for future releases if said seller has expressed due care insofar as their actions at the facility, and has anticipated what future owners will do with the property; (5) allowing responsible parties to have a right of contribution to ensure costs of a cleanup are fairly allocated amongst all responsible parties; and (6) lenders not liable upon foreclosure on a property, provided that lender notifies the Department within 30 days of filing the foreclosure, empties the USTs within 60 days, and does not participate in management or engage in petroleum production, refining, or marketing.

Other important considerations regarding these Amendments include the fact that the Department is not looking to re-open closed cleanup projects. Delaware does not have a “State Cleanup Fund”; instead, the Department requires owners and operators of certain USTs to

maintain up to one million dollars of financial assurance to pay for a cleanup or third party damages. Additionally, a buyer of a commercial UST facility may limit their liability by utilizing the State's Brownfields Program. A release from a UST may be considered a release under HSCA, and thereby addressed through a Brownfields Cleanup. Benefits in that scenario include liability protection for the Brownfields developer once a Brownfields Development Agreement is signed, as well as the opportunity for state grant funds to perform tank removals and additional cleanup work.

The changes to the aforementioned UST cleanup liability also apply to residential properties that have had a release from a home heating fuel UST. DNREC's new Heating Fuel UST Closure Assistance Program, launched in March of 2015, now provides for the Department to pay to remove or close in place residential and commercial tanks buried below ground that hold 1,100 gallons or less of heating fuel. Since its inception, DNREC has received over 175 applications for the program, and has removed or closed in place over 111 tanks. Response from property owners in Delaware has been overwhelmingly positive, as they are grateful for the financial assistance, and are relieved to be rid of a potential liability on their property.

The Department's proposed revisions at this time include additional regulatory language to make reference to a "No Further Action" letter ("NFA letter") being issued by the Department's Tank Management Section to document when site cleanup objectives have been met. The issuance of the NFA letter does not absolve the responsible party from previously incurred or potential future liability (Section 6.2.1). Additional language is also being added to the existing UST regulations to reinforce the fact that the Department will not re-open sites that have received an NFA letter, unless the land use changes or the site presents a risk to human health or the environment (Section 6.2.2).

Additionally, a new Section (6.2.3) to the existing UST regulation is being proposed, which states that the Department will not require responsible party to perform additional corrective actions for a heating fuel tank cleanup on a residential property once an NFA letter has been issued, and the tank has been either removed or closed in place. The next Section (now numbered as 6.2.4) provides clarifying language that a responsible party is liable for implementing a contaminated material management plan when redevelopment occurs and soils are disturbed. Finally, the last proposed change is a new Section 8.0, which adds an “All Appropriate Inquiry” standard for residential properties.

As part of its regulatory development process, the Department’s Division of Waste and Hazardous Substances, Tank Management Section, held public workshops on these draft regulation amendments in both New Castle and Dover on September 21 and 29, 2015, respectively. The proposed Amendments to Delaware’s existing UST regulations were then presented and thoroughly vetted by the Department at the public hearing on December 1, 2015. As noted previously, members of the public attended said public hearing, however, no comment was offered with regard to this proposed regulatory promulgation. Pursuant to Delaware law, the record remained open for fifteen (15) additional days subsequent to the date of the public hearing, for the purpose of receiving additional public comment regarding these proposed Amendments, but none was received during the post-hearing phase. Again, all proper notification and noticing requirements concerning this proposed promulgation were met by the Department in this matter.

III. RECOMMENDED FINDINGS AND CONCLUSIONS:

Based on the record developed, I find and conclude that the Department has provided appropriate reasoning regarding the need for the proposed Amendments to 7 DE Admin. Code

1351: *Delaware Regulations Governing Underground Storage Tank Systems*, as noted above. Accordingly, I recommend promulgation of these proposed regulatory Amendments in the customary manner provided by law.

Further, I recommend the Secretary adopt the following findings and conclusions:

1. The Department has the statutory basis and legal authority to act with regard to the proposed amendments to 7 DE Admin. Code 1351: *Delaware Regulations Governing Underground Storage Tank Systems*, pursuant to 7 *Del.C.*, Ch. 74;

2. The Department has jurisdiction under its statutory authority, pursuant to 7 *Del.C.* Ch. 60, to issue an Order adopting these proposed regulatory amendments as final;

3. The Department provided adequate public notice of the proposed regulatory amendments and all proceedings in a manner required by the law and regulations, provided the public with an adequate opportunity to comment on the proposed regulatory amendments, including at the time of the public hearing held on December 1, 2015, and held the record open through close of business on December 16, 2015, consistent with 29 *Del.C.* §10118(a), in order to consider public comment on these proposed regulatory amendments before making any final decision;

4. Promulgation of the proposed regulatory amendments to 7 DE Admin. Code 1351: *Delaware Regulations Governing Underground Storage Tank Systems*, pursuant to 7 *Del.C.*, Ch. 74, will enable the Department to (1) modify existing regulatory language concerning cleanup liability relating to releases from USTs from the proximate cause standard to that of strict (joint and several) liability, effective January 1, 2016; (2) update the ways by which owners and operators of UST facilities currently and in the future may manage and reduce their cleanup liability; (3) add regulatory language that describes “All Appropriate Inquiry for

Residential Properties”; and (4) clarify how the Department will use environmental covenants and deed notices to ensure the long term stewardship of leaking underground storage tank sites that are either undergoing or have had corrective actions completed in the past;

5. The Department has reviewed these proposed regulatory amendments in the light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* Ch. 104 (version applicable to all regulations initially published on or before December 31, 2015),, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally;

6. The Department’s proposed regulatory amendments, as published in the November 1, 2015 *Delaware Register of Regulations*, and as set forth in Appendix “A” hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they should be approved as final regulatory amendments, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*; and

7. The Department shall submit the proposed regulatory amendments as final regulatory amendments to 7 DE Admin. Code 1351: *Delaware Regulations Governing Underground Storage Tank Systems* to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.



LISA A. VEST
Public Hearing Officer

\\ahear\ UST Amendments.2016

Attachments/Appendix:
Appendix A: Proposed Reg. Amendments

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PROPOSED REGULATIONS

Virginia) to include both Blueline and Golden Tilefish (*Lopholatilus chamaelonticeps*). The hearing record was closed on July 9, 2015. Following careful consideration of the hearing record, the Department has opted to adopt a Tilefish regulation that affords protections to both Blueline Tilefish and Golden Tilefish (Option 2). Additionally, to provide greater understanding to the regulated community, the Department proposes to clarify that the term "possess" pertains to individuals "aboard a vessel".

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

§901(c & d), §903(e) (3), Title 7 Delaware Code

5. LIST OF OTHER REGULATIONS THAT MAY BE IMPACTED OR AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

No additional hearing will be held; the Department will receive written comment through November 30, 2015. Individuals may submit written comments regarding the proposed clarification to 7 DE Admin. Code 3542 via e-mail to Lisa.Vest@state.de.us or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042.

7. PREPARED BY:

Stewart Michels Stewart.Michels@state.de.us (302) 739-9914

3542 Tilefish

1.0 Tilefish possession limits

- 1.1 It is unlawful for a recreational finfisherman to possess aboard a vessel more than seven (7) tilefish in aggregate to include blueline tilefish (*Caulolatilus microps*) or golden tilefish (*Lopholatilus chamaelonticeps*), unless otherwise authorized by the Department.
- 1.2 Notwithstanding the provisions of subsection 1.1, a person issued a valid commercial food fishing license may possess aboard a vessel up to 300 pounds of tilefish in aggregate to include blueline tilefish (*Caulolatilus microps*) or golden tilefish (*Lopholatilus chamaelonticeps*) in any number, provided said tilefish were taken using gear for which said person is lawfully permitted under 7 Del.C. §915.
- 1.3 It is unlawful for a person issued a valid commercial food fishing license to possess aboard a vessel more than 300 pounds of tilefish in aggregate to include blueline tilefish (*Caulolatilus microps*) or golden tilefish (*Lopholatilus chamaelonticeps*).

DIVISION OF WASTE AND HAZARDOUS SUBSTANCES

TANK MANAGEMENT BRANCH

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

7 DE Admin. Code 1351

REGISTER NOTICE: SAN #2015-04

1351 Underground Storage Tank Systems

1. TITLE OF THE REGULATIONS:

Administrative Code Section 1351, Underground Storage Tank Regulations

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

DNREC is taking action to clarify several issues concerning cleanup liability associated with releases from underground storage tanks resulting from the amendment of 7 Delaware Code Chapter 74, Delaware's Underground Storage Tank Act in October 2014. These changes clarify when the Department will require a responsible party to perform additional corrective actions following the Department issuing a No Further Action letter. Also, the changes establish an All Appropriate Inquiry Standard for residential properties that if completed would exempt a purchaser from liability associated with the cleanup of a release from an underground storage tank discovered after they purchased the property.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

There is not a sunset date related to the proposed regulations.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

The statutory basis for these regulations is Title 7 Delaware Code Chapter 74, Section 7407.

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed amendments to 7 DE Admin. Code §1351 Underground Storage Tank Regulations will be open November 1, 2015. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendments will be held on December 1, 2015 beginning at 6:00 PM in the DNREC New Castle Office, located at 391 Lukens Drive, New Castle DE 19720.

PREPARED BY:

Alex Rittberg, 302-395-2500

Email: Alex.Rittberg@state.de.us

EAR 2015-26

1351 Underground Storage Tank Systems

(Break in Continuity of Sections)

PART E: Requirements for Reporting, Release Investigation, Remedial Action and NO FURTHER ACTION DETERMINATIONS For Underground Storage Tank Systems

(Break in Continuity of Sections)

6.0 No Further Action Requirements

(Break in Continuity Within Section)

6.2 Department Response to a Request for No Further Action

6.2.1 The DNREC Tank Management Branch Section shall issue a letter requiring no further action (NFA letter) and documenting that site cleanup objectives have been met. ~~The no further action approval issuance of the NFA letter~~ does not absolve the Responsible Parties from previously incurred or potential future liability.

6.2.2 ~~The no further action NFA letter applies to site conditions at the time that the request for no further action was made. If the risk posed by the site changes in the future, including but not limited to land use changes at the site or surrounding area, the Responsible Parties shall perform additional Remedial Action as necessary to eliminate the risk to human health, safety and the environment. Except as discussed in 6.2.3, once the Department has issued a NFA letter associated with a release, the Department shall not require Responsible Parties to perform additional corrective actions associated with the release unless site conditions, including but not limited to the current or future land use, change or there is new information that the release poses an unacceptable risk to human health, safety, and the environment.~~

PROPOSED REGULATIONS

6.2.3 The Department shall not require Responsible Parties to perform additional corrective actions associated with an underground storage tank (UST) system when all of the following conditions have been met: (1) the Department has issued any type of NFA letter, either with conditions for future management or without conditions for future management after the removal or closure in place of the UST System, (2) the UST system was located on a residential property, (3) the underground storage tank associated with the UST system contained heating fuel used for Consumptive Use On the Premises.

6.2.34 Any Person disturbing any residual contamination at the site by digging, boring, excavating, dewatering, or other means, shall submit a contaminated material management plan to the Department for approval prior to work commencing and shall be financially responsible for implementing it.

7.0 All Appropriate Inquiry

When residential property is purchased by an individual, individuals, or a nonprofit agency as defined by the Internal Revenue Service or State law, a title search and a visual inspection by the purchaser or his or her agent that is intended to locate evidence of a UST system on the property shall constitute all appropriate inquiry pursuant to 7 Del.C. Chapter 74, Section 7406e(2)(b).

***Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

1351 Underground Storage Tank Systems

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

DIVISION OF STATE POLICE

2400 BOARD OF EXAMINERS OF CONSTABLES

Statutory Authority: 10 Delaware Code, Chapter 27 (10 Del.C. Ch. 27)

24 DE Admin. Code 2400

PUBLIC NOTICE

2400 Board of Examiners of Constables

Notice is hereby given that the Board of Examiners of Constables, in accordance with 10 Del.C. Ch. 27 proposes to amend/adopt Rules: 4.0 – Badges & Vehicle Markings – requires all badges and vehicle markings to be approved by the Board; and 9.0 – Minimum Training Standards & In-Service Training – clarifies the requirements for the training standards and continuing education through in-service. If you wish to view these amendments/adoption, contact Ms. Peggy Anderson at 302-672-5304. Any persons wishing to present views may submit them in writing, by December 1, 2015, to Delaware State Police, Professional Licensing, P.O. Box 430, Dover, DE 19903. The Board will hold the annual meeting on Thursday, December 10, 2015, Tatnall Building, 150 Martin L. King, Jr. Boulevard South, Room 112, Dover, DE.

2400 Board of Examiners of Constables

(Break in Continuity of Sections)

4.0 Reserved Badges and Vehicle Markings

4.1 All persons licensed under 10 Del.C. Ch. 27 shall wear or display any uniform, patch, badge, seal, vehicle and the markings, letterhead, business card, advertisement, or other form of publication unless first approved by the Board of Examiners.