DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINALRULEMAKING

Underground Storage Tank Regulations

The Director of the Department of Energy and Environment (Department), pursuant to the authority set forth in Section 107 of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07 (2013 Repl. & 2019 Supp.)); the District of Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242; D.C. Official Code §§ 8-113.01 *et seq.* (2013 Repl.)); Sections 11 and 21 of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.10 & 8-103.20 (2013 Repl.)); and Mayor's Order 2006-61, dated June 14, 2006, hereby amends Chapters 55-67 and 70 of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking incorporates new requirements of the 2015 amendments to the federal underground storage tank regulations at 40 CFR Part 280 so that the District can maintain state program approval under 40 CFR Part 281. The new requirements include regulation of previously deferred field-constructed underground storage tanks and airport hydrant systems, testing of spill prevention and leak detection equipment, containment sump testing, and periodic walkthrough inspections. The rulemaking also updates the requirements for corrective action after releases from underground storage tanks, consolidates and updates fee requirements, and makes clarifying amendments and corrections to the regulations.

The Department published a Notice of Proposed Rulemaking in the *D.C. Register* on December 28, 2018, at 65 DCR 13962. The comment period closed on March 5, 2019, and the Department considered all the comments received. A summary of the comments and responses is available online at http://doee.dc.gov.

Based on comments filed in response to the Notice of Proposed Rulemaking, the Department has revised § 5602.5 to clarify that required records may be stored in a location (such as cloud storage) outside the District as long at they can be reviewed by a person located in the District. The Department has also revised § 5605.3(d) to clarify that the annual fee for participation in the voluntary remediation action program (VRAP) will cease upon issuance of a case closure or no further action letter and that VRAP fees will not apply to applications approved before the effective date of the regulations.

In response to a comment noting that the Tier 1 residential standard for total petroleum hydrocarbon gasoline range organics (TPH-GRO) is lower than the Tier 0 standard, the Department clarified in §§ 6101.13 and 6101.14 that the Tier 1 standard for TPH-GRO should be used at sites with current or future residential use.

The Department made clarifying amendments to ensure consistency with other District laws and regulations. The Department deleted reporting of a release resulting in a sheen on surface water from § 6201.4 and added § 6201.7 to clarify that a release resulting in a sheen should be reported

immediately as required by D.C. Official Code § 8-103.08. The Department also added cross-references to the District's well construction regulations in § 6010.5, to the water quality and pollution regulations in § 6203.11, and to the definition of "surface water" from the District's water quality regulations in § 6207.8(d).

The Department also made several clarifications in response to comments on Chapter 62 of the proposed rulemaking. The Department clarified in § 6203.12 that monitoring wells may be for groundwater or soil vapor monitoring. In § 6205.3(b)(1), the Department added language to clarify that, for purposes of the comprehensive site assessment, surrounding land use includes current and reasonably foreseeable future uses. In § 6206.4(c), the Department removed a reference to zoning in relation to tolerable health risk levels. This is consistent with the regulations in effect prior to this rulemaking and still allows for different target cleanup levels depending on the property use because the level of exposure varies among different uses. The Department further clarified in § 6207.4(c) that reasonably foreseeable future uses may be based on zoning or other factors described in the Risk-Based Corrective Action technical guidance. The Department added a Subsection 6209.2 to clarify that indoor air sampling is used in conjunction with other evidence to evaluate vapor intrusion risk. The Department revised § 6210.1 to clarify that the estimated amount of product released is the quantity by volume or mass. Finally, the Department extended the length of time that a VRAP participant may delay or halt remediation before the Department may revoke the VRAP approval from one to two years, provided there is not an imminent threat to human health or the environment.

The final rules are being adopted in substantially the same form as proposed with clarifications taking into account suggestions received in public comments. These changes do not substantially alter or change the intent, meaning, or application of the proposed rules or exceed the scope of the rules as published with the Notice of Proposed Rulemaking.

These rules were adopted as final on January 24, 2020 and will be effective upon publication of this notice in the *D.C. Register.*

Title 20 DCMR, ENVIRONMENT, is amended by repealing and replacing Chapters 55 to 67 and 70 to read as follows:

CHAPTER 55 UNDERGROUND STORAGE TANKS - GENERAL PROVISIONS

CHAPTER 60 UNDERGROUND STORAGE TANKS - RELEASE DETECTION

CHAPTER 61 UNDERGROUND STORAGE TANKS – CLOSURE

CHAPTER 62 UNDERGROUND STORAGE TANKS – REPORTING OF RELEASES, INVESTIGATION, CONFIRMATION, ASSESSMENT, AND CORRECTIVE ACTION

CHAPTER 70 UNDERGROUND STORAGE TANKS – DEFINITIONS

CHAPTER 55 UNDERGROUND STORAGE TANKS – GENERAL PROVISIONS

5500 COMPLIANCE WITH DISTRICT LAWS

5500.1 In addition to these regulations, each owner and operator of an underground storage tank (UST) shall comply with the following:

(a) The District of Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242; D.C. Official Code §§ 8-113.01 *et seq*.);

(b) The Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.01 *et seq*.);

(c) The provisions of the District of Columbia Fire Code, Title 12, Subtitle H (Fire Code Supplement) of the District of Columbia Municipal Regulations, pertaining to USTs;

(d) The provisions of the District Construction Codes and Construction Code Supplements, available at https://dcra.dc.gov/page/district-columbia-construction-codes, that pertain to permits for construction activities (such as excavation, installation, repair, closure-in-place, or removal) related to USTs; and

(e) All other applicable federal and District laws and regulations.

5500.2 The owner or operator of each UST shall obtain all appropriate District permits for construction activities required for the repair or upgrade of a leaking UST (LUST) or remediation of a site contaminated by a LUST.

5500.3 Each owner and operator of an UST on a federal facility shall comply with the requirements of the UST Regulations.

5500.4 All notices, reports, and documents required in this regulation may be submitted by mail or delivery to the UST Branch, Department of Energy and Environment, 1200 First Street, N.E., 5th Floor, Washington, D.C. 20002, by e-mail to ust.doee@dc.gov, or by file transfer protocol (ftp) after requesting access to the Department's ftp site via e-mail. A telephone report shall be made to the UST Branch at (202) 535-2600.

5500.5 When the UST Regulations allow for the use of an alternative material or method upon approval by the Department, or other approval of the Department needs to be obtained, the person seeking to use the alternative material or method, or to otherwise obtain Departmental approval shall:

(a) Submit the request in writing to the Department by mail or delivery to the UST Branch, Department of Energy and Environment, 1200 First Street, N.E., 5th Floor, Washington, D.C. 20002, or by e-mail to ust.doee@dc.gov;

(b) If seeking to use an alternative material or method, explain how the use of the alternative material or method provides for an equivalent or higher level of safety or effectiveness as the material or method required by regulation;

(c) Provide any additional information requested by the Department; and

(d) Use the alternative material or method only after receiving approval in writing from the Department.

5500.6 When the UST regulations require a report or notification to the District Fire Chief, the report shall be made by mail or delivery to the District of Columbia Fire Marshal, Technical Inspections Plans and Permits Branch, Hazardous Materials Section, 1100 4th Street S.W., Washington, D.C. 20024, or by phone at (202) 727-1614.

5501 APPLICABILITY OF UST REGULATIONS

5501.1 The UST Regulations apply to all USTs and UST systems located in the District of Columbia, except as otherwise provided in this chapter, and to each owner, operator, regulated substance delivery person or company, authorized representative of an owner or operator, and other responsible or remediating party as set forth in the UST Regulations.

5501.2 When the UST Regulations require an owner or operator to take an action, the owner or the operator or both may be held liable for a violation. Responsible

parties may be held jointly and severally liable for violations of the provisions governing LUSTs, for any penalties assessed for those violations, and for the costs of corrective actions.

5501.3 The following USTs are exempt from the requirements of the UST Regulations:

(a) Any UST holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, as amended, 42 USC §§ 6921 *et seq.*, or a mixture of any of those hazardous wastes and other regulated substances;

(b) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under §§ 307(b) or 402 of the Clean Water Act, 33 USC §§ 1317(b) or 1342;

(c) Any UST system that contains a de minimis concentration of regulated substances as determined by the Department;

(d) Any emergency spill or overflow containment UST system that is expeditiously emptied after use;

(e) A septic tank;

(f) A pipeline facility (including gathering lines) that:

(1) Is regulated under 49 USC Chapter 601; or

(2) Is an intrastate pipeline facility regulated under state laws as provided 49 USC Chapter 601, and which is determined by the Secretary of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

(g) A surface impoundment, pit, pond, or lagoon;

(h) A stormwater or wastewater collection system;

(i) A flow-through process tank;

(j) A liquid trap and associated gathering lines directly related to oil or gas production and gathering operations;

(k) A storage tank situated in an underground area (such as a basement, cellar, mine working, drift, shaft, or tunnel) if the storage tank is situated on or above the surface of the floor and is not covered by any earthen materials along its sides and bottom; and

(l) A farm or residential tank with a capacity of one thousand one hundred (1,100) gallons or less used for storing motor fuel for noncommercial purposes.

5502 PARTIAL APPLICABILITY OF UST REGULATIONS TO PARTICULAR UST SYSTEMS

5502.1 In addition to any requirements referenced below, the following USTs are required to comply only with the provisions of this section and with Chapters 62 and 67:

(a) Wastewater treatment tank systems not regulated under §§ 307(b) or 402 of the Clean Water Act, 33 USC §§ 1317(b) or 1342;

(b) UST systems containing any radioactive material that is regulated under the Atomic Energy Act of 1954, 42 USC §§ 2011 *et seq.*;

(c) UST systems that are part of any emergency generator system at nuclear power generation facilities licensed by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to 10 CFR part 50; and

(d) Above ground storage tanks associated with:

(1) Airport hydrant fuel distribution systems regulated under § 5507; and

(2) UST systems with field-constructed tanks that are regulated under § 5507.

5502.2 A person may install an UST system identified in §§ 5502.1(a), (b), or (c) for the purpose of storing any regulated substance only if that UST system:

(a) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(b) Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a non-corrodible material, or designed to prevent the release or threatened release of any stored regulated substance; and

(c) Is constructed or lined with material that is compatible with the stored regulated substance.

5502.3 Notwithstanding the requirements of this section, a person may install an UST system without corrosion protection at a facility that is determined by a corrosion

expert to not be corrosive enough to cause the UST system to have a release due to corrosion during its operating life. The owner or operator shall maintain records that demonstrate compliance with the requirements of this subsection for the remaining life of the tank.

5502.4 In the event of a suspected or confirmed release from an UST system listed in § 5502.1, the owner or operator shall comply with §§ 5600, 5602, and 5603, except § 5600.6(d).

5502.5 The following codes of practice may be used to comply with the requirements for partially excluded UST systems in §§ 5502.2 and 5502.3:

(a) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection";

(b) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(c) American Petroleum Institute Recommended Practice RP 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; or

(d) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems."

5503 PARTIAL APPLICABILITY OF UST REGULATIONS TO HEATING OIL TANKS

5503.1 The owner or operator of a heating oil tank having a capacity less than one thousand one hundred (1,100) gallons is exempt from the requirements of the UST Regulations with the following exceptions:

(a) In the event of a suspected or confirmed release from the UST, Chapter 56, except §§ 5600.6(d) and 5601;

(b) Chapter 61**,** except that the Department may waive or modify any requirements that are inappropriate or unduly burdensome; and

(c) Chapter 62, except that, after considering the nature of the release and the degree of contamination, the Department may waive or modify any requirements that are inappropriate or unduly burdensome.

5503.2 The owner or operator of each heating oil tank having a capacity of one thousand one hundred (1,100) gallons or more shall comply with the following:

(a) Chapter 56;

(b) Section 5700;

(c) For heating oil tanks installed after November 12, 1993, §§ 5703 through 5706;

(d) Chapter 59;

(e) The provisions of Chapter 60 pertaining to release detection for heating oil tanks;

(f) The provisions of Chapter 61 pertaining to closure of heating oil tanks; and

(g) Chapter 62, except that, after considering the nature of the release and the degree of contamination, the Department may waive or modify any requirements that are inappropriate or unduly burdensome.

5503.3 The owner or operator of each UST used to store heating oil for a purpose other than consumptive use on the premises where the UST is located shall comply with all requirements of the UST Regulations.

5504 PARTIAL APPLICABILITY OF UST REGULATIONS TO UST SYSTEMS OF 110 GALLONS OR LESS, HYDRAULIC LIFT TANKS, AND ELECTRICAL EQUIPMENT TANKS

5504.1 The following USTs are required to comply only with the provisions of this section:

(a) Any UST associated with equipment or machinery that contains regulated substances for operational purposes (such as hydraulic lift tanks and electrical equipment tanks); and

(b) Any UST system with a capacity of one hundred ten (110) gallons or less.

5504.2 When there is a suspected or confirmed release during operation, closure, or removal of the UST system, a responsible or remediating party shall comply with §§ 5600, 5602, and 5603, and Chapters 61 and 62, except compliance with § 5600.6(d) is not required, and the Department may waive or modify any requirements that are inappropriate or unduly burdensome.

5505 APPLICABILITY TO EMERGENCY GENERATOR UST SYSTEMS

5505.1 Any UST system that stores fuel for use by an emergency power generator shall comply with all requirements of the UST Regulations.

5506 INDUSTRY CODES AND STANDARDS

5506.1 An owner or operator of an UST system may use an industry standard or code of practice developed by a nationally recognized association or independent testing laboratory to comply with a requirement of the UST Regulations if authorized by the UST Regulations or if the industry standard or code of practice is approved by the Department in accordance with § 5506.4.

5506.2 An owner or operator may request approval of an alternative industry standard or code of practice by submitting a written request to the Department by e-mail to ust.doee@dc.gov or by mail or delivery to the UST Branch, Department of Energy and Environment, 1200 First Street, N.E., 5th Floor, Washington, D.C. 20002.

5506.3 An owner or operator requesting approval of an alternative industry standard or code of practice shall provide a copy of the industry standard or code of practice to the Department, if requested by the Department.

5506.4 The Department may approve an alternative industry standard or code of practice only if the owner or operator demonstrates to the Department that the alternative industry standard or code of practice is at least as safe and as protective of health and the environment as the authorized or approved code or standard.

5506.5 When used in an industry standard or code of practice listed in the UST Regulations or approved under this section, the word "should" shall be construed to mean "shall" for the purpose of compliance with the UST Regulations.

5506.6 Unless otherwise specified in these regulations, an owner or operator shall use the most current version of the authorized or approved industry standard or code of practice.

5507 FIELD-CONSTRUCTED TANKS AND AIRPORT HYDRANT FUEL DISTRIBUTION SYSTEMS

5507.1 Except as specifically provided otherwise in this section, each owner and operator of an UST system with field-constructed tanks or airport hydrant system shall comply with the UST Regulations.

5507.2 For each UST system with field-constructed tanks or airport hydrant system installed on or before February 21, 2020, the requirements are effective according to the following schedule:

(a) Requirements regarding UST system upgrades, general operating requirements, operator training, and release detection shall be effective October 13, 2021; and

(b) Requirements regarding release reporting, response, investigation, closure, financial responsibility and notification, except the one-time notification requirement under § 5507.4, shall be effective on February 21, 2020.

5507.3 For each UST system with field-constructed tanks or airport hydrant system installed after February 21, 2020, the requirements apply at installation.

5507.4 Not later than October 13, 2021, each owner of an UST system with field-constructed tanks or airport hydrant system shall notify the Department of the system using an UST facility notification form described in § 5600 and shall demonstrate compliance with Chapter 67.

5507.5 In addition to the codes of practice listed in § 5701.10, each owner or operator may use military construction criteria, such as Unified Facilities Criteria (UFC) 3-460-01, *Petroleum Fuel Facilities,* when designing, constructing, and installing UST systems with field-constructed tanks and airport hydrant systems.

5507.6 An owner or operator may use single-walled piping when installing or replacing piping associated with an airport hydrant system, or UST system with a field-constructed tank that has a capacity greater than fifty thousand (50,000) gallons. Piping associated with an UST system with a field-constructed tank with a capacity less than or equal to fifty thousand (50,000) gallons that is not part of an airport hydrant system shall meet the secondary containment requirements in Chapter 57 when installed or replaced.

5507.7 Not later than October 13, 2021, each owner or operator of an UST system with field-constructed tanks or airport hydrant system, installed on or before February 21, 2020, shall upgrade the UST system as follows, or permanently close the UST system pursuant to Chapter 61:

(a) UST system components in contact with the ground that routinely contain regulated substances shall:

(1) Comply with the UST performance standards for new tanks and piping in Chapter 57; or

(2) Be constructed of metal and cathodically protected according to a code of practice developed by a nationally recognized association or independent testing laboratory as specified in § 5507.8, and meet the following requirements:

(A) Cathodic protection shall meet the applicable requirements of Chapters 57 and 59; and

(B) Tanks greater than ten (10) years old without cathodic protection shall be assessed to ensure the tank is

structurally sound and free of corrosion holes prior to adding cathodic protection. The assessment shall be by internal inspection or another method approved by the Department, in accordance with § 5500.5, to adequately assess the tank for structural soundness and corrosion holes; and

(b) Each UST system shall comply with the spill and overfill prevention equipment requirements of Chapter 59.

5507.8 The following codes of practice may be used to comply with requirements of § 5507.7:

(a) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection";

(b) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(c) National Leak Prevention Association Standard 631, Chapter C, "Internal Inspection of Steel Tanks for Retrofit of Cathodic Protection"; or

(d) American Society for Testing and Materials Standard G158, "Standard Guide for Three Methods of Assessing Buried Steel Tanks."

5507.9 In addition to the walkthrough inspection requirements in § 5904, each owner or operator of an airport hydrant system shall:

(a) Except as provided in paragraph (b) of this subsection, inspect the following areas at least once every thirty (30) days:

(1) Hydrant pits (visually check for any damage; remove any liquid or debris; and check for any leaks); and

(2) Hydrant piping vaults (check for any hydrant piping leaks);

(b) If confined space entry is required under Occupational Safety and Health Administration (OSHA) requirements in 29 CFR part 1910, inspect the areas in paragraph (a) at least annually; and

(c) Maintain documentation of the inspections required by this subsection in accordance with the requirements of § 5904.

5507.10 Not later than October 13, 2021, each owner or operator of an UST system with a field-constructed tank with a capacity less than or equal to fifty thousand (50,000) gallons shall meet the release detection requirements in Chapter 60.

5507.11 Not later than October 13, 2021, each owner or operator of an UST system with a field-constructed tank with a capacity greater than fifty thousand (50,000) gallons shall meet the requirements in Chapter 60 (except that groundwater or vapor monitoring release detection methods shall be used in combination with inventory control release detection methods) or use one or a combination of the following methods of release detection:

(a) Conduct an annual tank tightness test that can detect a one half gallon per hour (0.5 gal/hr) leak rate;

(b) Use an automatic tank gauging system to perform release detection that can detect a leak rate less than or equal to one gallon per hour (1 gal/hr) at least once every thirty (30) days, and perform a tank tightness test that can detect a leak rate of two tenths of a gallon per hour (0.2 gal/hr) at least once every three (3) years;

(c) Use an automatic tank gauging system to perform release detection that can detect a leak rate less than or equal to two gallons per hour (2 gal/hr) at least once every thirty (30) days, and perform a tank tightness test that can detect a leak rate of two tenths of a gallon per hour (0.2 gal/hr) at least once every two (2) years;

(d) Perform vapor monitoring (conducted in accordance with § 6009 for a tracer compound placed in the tank system) capable of detecting a one tenth of a gallon per hour (0.1 gal/hr) leak rate at least every two (2) years;

(e) Perform inventory control (conducted in accordance with Department of Defense Instruction 4140.25, ATA Airport Fuel Facility Operations and Maintenance Guidance Manual, or procedures approved by the Department as equivalent) at least every thirty (30) days that can detect a leak equal to or less than one half percent (0.5%) of flow-through; and

(1) Perform a tank tightness test that can detect a one half gallon per hour (0.5 gal/hr) leak rate at least every two (2) years; or

(2) Perform vapor monitoring or groundwater monitoring (conducted in accordance with Chapter 60) for the stored regulated substance at least every thirty (30) days; or

(f) Another method approved by the Department, if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in paragraphs (a) through (c) of this subsection. In comparing methods, the Department shall consider the size of release that the method can detect and the frequency and reliability of detection.

5507.12 Not later than October 13, 2021, each owner or operator of underground piping associated with an airport hydrant system or a field-constructed tank with a capacity greater than 50,000 gallons shall meet the requirements in Chapter 60 (except that groundwater or vapor monitoring release detection methods shall be used in combination with inventory control release detection methods) or use one or a combination of the following methods of release detection:

(a) Perform semiannual or annual line tightness test at or above piping operating pressure in accordance with the following:

(1) If the test section volume is less than fifty thousand (50,000) gallons, the leak detection rate for a semiannual test shall not exceed one gallon per hour (1 gal/hr) and the leak detection rate for an annual test shall not exceed one half of a gallon per hour (0.5 gal/hr);

(2) If the test section volume is equal to or greater than fifty thousand (50,000) gallons and less than seventy-five thousand (75,000) gallons, the leak detection rate for a semiannual test shall not exceed one and one half gallons per hour (1.5 gal/hr) and the leak detection rate for an annual test shall not exceed seventy-five hundredths of a gallon per hour (0.75 gal/hr);

(3) If the test section volume is equal to or greater than seventy-five thousand (75,000) gallons and less than one hundred thousand (100,000) gallons, the leak detection rate for a semiannual test shall not exceed two gallons per hour (2 gal/hr) and the leak detection rate for an annual test shall not exceed one gallon per hour (1 gal/hr);

(4) If the test section volume is equal to or greater than one hundred thousand (100,000) gallons, the leak detection rate for a semiannual test shall not exceed three gallons per hour (3 gal/hr) and the leak detection rate for an annual test shall not exceed one and one half gallons per hour (1.5 gal/hr); and

(5) Piping segment volumes that are equal to or greater than one hundred thousand (100,000) gallons and not capable of meeting the maximum three gallon per hour (3 gal/hr) leak rate for the semiannual test may be tested at a leak rate up to six gallons per hour (6 gal/hr) according to the following schedule:

(A) The first test shall be performed not later than October 13, 2021 and may use up to a six gallons per hour (6 gal/hr) leak rate;

(B) The second test shall be performed between October 13, 2021 and October 13, 2024 and may use up to a six gallons per hour (6 gal/hr) leak rate;

(C) The third test shall be performed between October 13, 2024 and October 13, 2025 and shall use a three gallons per hour (3 gal/hr) leak rate; and

(D) Subsequent tests shall be performed annually or semi-annually in accordance with subparagraph (a)(4);

(b) Perform vapor monitoring (conducted in accordance with § 6009 for a tracer compound placed in the tank system) capable of detecting a one tenth of a gallon per hour (0.1 gal/hr) leak rate at least every two (2) years;

(c) Perform inventory control (conducted in accordance with Department of Defense Instruction 4140.25, ATA Airport Fuel Facility Operations and Maintenance Guidance Manual, or procedures approved by the Department as equivalent) at least every thirty (30) days that can detect a leak equal to or less than one half percent (0.5%) of flow-through; and

(1) Perform a line tightness test (conducted in accordance with paragraph (a) of this subsection using the leak rates for the semiannual test) at least every two (2) years; or

(2) Perform vapor monitoring or groundwater monitoring (conducted in accordance with Chapter 60) for the stored regulated substance at least every thirty (30) days; or

(d) An alternative method approved by the Department, if the owner and operator can demonstrate that the alternative method can detect a release as effectively as one of the methods allowed in paragraphs (a) through (c) of this subsection. In comparing methods, the Department shall consider the size of release that the method can detect and the frequency and reliability of detection.

5507.13 When directed by the Department, the owner or operator of an UST system with field-constructed tanks, or an airport hydrant system, that has been permanently closed before February 21, 2020, shall assess the excavation zone and close the UST in accordance with Chapter 61 if releases from the UST system may, in the judgment of the Department, pose a current or potential threat to human health and the environment.

CHAPTER 56 UNDERGROUND STORAGE TANKS - NOTIFICATION, REGISTRATION, RECORDKEEPING, AND PUBLIC INFORMATION

5600 NOTICE OF THE EXISTENCE, USE, PURCHASE, SALE, OR CHANGE-IN-SERVICE OF AN UST SYSTEM

5600.1 An owner of an UST system shall notify the Department by submitting an UST facility notification form, which is available on the Department's website at https://doee.dc.gov/page/ust-forms-guidance-and-public-documents, to the Department within thirty (30) days after the owner or operator:

(a) Begins using an UST system;

(b) Begins using a heating oil tank with a capacity of one thousand one hundred (1,100) or more gallons;

(c) Sells an UST system;

(d) Purchases or acquires an UST system that has not been permanently closed or any tank that is intended to be used as an UST;

(e) Changes the product stored in an UST system, even if the new product is unregulated; or

(f) Changes any required information on a previously submitted UST facility notification form.

5600.2 A responsible party who permanently closes an UST system shall file an UST facility notification form with the Department within thirty (30) days of permanent closure by removal or closure in-place.

5600.3 The responsible party shall complete the UST facility notification form in accordance with Department instructions and shall provide all required information.

5600.4 A responsible party who is required to submit an UST facility notification form may provide notice for several tanks using a single form if the tanks are located at the same facility and are being brought into use or closed at the same time.

5600.5 A responsible party who is required to submit an UST facility notification form for tanks located at more than one (1) facility shall file a separate UST facility notification form for each separate facility.

5600.6 Unless each tank is permanently closed, the owner shall sign the UST facility notification form and shall certify compliance with the following requirements:

(a) Subsection 5700.1;

(b) Subsections 5701.2, 5701.3, 5702.2, 5702.3, 5703.2, 5703.3, 5704.3, and 5704.4;

(c) Subsections 5706.2 and 5706.4 through 5706.6;

(d) Chapter 60; and

(e) Chapter 67.

5600.7 No person other than a responsible party is authorized to sign the UST facility notification form, except an UST System Technician may sign the certification of installation, upgrade, or repair resulting in a change in the information on the UST facility notification form.

5600.8 Any owner of real property who determines that there is an UST system (active or inactive) on the owner's property for which notification has not been provided to the Department shall file an UST facility notification form (or give notice to the Department if information is limited) within seven (7) days of the determination.

5600.9 Any person who deposits regulated substances into an UST, or who sells or leases a tank or piping intended for use as an UST or UST system, shall inform the owner, buyer, or lessee of the tanks of the notification requirements of this section.

5600.10 Each owner or operator of any UST system that has been upgraded or modified in any way shall ensure that the installer certifies, on the UST facility notification form required under this section, that the methods used to upgrade or modify the UST system comply with the requirements of § 5801.

5601 REGISTRATION

5601.1 Each owner of an UST containing a regulated substance, except for a heating oil tank with a capacity of less than one thousand one hundred (1,100) gallons, shall register and annually renew registration of the UST in accordance with this section.

5601.2 A new owner of an existing UST or an owner of a new UST shall initiate the registration process within thirty (30) days of the change in ownership or the installation of a new UST by filing an UST facility notification form for each UST facility pursuant to the requirements of § 5600. Upon receipt of a complete UST facility notification form, the Department will send a registration fee invoice to the registrant, and the registrant shall pay the required fee within the time period specified on the invoice.

5601.3 The Department may issue a registration certificate to the owner only after:

(a) The registration fee has been received;

(b) The owner has filed a properly completed UST facility notification form pursuant to the notification requirements of § 5600; and

(c) Either of the following has occurred as applicable:

(1) For a new UST, the owner has complied with the installation requirements of § 5706; or

(2) For an existing UST, the owner has complied with all the applicable requirements of the UST Regulations.

5601.4 The registration term is from January 1 to December 31 of each calendar year. The term for a registration certificate issued after January 1 is from the date of issuance until December 31 of the calendar year when the registration certificate is issued. Registration shall not be transferable from owner to owner.

5601.5 An owner shall renew the registration for each tank on or before November 30 of each calendar year unless:

(a) The UST has been permanently closed pursuant to § 6101;

(b) There has been a change-in-service to storage of a non-regulated substance pursuant to § 6101; or

(c) The owner has sold the UST and has informed the Department in writing of the date of sale and the identity of the purchaser.

5601.6 A copy of the current registration certificate shall be posted at the facility where the UST is located and it shall be visible to product delivery company personnel and government inspectors at all times.

5601.7 No person shall deposit a regulated substance into an UST without first confirming that the UST is currently registered and that the facility where the UST is located has not been found to be in violation of these regulations by ensuring that:

(a) A current certificate of registration is present at the facility; and

(b) The facility where the UST is located is not on the list of facilities prohibited by the Department from receiving regulated substances. The delivery prohibition list is posted on the Department's website at https://doee.dc.gov/publication/delivery-prohibition-guidance-usts.

5601.8 No owner or operator shall dispense, or permit the dispensing of, a regulated substance from an UST unless the owner has satisfied the registration requirements of this section.

5601.9 No owner or operator shall deposit or dispense, or permit the deposit or dispensing of, a regulated substance into an UST for which registration has been denied, unless deposit of a regulated substance is authorized for the purpose of testing the tank.

5601.10 Any person who sells an UST or a facility where an UST is located shall notify the new owner in writing that the new owner has notification and registration obligations under § 5600 and this section, and shall complete a seller's disclosure form prescribed by the Department, which is available on the Department's website at https://doee.dc.gov/page/ust-forms-guidance-and-public-documents.

5602 RECORDKEEPING AND REPORTS

5602.1 Each owner or operator shall submit the following information to the Department:

(a) UST facility notification forms for all USTs (§ 5600), including certification of installation and compliance with the manufacturer's checklist for new or upgraded USTs (§ 5706 or § 5801);

(b) Notices of installation, repair, removal, closure-in-place, upgrades, or testing (§ 5603);

(c) Reports of all spills and overfills (§ 6201);

(d) Reports of all releases, including suspected releases (§ 6202) and confirmed releases (§§ 6203.8(c) and (d));

(e) Corrective actions planned or taken, including initial abatement measures (§§ 6203.12(c) and (d)), free product removal (§ 6204), comprehensive site assessments (§ 6205), and corrective action plans (§ 6207);

(f) Notifications prior to permanent closure or change-in-service (§ 6101); and

(g) An UST facility notification form for any change in ownership, facility information, or tank data (§ 5600).

5602.2 Each owner or operator shall also provide the information required in §§ 5602.1(b), (c), (d), and (f) and the information specified in §§ 6204.7 and 6205.3 to the District Fire Chief.

5602.3 Except as provided in §§ 5602.4 through 5602.6, each owner or operator of an UST system shall maintain the following records and information at the facility where the UST system is located:

(a) Documentation of the operation of corrosion protection equipment (§ 5901.2);

(b) Documentation of the impressed cathodic protection system inspections (§ 5901.6);

(c) Documentation of UST system repairs (§ 5902);

(d) Documentation of compliance with release detection requirements (§ 6001);

(e) Results of the closure assessment conducted at permanent closure (§ 6101);

(f) Documentation of UST system compatibility (§ 5903);

(g) Documentation of operator training (§ 6503);

(h) Documentation of periodic walkthrough inspections (§ 5904)

(i) Documentation of compliance for spill and overfill prevention equipment and for containment sumps used for interstitial monitoring of piping (§§ 5900.12 through 5900.15); and

(j) A corrosion expert's analysis of corrosion potential if corrosion protection is not used (§ 5701.1(d)).

5602.4 Each owner or operator shall maintain the records required under §§ 5602.3(a), (c) and (f) for a period of ten (10) years, or the life of the UST system, whichever is longer. The records for the current and the previous registration year shall be kept at the facility where the UST is located and shall be immediately available for inspection when requested by the Department. For the remainder of the required retention period, the records may be kept at another location in the District, but shall be readily available for inspection when requested by the Department.

5602.5 Each owner or operator shall keep the records required under § 5602.3(d) either at the facility where the UST is located or at another location where the records can be viewed by a person in the District. The records shall be immediately available for inspection by the Department at the facility where the UST is located, or if at another location, readily available for inspection by the Department.

5602.6 If an UST is permanently closed and the records cannot be kept at the facility where the UST was located or at an alternative location under §§ 5602.4 and 5602.5, the owner or operator shall deliver the permanent closure records required under § 6101 to the Department.

5602.7 Any records required to be maintained by an owner or operator shall be kept for the operating life of the UST unless another time period is specified by regulation.

5602.8 Each owner shall maintain documentation required in § 6502.11 at the facility where the UST is located.

5603 NOTICE OF INSTALLATION, REMOVAL, CLOSURE-IN-PLACE, REPAIR, UPGRADE, AND TESTING

5603.1 The owner, operator, or authorized representative of an owner or operator shall notify the Department at least five (5) business days before each installation, repair, or upgrade of an UST system and its related components, such as overfill equipment and secondary containment areas, except as provided in § 5603.3. The notice shall be provided on an UST/LUST activity notification form, which is available on the Department's website at https://doee.dc.gov/publication/ust-activity-notification-form. Each owner, operator, or authorized representative shall provide notice of a removal or closure-in-place in accordance with Chapter 61.

5603.2 In addition to the notice required under § 5603.1, the owner, operator, or authorized representative shall notify the Department orally or in writing of the exact date and time of the installation, repair, upgrade, removal, or closure-in-place of the UST system at least twenty-four (24) hours in advance to schedule an appointment for facility inspections, except as provided in § 5603.3.

5603.3 In the case of an emergency removal or repair, the owner or operator shall provide notice to the Department and the District Fire Chief within twenty-four (24) hours of learning of the emergency condition.

5603.4 Before installing or upgrading an UST, the owner or operator shall submit to the Department plans, engineering designs, and specifications prepared by a business licensed to perform UST installations in the District in accordance with § 6500.

5603.5 Each owner or operator of an UST, including an UST on a federal facility, shall obtain approval of the plans and specifications from the Department before applying for a construction permit from the District Department of Consumer and Regulatory Affairs.

5603.6 Each owner or operator shall inform the Department orally or on an UST/LUST activity notification form at least twenty-four (24) hours in advance of the exact date and time of any tank tightness test to be conducted on an UST. In the case of emergency testing, notice shall be provided to the Department within twenty-four (24) hours after emergency testing is conducted.

5603.7 In addition to the notice required by § 5603.6, if a tightness test is performed as a result of a suspected release, the owner or operator shall also inform the District Fire Chief orally or in writing at least forty-eight (48) hours in advance.

5604 NOTICE OF SALE OF REAL PROPERTY

5604.1 Before a seller may enter into a contract for the sale of real property in the District, the seller shall inform each prospective buyer of the existence or removal of any UST system at the property, that the seller has knowledge of, on a disclosure form approved by the Department or in a letter incorporating all of the information required in the form, except as provided in §§ 5604.3 and 5604.4. The disclosure form is available on the Department's website at https://doee.dc.gov/page/ust-forms-guidance-and-public-documents.

5604.2 The seller of real property is not required to perform a site assessment or other geological investigation to determine if there are USTs on the property, but shall:

(a) Inform prospective purchasers of any UST or any UST-related contamination of which the seller has actual knowledge; and

(b) For the sale of commercial property, inform prospective buyers of any prior use of the property of which seller has actual knowledge that may suggest the existence of USTs on the property.

5604.3 Notice pursuant to § 5604.1 is not required for the sale of an individual condominium or cooperative unit.

5604.4 A seller of a single family home shall use the disclosure form approved by the Department, which is available on the Department's website at https://doee.dc.gov/page/ust-forms-guidance-and-public-documents, or make the disclosure required by § 5604.1 in the sales contract if the purchaser signs an acknowledgement that the purchaser has read the disclosure prior to signing the contract.

5605 FEES

5605.1 The annual registration fee shall be eight hundred dollars ($800) for each tank with a capacity of over ten thousand (10,000) gallons; four hundred fifty dollars ($450) for each tank with a capacity of ten thousand (10,000) gallons or less; except the fee for a heating oil tank with a capacity of ten thousand (10,000) gallons or less shall be two hundred dollars ($200). The owner or operator of a heating oil tank with a capacity of more than ten thousand (10,000) gallons shall pay eight hundred dollars ($800).

5605.2 The annual registration fee shall be paid in full by January 1 of each year. Any annual registration fee not received by January 1 of each year shall be subject to a late fee of two hundred dollars ($200).

5605.3 The following fees will be charged for the listed Departmental activities:

(a) The fee for review of plans and specifications and performing facility inspections for UST installations is two hundred fifty dollars ($250) per tank;

(b) The fee for performing facility inspections and for review of reports related to UST closure-in-place is two hundred fifty dollars ($250) per tank, except that the fee for these activities for heating oil tanks with a capacity of less than one thousand one hundred (1,100) gallons is one hundred fifty dollars ($150) per tank;

(c) The fee for performing facility inspections and review of reports related to UST removal is two hundred fifty dollars ($250) per tank, except the fee for these activities for heating oil tanks with a capacity of less than one thousand one hundred (1,100) gallons is one hundred fifty dollars ($150) per tank; and

(d) The initial fee for participation in the Voluntary Remediation Action Program is five thousand dollars ($5000), except that the Department may waive the fee if the applicant is a neighboring property owner who is unable to obtain relief from the responsible party. The initial fee shall be reduced by twenty-five percent (25%) if the applicant demonstrates, to the satisfaction of the Department, that the corrective action plan will use green remediation. In addition, an annual fee of five hundred dollars

($500) to continue in the program will be charged and is payable on the one year anniversary date of Conditional Authorization Letter issued pursuant to § 6212.3 until a no further action or case closure letter is issued. This paragraph shall not apply to a Voluntary Remediation Action Program application approved on or before February 21, 2020.

5605.4 The following application fees will be charged for the licensing of any business and the certification of any individual who installs, upgrades, repairs, permanently closes, or tests UST systems under Chapter 65:

(a) The initial application fee to license a business is four hundred dollars ($400), and the annual renewal application fee is two hundred dollars ($200), except that the initial application fee for businesses certified by a neighboring state under § 6501 is three hundred dollars ($300); and

(b) The initial application fee to certify an individual is two hundred fifty dollars ($250), and the annual renewal application fee is one hundred fifty dollars ($150).

5605.5 The fees in this section may be increased for each calendar year by the percentage, if any, by which the Consumer Price Index as published by the Department of Labor increased between the last two calendar years. For example, the fees for 2019 would be based on the increase, if any, from 2017 to 2018.

5606 THIRD-PARTY CERTIFICATION

5606.1 In lieu of inspection by the Department, an owner or operator may request the Department to approve compliance inspections of UST system installations, upgrades, repairs, closures, release detection system(s), and manufacturer-required annual maintenance inspections performed by an independent third-party inspector who is a Department-certified UST System Technician.

5606.2 If the Department approves use of an independent third-party inspector, the Department will accept the third-party inspector's report and findings if the report contains all the compliance inspection information required by the Department.

5606.3 An independent third-party inspector may not certify an UST system if he or she has a financial interest in the UST system or the facility in which the UST is located.

5607 PUBLIC RECORD INFORMATION

5607.1 No later than December 31 of each year, information will be made available to the public regarding:

(a) Current numbers of USTs and facilities in the District, and Significant Operational Compliance (SOC) inspections conducted; and

(b) Confirmed releases from USTs within the District for the year, and the sources and causes of releases.

5607.2 The public record will be available on the Department's website at https://doee.dc.gov/page/lust-forms-guidance-and-public-documents. A person who does not have electronic access may request a copy of the information by writing to UST Branch, Department of Energy and Environment, 1200 First Street, N.E., 5th Floor, Washington, D.C. 20002.

CHAPTER 57 UNDERGROUND STORAGE TANKS - NEW TANK PERFORMANCE STANDARDS

5700 EXISTING AND NEW UST SYSTEMS - GENERAL PROVISIONS

5700.1 The owner or operator of each new or existing petroleum UST system, except for a heating oil tank, shall comply with this section and the following as applicable:

(a) For an UST system installed on or before December 22, 1988, the upgrade requirements in Chapter 58;

(b) For an UST system installed after December 22, 1988, and on or before November 12, 1993, the federal standards in 40 CFR § 280.20 (Performance Standards for New USTs); and

(c) For UST systems installed after November 12, 1993, the performance standards for new petroleum UST systems in §§ 5701, 5704, and 5705.

5700.2 Except as provided in § 5700.3, the owner or operator of each existing or new hazardous substance UST system shall comply with this section and the performance standards for new hazardous substance UST systems in §§ 5702, 5704, and 5705.

5700.3 A hazardous substance UST system that was installed on or before November 12, 1993, and that was upgraded before February 21, 2020 to comply with the

performance standards for new petroleum UST systems in § 5701, is exempt from the requirements of § 5700.2.

5700.4 The owner or operator of each heating oil tank with a capacity of one thousand one hundred (1,100) gallons or greater shall comply with the following as applicable:

(a) For UST systems installed on or before November 12, 1993, the requirements of this section; and

(b) For UST systems installed after November 12, 1993, the requirements of §§ 5703 through 5706.

5700.5 The owner or operator of an UST system that does not comply with §§ 5700.1 through 5700.4 shall comply with the permanent closure requirements in Chapter 61 and the applicable requirements for corrective action in Chapter 62.

5700.6 The owner or operator of each UST system shall ensure that the UST system satisfies the applicable release detection requirements in Chapter 60.

5700.7 In addition to meeting the requirements of this chapter, the owner or operator of each UST system located within one hundred feet (100 ft) of a subsurface transit structure, as measured horizontally from the outside wall, shall meet the requirements of the District of Columbia Fire Code, Title 12, Subtitle H (Fire Code Supplement) of the District of Columbia Municipal Regulations and the National Fire Protection Association (NFPA) Standard 130 (Standard for Fixed Guideway Transit and Passenger Rail Systems).

5700.8 Each metal tank, and the attached metal piping that is in contact with the ground and used to convey the regulated substance stored in the tank, shall be properly designed, constructed, and installed in a manner that will prevent corrosion in accordance with:

(a) A code of practice listed in § 5701.10;

(b) The District of Columbia Fire Code, Title 12, Subtitle H (Fire Code Supplement) of the District of Columbia Municipal Regulations; and

(c) The applicable requirements of this chapter.

5700.9 The Department may approve alternative tank construction and corrosion protection measures if the Department determines that the alternative tank construction and corrosion protection measures will prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements of this chapter.

5700.10 Each owner or operator of an UST that is more than thirty (30) years old shall remove the tank from the ground in accordance with Chapter 61 within five (5) years of February 21, 2020.

5700.11 Each owner or operator of an UST that is more than thirty (30) years old shall perform a tightness test within one (1) year of February 21, 2020, and if the UST fails, remove the UST within one (1) year of the date of the test failure.

5701 NEW PETROLEUM UST SYSTEMS

5701.1 Each new petroleum UST, except for a heating oil tank, shall be constructed of:

(a) Fiberglass-reinforced plastic with double-walled construction or other secondary containment system as set forth in §§ 5701.4 through 5701.6;

(b) Steel that is clad or jacketed with a non-corrodible material (such as fiberglass-reinforced plastic composite) with double-walled construction or other secondary containment system as set forth in §§ 5701.4 through 5701.6;

(c) Steel that is cathodically protected in accordance with §§ 5701.2 and 5701.3 with double-walled construction or other secondary containment system as set forth in §§ 5701.4 through 5701.6;

(d) Metal without additional corrosion protection measures; provided that:

(1) The tank is installed at a facility that is determined by a corrosion expert not to be corrosive enough to cause the tank to have a release due to corrosion during its operating life; and

(2) The owners and operators maintain records that demonstrate compliance with requirements of § 5701.1(d)(1) for the remaining life of the tank; or

(e) Other materials, if the tank's construction and corrosion protection are, as determined by the Department, in accordance with § 5500.5, designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the other provisions of this section.

5701.2 Each steel tank that is cathodically protected shall be coated with a suitable dielectric material, and:

(a) The field-installed cathodic protection systems shall be designed by a corrosion expert; and

(b) The impressed current cathodic protection systems shall be designed to allow determination of current operating status as required by § 5901.5.

5701.3 Each cathodic protection system shall be operated and maintained in accordance with § 5901.

5701.4 Secondary containment systems shall be designed, constructed, and installed to do the following:

(a) Contain regulated substances released from the tank system until they are detected and removed;

(b) Prevent the release of regulated substances to the environment at any time during the operational life of the UST; and

(c) Check for evidence of a release at least every thirty (30) days.

5701.5 If continuous monitoring methods are not used, each secondary containment system shall be tested every three (3) years to ensure that the interstitial area is liquid-tight.

5701.6 Double-walled tanks shall be designed, constructed, and installed in a manner that will:

(a) Contain a release from any portion of the inner tank within the outer wall; and

(b) Provide for the detection of the failure of the inner wall.

5701.7 External liner systems, including vaults, shall be designed, constructed, and installed in a manner that will:

(a) Contain one hundred ten percent (110%) of the capacity of the largest tank within its boundary;

(b) Prevent precipitation or groundwater intrusion from interfering with the ability to contain or detect a release of regulated substances; and

(c) Surround the tank completely and be capable of preventing both lateral and vertical migration of regulated substances.

5701.8 All new motor fuel dispenser systems shall be equipped with an under-dispenser **c**ontainment system that is designed, constructed, and installed in a manner that will prevent leaks from the dispenser from reaching soil or groundwater, and shall:

(a) Be liquid-tight on its sides, bottom, and at any penetrations;

(b) Be compatible with the substance conveyed by the piping; and

(c) Allow for visual inspection and access to the components in the containment system, or be monitored to detect a failure of the under-dispenser containment and any leaks from the dispenser.

5701. 9 A dispenser system is considered new when both the dispenser and the equipment needed to connect the dispenser to the UST system are installed. The equipment necessary to connect the dispenser to the UST system includes check valves, shear valves, unburied risers, flexible connectors, and other transitional components that are below the dispenser and connect the dispenser to the underground piping.

5701.10 The following codes of practice may be used to comply with § 5701.1:

(a) If the tank is constructed of fiberglass reinforced plastic:

(1) Underwriters Laboratories Standard 1316, “Glass- Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products Alcohols, and Alcohol-Gasoline Mixtures”; or

(2) Underwriter’s Laboratories of Canada Standard CAN/ULC S615, “Standard for Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids”.

(b) If the tank is constructed of steel and cathodically protected:

(1) Steel Tank Institute STI-P3, “Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks”;

(2) Underwriters Laboratories Standard 1746, “External Corrosion Protection Systems for Steel Underground Storage Tanks”;

(3) Underwriters Laboratories of Canada Standard CAN/ULC S603, “Standard for Steel Underground Tanks for Flammable and Combustible Liquids,” Standard CAN/ULC S603.1 “Standard for External Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids," and Standard CAN/ULC S631, “Standard for Isolating Bushings for Steel Underground Tanks Protected with External Corrosion Protection Systems”;

(4) Steel Tank Institute Standard F841, “Standard for Dual Wall Underground Steel Storage Tanks”; or

(5) NACE International Standard Practice SP 0285, “External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection,” and Underwriters Laboratories Standard 58, “Standard for Steel Underground Tanks for Flammable and Combustible Liquids.”

(c) If the tank is steel, and clad or jacketed with a non-corrodible material:

(1) Underwriters Laboratories Standard 1746, “External Corrosion Protection Systems for Steel Underground Storage Tanks”;

(2) Steel Tank Institute ACT-100® Specification F894, “Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks”;

(3) Steel Tank Institute ACT-100-U® Specification F961-15, “Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks”; or

(4) Steel Tank Institute Specification F922, “Steel Tank Institute Specification for Permatank®.”

5702 NEW HAZARDOUS SUBSTANCE UST SYSTEMS

5702.1 Each new hazardous substance UST shall be:

(a) Constructed of fiberglass-reinforced plastic, steel-fiberglass-reinforced plastic composite, or steel;

(b) If constructed of steel, cathodically protected in accordance with the requirements of § 5702.2; and

(c) Of three hundred sixty degree (360°) double-wall construction as set forth in § 5702.4.

5702.2 Each steel tank shall be cathodically protected by being coated with a suitable dielectric material, and:

(a) The field-installed cathodic protection systems shall be designed by a corrosion expert; and

(b) The impressed current cathodic protection systems shall be designed to allow determination of current operating status as required by § 5901.5.

5702.3 Each cathodic protection system shall be operated and maintained in accordance with § 5901.

5702.4 Double-walled tanks shall be designed, constructed, and installed in a manner that will:

(a) Contain a release from any portion of the inner tank within the outer wall until detected and removed;

(b) Detect the failure of the inner or outer wall;

(c) Prevent the release of regulated substances to the environment at any time during the operational life of the UST; and

(d) Check for evidence of a release at least every thirty (30) days.

5702.5 The codes of practice listed in §§ 5701.10(a) and (b) may be used to comply with § 5702.1

5703 NEW HEATING OIL UST SYSTEMS

5703.1 Each heating oil tank with a capacity of one thousand one hundred (1,100) gallons or more and was installed after November 12, 1993, whether of single or double-walled construction, shall be constructed of the following:

(a) Fiberglass-reinforced plastic;

(b) Steel-fiberglass-reinforced plastic composite; or

(c) Steel, which must be cathodically protected in accordance with the requirements of § 5703.2.

5703.2 Each steel tank shall be cathodically protected by being coated with a suitable dielectric material, and:

(a) The field-installed cathodic protection systems shall be designed by a corrosion expert; and

(b) The impressed current cathodic protection system shall be designed to allow determination of current operating status as required by § 5901.5.

5703.3 Each cathodic protection system shall be operated and maintained in accordance with the requirements of § 5901.

5703.4 Each heating oil tank with a capacity of one thousand one hundred (1,100) gallons or more, and installed after November 12, 1993, shall have a secondary containment system that is designed, constructed, and installed in a manner that will:

(a) Contain regulated substances released from the tank system until they are detected and removed;

(b) Prevent the release of regulated substances to the environment at any time during the operational life of the UST; and

(c) Check for evidence of a release at least every thirty (30) days.

5703.5 If continuous monitoring methods are not used, each secondary containment system shall be tested every three (3) years to ensure that the interstitial area is liquid-tight.

5703.6 A tank that is double-walled shall be designed, constructed, and installed in a manner that will:

(a) Contain a release from any portion of the inner tank within the outer wall; and

(b) Allow for the detection of the failure of the inner wall.

5703.7 External liner systems, including vaults, shall be designed, constructed, and installed in a manner that will:

(a) Contain one hundred ten percent (110%) of the capacity of the largest tank within its boundary;

(b) Prevent the interference of precipitation or ground water intrusion with the ability to contain or detect a release of regulated substances; and

(c) Surround the tank completely and be capable of preventing lateral as well as vertical migration of regulated substances.

5703.8 An upgrade of a heating oil tank is considered a new installation and shall conform to all new installation provisions in this chapter.

5704 NEW PIPING FOR UST SYSTEMS

5704.1 Piping that routinely contains regulated substances and is in contact with earthen materials shall be properly designed and constructed, and protected from corrosion, in accordance with the following codes of practice, or an alternative

industry standard or code of practice approved by the Department in accordance with § 5506:

(a) If the piping is non-corrodible material (such as fiberglass-reinforced plastic):

(1) Underwriters Laboratories Standard 971, "Nonmetallic Underground Piping for Flammable Liquids"; or

(2) Underwriters Laboratories of Canada Standard CAN/ULC S660, "Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids"; and

(b) If the piping is constructed of steel and cathodically protected:

(1) American Petroleum Institute Recommended Practice RP 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems";

(2) Underwriters Laboratories Subject 971A, "Outline of Investigation for Metallic Underground Fuel Pipe";

(3) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems";

(4) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems"; or

(5) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection."

5704.2 UST system piping shall be constructed of:

(a) Non-corrodible material (such as fiberglass-reinforced plastic);

(b) Steel, which shall be cathodically protected in accordance with the requirements of this section and § 5901;

(c) Metal without additional corrosion protection measures; provided that:

(1) The piping is installed at a facility that is determined by a corrosion expert not to be corrosive enough to cause the piping to have a release due to corrosion during its operating life; and

(2) The owner or operator maintains records that demonstrate compliance with requirements of § 5704.2(c)(1) for the remaining life of the piping; or

(d) Other materials approved by the Department in accordance with § 5704.7.

5704.3 Steel UST piping shall be cathodically protected by being coated with a suitable dielectric material, and:

(a) The field-installed cathodic protection system shall be designed by a corrosion expert; and

(b) The impressed current cathodic protection system shall be designed to allow determination of current operating status as required by § 5901.5.

5704.4 Each cathodic protection system shall be operated and maintained in accordance with the requirements of § 5901.

5704.5 Except as provided in § 5704.6, underground piping for hazardous substance USTs, and pressurized underground piping and non-safe suction piping for all petroleum USTs, shall be equipped with secondary containment features that are designed and constructed in accordance with the requirements of § 5701.4.

5704.6 Secondary containment is not required for vent pipes, Stage II vapor recovery pipes, or vertical fill pipes.

5704.7 Other materials and construction techniques may be used for UST piping if the piping construction and corrosion protection are determined by the Department, in accordance with § 5500.5, to be designed in a manner that is no less protective of human health and the environment than the other provisions of this section.

5705 SPILL AND OVERFILL PREVENTION EQUIPMENT FOR NEW AND UPGRADED UST SYSTEMS

5705.1 Except as provided in § 5705.3, in order to prevent spilling during the transfer of regulated substances to an UST, each owner or operator shall use spill prevention equipment (such as a spill catchment basin) that will prevent release of regulated substances when the transfer hose is detached from the fill pipe.

5705.2 Each owner or operator of a new or upgraded UST system shall prevent spills and overfills by ensuring that the space in the tank is sufficient to receive the volume of regulated substances to be transferred and that the transfer operation is constantly monitored in accordance with § 5900.3.

5705.3 Except as provided in §§ 5705.4 through 5705.6, in order to prevent overfilling during the transfer of regulated substances, each owner or operator shall use overfill prevention equipment that does one or more of the following:

(a) Automatically shuts off flow into the tank when the tank is no more than ninety-five percent (95%) full;

(b) Alerts the transfer operator when the tank is no more than ninety percent (90%) full by triggering a high-level audible and visible alarm that is labeled overfill alarm and is in full view of the delivery driver;

(c) Restricts flow thirty (30) minutes prior to overfilling;

(d) Alerts the transfer operator with a high level alarm one (1) minute before overfilling; or

(e) Automatically shuts off flow into the tank so that none of the fittings located on the top of the tank are exposed to product due to overfilling.

5705.4 No owner or operator shall use flow restrictors (ball float systems) in vent lines as the only method of overfill prevention when the overfill prevention is installed or replaced after February 21, 2020.

5705.5 Tanks that are susceptible to over-pressurization shall only use an automatic shutoff valve to comply with § 5705.3.

5705.6 An owner or operator is not required to provide and use the spill and overfill prevention equipment specified in this section if:

(a) Alternative equipment is used that is determined by the Department, in accordance with § 5500.5, to be no less protective of human health and the environment than the equipment specified in the other provisions of this section; or

(b) The UST is filled by transfers of no more than twenty-five (25) gallons at one time.

5705.7 The spill prevention equipment on new USTs shall have a minimum capacity of ten (10) gallons.

5706 INSTALLATION OF NEW UST SYSTEMS

5706.1 Each UST system, including all tanks and piping, shall be installed in accordance with the manufacturer's instructions; the District of Columbia Fire Code, Title 12, Subtitle H (Fire Code Supplement) of the District of Columbia Municipal

Regulations; and one of the following codes of practice or an alternative code approved by the Department in accordance with § 5506:

(a) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System";

(b) Petroleum Equipment Institute Recommended Practice RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or

(c) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" and Standard 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages."

5706.2 Each owner or operator shall ensure that each UST is installed by, or each installation is supervised by, a District-certified UST System Technician as required in Chapter 65.

5706.3 The owner or operator shall ensure that all work listed in the manufacturer's installation checklist is completed for each UST installation.

5706.4 The owner or operator shall sample the soil below the excavation and submit the soil sampling report to the Department before installation. The owner or operator may not place backfill in the excavation until the Department has inspected and approved the installation.

5706.5 After installing an UST, the owner or operator shall perform a tank tightness test before using the UST.

5706.6 The owner or operator shall ensure that the UST System Technician certifies compliance with §§ 5706.2 through 5706.4 on an UST facility notification form, available on the Department's website at https://doee.dc.gov/page/ust-forms-guidance-and-public-documents, and shall submit the form to the Department.

CHAPTER 58 UNDERGROUND STORAGE TANKS - UPGRADES OF EXISTING USTS

5800 EXISTING UST SYSTEM UPGRADES
5801 TANK UPGRADES
5802 EXISTING UST SYSTEM PIPING UPGRADES
5803 SPILL AND OVERFILL PREVENTION EQUIPMENT UPGRADES
5804 TANK TIGHTNESS TESTING UPON UPGRADE

5800 EXISTING UST SYSTEM UPGRADES

5800.1 The owner or operator of each existing petroleum UST, except a heating oil tank, shall ensure that the UST complies with the following as applicable, or permanently close the UST in accordance with Chapter 61 and applicable requirements for corrective action set forth in Chapter 62:

(a) For an UST system installed before December 22, 1988, the upgrade requirements set forth in this chapter;

(b) For an UST system installed after December 22, 1988, and prior to November 12, 1993, the federal standards set forth in 40 CFR § 280.20 (Performance Standards for New USTs); or

(c) The performance standards for new petroleum UST systems in Chapter 57.

5800.2 All components connected to an existing petroleum UST system, except a heating oil tank, shall be operating. Components of an UST system that are no longer functional or in use shall be removed.

5800.3 No person may deposit a regulated substance into an existing UST system, except a heating oil tank, unless the UST system complies with the new UST system performance standards in Chapter 57 or has been upgraded under this section.

5800.4 The owner or operator of each existing hazardous substance UST system shall ensure that the UST system complies with the new UST system performance standards in Chapter 57 for hazardous substance UST systems, or permanently close the UST system in accordance with Chapter 61 and applicable requirements for corrective action in Chapter 62.

5801 TANK UPGRADES

5801.1 Each owner or operator of an existing steel UST shall upgrade the tank in accordance with the manufacturer's specifications, one of the following codes of practice, or an alternative industry standard or code of practice approved by the Department in accordance with § 5506:

(a) American Petroleum Institute Recommended Practice RP 1631, “Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks”;

(b) National Leak Prevention Association Standard 631, “Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection”;

(c) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; or

(d) American Petroleum Institute Recommended Practice RP 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."

5801.2 An owner or operator that seeks to upgrade an existing tank to stage I vapor recovery shall submit plans to the Department by mail or delivery to UST Branch, Department of Energy and Environment, 1200 First Street, N.E., 5th Floor, Washington, D.C. 20002, or electronically in accordance with § 5500.4, and obtain the Department's approval before implementing the upgrades.

5801.3 The internal lining of an existing UST may be upgraded only if the following requirements are met:

(a) The interior of the tank was inspected and assessed to ensure that the tank is structurally sound prior to installing the internal lining in accordance with American Petroleum Institute Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks"; and

(b) The lining was installed in accordance with the requirements of § 5902.

5801.4 Within ten (10) years after the lining of the tank is upgraded, and every five (5) years thereafter, the interior of the lined tank shall be inspected to ensure that:

(a) It is structurally sound;

(b) It is free of corrosion holes; and

(c) The lining is performing in accordance with the original design specifications.

5801.5 If internal lining is the sole method of corrosion protection for an UST, the owner or operator shall inspect the lining at least once each year for the conditions listed in § 5801.4(a) though (c).

5801.6 The following requirements apply to tank linings that have failed inspections:

(a) The tank lining shall be replaced, unless it can be repaired and restored to a level of performance equivalent to original design specifications using a code of practice specified in § 5801.1; and

(b) If an UST internal lining is the sole method of corrosion protection for an UST and the lining cannot be repaired in accordance with paragraph (a),

the owner or operator shall permanently close the tank in accordance with the requirements of Chapter 61.

5801.7 An existing tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of §§ 5701.2 and 5701.3, and the integrity of the tank is ensured using one of the following methods:

(a) The interior of the tank is inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system;

(b) If the tank had been installed for less than ten (10) years at the time of the upgrade, the tank is monitored monthly for releases in accordance with §§ 6008 through 6013;

(c) If the tank had been installed for less than ten (10) years at the time of the upgrade, the tank is assessed for corrosion holes by conducting two (2) tank tightness tests that meet the requirements of § 6007; the first tank tightness test shall be conducted before installing the cathodic protection system, and the second tank tightness test shall be conducted between three (3) and six (6) months after beginning operation of the cathodic protection system; or

(d) The tank is assessed for corrosion holes by a method that is determined by the Department, in accordance with § 5506, to prevent releases in a manner that is no less protective of human health and the environment than a system that complies with paragraphs (a) through (c) of this subsection.

5801.8 An existing tank may be upgraded by both internal lining and cathodic protection if the following requirements are met:

(a) The lining is installed in accordance with the requirements of § 5902; and

(b) The cathodic protection system meets the requirements of §§ 5701.2 and 5701.3.

5801.9 The following codes of practice may be used to comply with the periodic lining inspection requirements in §§ 5801.4 and 5801.5:

(a) American Petroleum Institute Recommended Practice RP 1631, “Interior Lining and Periodic Inspection of Underground Storage Tanks”;

(b) National Leak Prevention Association Standard 631, Chapter B “Future Internal Inspection Requirements for Lined Tanks”; or

(c) Ken Wilcox Associates Recommended Practice, "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera."

5802 EXISTING UST SYSTEM PIPING UPGRADES

5802.1 Metal piping that routinely contains regulated substances and is in contact with earthen materials shall be cathodically protected in accordance with a code of practice that is either listed in § 5704.1(b) or approved by the Department in accordance with § 5506.

5802.2 Metal piping that routinely contains regulated substances and is in contact with earthen materials shall meet the requirements of §§ 5704.3 and 5704.4.

5802.3 Metal piping that routinely contains regulated substances and is in contact with earthen materials but does not meet the requirements of §§ 5802.1 and 5802.2 shall be replaced with new piping and satisfy the requirements of § 5704.

5803 SPILL AND OVERFILL PREVENTION EQUIPMENT UPGRADES

5803.1 To prevent spilling and overfilling associated with product transfer to the UST, all existing UST systems shall comply with new UST spill and overfill prevention equipment requirements specified in § 5705.

5804 TANK TIGHTNESS TESTING UPON UPGRADE

5804.1 Before beginning to operate an upgraded UST system, the owner or operator shall have a tightness test performed in accordance with the requirements of § 6007, unless the tank is upgraded by cathodic protection and the owner or operator complies with § 5801.7(c).

CHAPTER 59 UNDERGROUND STORAGE TANKS - OPERATION AND MAINTENANCE OF USTS

5900 SPILL AND OVERFILL CONTROL

5900.1 Each owner, operator, or agent in charge shall ensure that releases due to spilling or overfilling do not occur. In complying with the requirements of this section, the owner, operator, or agent in charge shall follow one of the following codes of practice or an alternative industry standard or code of practice approved by the Department in accordance with § 5506:

(a) National Fire Protection Association Standard 385, “Standard for Tank Vehicles for Flammable and Combustible Liquids;” or

(b) American Petroleum Institute Recommended Practice RP 1007, “Loading and Unloading of MC 306/DOT 406 Cargo Tank Motor Vehicles.”

5900.2 Before each transfer is made, the owner, operator, or agent in charge shall check that the volume available in the tank is greater than the volume of product to be transferred into the tank.

5900.3 The owner, operator, or agent in charge shall ensure that an individual, who may be the owner, operator, agent in charge, or a person designated by the owner in accordance with § 6502, constantly monitors each transfer operation to prevent overfilling and spilling, and that the transfer operation is performed in accordance with the UST manufacturer's specifications.

5900.4 When product is transferred by means of pressurized delivery, delivery nozzles shall be opened manually and observed by the individual transferring the product until closed.

5900.5 When product is transferred by means of pressurized delivery, a vent alarm device shall be installed and be visible and audible to the individual transferring the product.

5900.6 If the vent alarm indicates an obstruction to the vent, delivery shall be discontinued until the vent is cleared.

5900.7 The owner, operator, or agent in charge shall ensure that the spill prevention equipment is kept clean and dry.

5900.8 The owner or operator shall ensure that all fill lines for the UST are clearly marked to indicate the size of the tank and the type of regulated substance stored by:

(a) Installing a permanent tag or sign immediately adjacent to the fill pipes that indicates the size of the tank and the specific type of substance stored; or

(b) Applying a color code that conforms to the following requirements:

(1) Color markings that meet the requirements of American Petroleum Institute (API) Recommended Practice RP 1637 (Product Identification) shall be painted or placed around the fill or manhole cover in a manner that will readily identify the regulated substance in the storage tank;

(2) Regulated substances or products stored in USTs that are not listed in API Recommended Practice RP 1637 may be identified with an industry standard color code approved by the Department in accordance with § 5506; and

(3) The color code shall be painted on a sign not less than eight (8) by ten (10) inches with letters not less than five sixteenths (5/16) of an inch high, posted at the facility in a prominent location visible from the fill pipe area.

5900.9 Unless the pipes or openings are used for the transfer of a regulated substance stored at the facility, pipes or other openings may not be marked in any way that could be associated with that substance.

5900.10 The owner, operator, or other responsible party shall report, investigate, and clean up any spills and overfills in accordance with the requirements of Chapter 62.

5900.11 Each owner or operator shall comply with the requirements of §§ 5900.12 through 5900.15 in accordance with the following schedule:

(a) For UST systems in use on or before February 21, 2020, the initial spill prevention equipment test, containment sump test, and overfill prevention equipment inspection shall be conducted not later than October 13, 2021; and

(b) For UST systems brought into use after February 21, 2020, the requirements apply at installation.

5900.12 Except as provided in § 5900.13, all spill prevention equipment and containment sumps used for interstitial monitoring of piping shall be tested at least once every three (3) years for liquid tightness in accordance with § 5900.14. All water generated in the liquid tightness testing shall be disposed of at approved facilities.

5900.13 Spill prevention equipment and containment sumps that are double-walled with continuous interstitial monitoring are exempt from the testing requirement specified in § 5900.12, if the integrity of both walls is periodically monitored at least as frequently as the walkthrough inspection required in § 5904.

5900.14 Liquid tightness testing shall be conducted by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

(a) Requirements developed by the manufacturer;

(b) Petroleum Equipment Institute Recommended Practice RP1200, “Recommended Practices for the Testing and Verification of Spill,

Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities"; or

(c) An alternative industry standard or code of practice approved by the Department in accordance with § 5506.

5900.15 Overfill prevention equipment shall be inspected at least once every three (3) years. At a minimum, the inspection shall ensure that overfill prevention equipment is set to activate at the level specified in § 5705.3 and will activate when the regulated substance reaches that level.

5901 TANK CORROSION PROTECTION

5901.1 Each owner or operator of a steel tank UST, or of a steel-fiberglass-reinforced plastic composite UST with corrosion protection, shall comply with the requirements of this section for as long as the UST is used to store regulated substances.

5901.2 Each owner or operator shall operate and maintain the corrosion protection system to continuously provide corrosion protection to the metal components of those portions of the tank and piping system of active and temporarily closed USTs that routinely contain regulated substances and are in contact with the ground.

5901.3 Within six (6) months of installation, and at least once every three (3) years thereafter, each UST equipped with a cathodic protection system shall be inspected by a cathodic protection tester to ensure the system is operating properly.

5901.4 Cathodic protection testing shall be done in accordance with one of the following codes of practice, or an alternative industry standard or code of practice approved by the Department in accordance with § 5506:

(a) NACE International Test Method TM0101, "Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems";

(b) NACE International Test Method TM0497, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems";

(c) Steel Tank Institute Recommended Practice R051, "Cathodic Protection Testing Procedures for STI-P3® USTs";

(d) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or

(e) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."

5901.5 Each UST with an impressed current cathodic protection system shall be inspected every sixty (60) days to ensure the system is operating properly.

5901.6 For each UST using cathodic protection, the owner or operator shall maintain records of the operation of the cathodic protection system in accordance with § 5602, including:

(a) The results of the last two (2) inspections required in § 5901.3;

(b) The results of the last three (3) inspections required in § 5901.5; and

(c) The name and qualifications of the cathodic protection tester who performed the inspections.

5901.7 Each owner or operator of an UST that uses internal lining as the sole method of corrosion protection shall conduct annual inspections in accordance with § 5801.5.

5901.8 USTs that fail the annual inspection required by § 5901.7 and cannot be repaired in accordance with § 5801.6 shall be permanently closed in accordance with § 6101.

5901.9 For purposes of this section, the term "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 buried or submerged metal piping and tank systems. At a minimum, a cathodic protection tester has education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

5902 REPAIR OR REPLACEMENT OF UST SYSTEMS

5902.1 Each owner or operator of an UST shall ensure that repairs are made using the proper materials and techniques, and that repairs will prevent releases due to structural failure or corrosion as long as the UST is used to store regulated substances.

5902.2 Except as stated in §§ 5902.3 and 5902.4, in complying with the requirements of this section, each owner or operator shall follow one of the following codes of practice, or an alternative industry standard or code of practice approved by the Department in accordance with § 5506:

(a) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";

(b) American Petroleum Institute Recommended Practice RP 2200, “Repairing Crude Oil, Liquified Petroleum Gas, and Product Pipelines”;

(c) American Petroleum Institute Recommended Practice RP 1631, “Interior Lining and Periodic Inspection of Underground Storage Tanks”;

(d) National Fire Protection Association Standard 326, “Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair”;

(e) National Leak Prevention Association Standard 631, Chapter A “Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks”;

(f) Steel Tank Institute Recommended Practice R972, “Recommended Practice for the Addition of Supplemental Anodes to STI-P3® Tanks”;

(g) NACE International Standard Practice SP 0285, “External Control of Underground Storage Tank Systems by Cathodic Protection”; or

(h) Fiberglass Tank and Pipe Institute Recommended Practice T-95-02, “Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks.”

5902.3 Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with § 5902.2.

5902.4 Repairs to or replacement of internal tank linings may be made by the manufacturer's authorized representatives or in accordance with § 5902.2.

5902.5 Metal pipe sections and fittings from which a release of a regulated substance has occurred as a result of corrosion or other damage, or that have incurred corrosion or other damage sufficient to constitute a threat of release, shall be replaced in accordance with § 5704.

5902.6 Non-corrodible or fiberglass pipes and fittings, or flexible pipes, from which a release of a regulated substance has occurred as a result of damage, or that have incurred damage sufficient to constitute a threat of a release, shall be replaced in accordance with § 5704 and the manufacturer’s specifications.

5902.7 Within thirty (30) days of completing a repair to secondary containment areas of the tanks and piping used for interstitial monitoring, or a repair to containment sumps used for interstitial monitoring of piping, and before using the tank to store regulated substances, the owner or operator shall have the secondary containment tested for liquid-tightness according to the manufacturer’s instructions, one of the

following codes of practice, or an alternative industry standard or code of practice approved by the Department in accordance with § 5506:

(a) Steel Tank Institute Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks";

(b) Fiberglass Tank and Pipe Institute Protocol, "Field Test Protocol for Testing the Annular Space of Installed Underground Fiberglass Double and Triple-Wall Tanks with Dry Annular Space"; or

(c) Petroleum Equipment Institute Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."

5902.8 Within thirty (30) days of completing a repair to a tank or piping, other than a repair specified in § 5902.7, and before using the tank to store regulated substances, the owner or operator shall have the tank or piping tested for liquid-tightness in accordance with § 6007, unless one or more of the following actions have been taken:

(a) The repaired tank has been internally inspected in accordance with American Petroleum Institute Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks," or an alternative industry standard or code of practice approved by the Department in accordance with § 5506;

(b) The repaired portion of the UST system is monitored every thirty (30) days for releases in accordance with a method specified in §§ 6008 through 6013; or

(c) Another test method is used that is determined by the Department to be no less protective of human health and the environment than the other provisions of this subsection.

5902.9 Within six (6) months following the repair of any cathodically protected UST system, the cathodic protection system shall be tested in accordance with the applicable provisions of §§ 5901.3 through 5901.5 to ensure that it is operating properly.

5902.10 Each owner or operator shall maintain records of each repair for 10 years, or until the UST system is permanently closed, whichever is longer, in accordance with § 5602.4.

5902.11 Each owner or operator shall ensure that each UST system is repaired by, or that repairs are supervised by, an UST System Technician certified by the Department in accordance with Chapter 65.

5902.12 After the completion of any replacement or repair that results in a change in the information on the UST facility notification form, the owner or operator shall ensure that the certified UST System Technician completes the certification of compliance provided on the UST facility notification form required by § 5600.

5902.13 A repair that involves removing and replacing fifty percent (50%) or more of the piping, excluding connectors, connected to a single underground tank is considered to be a replacement and shall meet the new piping installation requirements in § 5704.

5902.14 Within thirty (30) days of any repair to spill or overfill prevention equipment, the repaired equipment shall be tested or inspected, as appropriate, in accordance with § 5900 to ensure it is operating properly.

5903 COMPATIBILITY

5903.1 Each owner and operator shall use an UST system that is made of, or lined with, materials that are compatible with the substance stored in the UST system.

5903.2 Each owner or operator shall notify the Department at least thirty (30) days prior to changing the product stored in an UST to a regulated substance containing greater than ten percent (10%) ethanol or greater than twenty percent (20%) biodiesel.

5903.3 Each owner or operator of an UST system storing a regulated substance identified in § 5903.2 shall demonstrate compatibility of the UST system (including the tank, piping, containment sumps, pumping equipment, release detection equipment, spill equipment, and overfill equipment) with the regulated substance by:

(a) Certification or listing of the UST system equipment or components for use with the regulated substance in American Petroleum Institute Recommended Practice RP 1626, “Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Filling Stations,” or an alternative industry standard or code of practice approved by the Department in accordance with § 5506;

(b) Equipment or component manufacturer approval in writing, affirmatively stating the equipment or component is compatible with the regulated substance stored and specifying the range of biofuel blends with which the equipment or component is compatible; or

(c) Another option determined by the Department to be no less protective of human health and the environment than the options listed in paragraphs (a) and (b) of this subsection.

5903.4 Each owner or operator shall maintain records documenting compliance with §§ 5903.2 and 5903.3 for as long as the UST system is used to store the regulated substance.

5904 WALKTHROUGH INSPECTIONS

5904.1 Each owner or operator shall conduct inspections and perform repairs as necessary in accordance with this section. The first inspection shall be performed no later than October 13, 2021 and subsequent inspections shall be performed in accordance with the schedule provided in this section.

5904.2 Every thirty (30) days, each owner or operator shall conduct a walkthrough inspection that, at a minimum, checks the following equipment as specified below, except that spill prevention equipment associated with UST systems receiving deliveries at intervals greater than every thirty (30) days may be checked prior to each delivery:

(a) For spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device): open and visually check for any damage, remove any liquid or debris, check for and remove obstructions in the fill pipe, check each fill cap to make sure it is securely on the fill pipe, and check for a leak in the interstitial area;

(b) For monitoring pipes or observation wells: check covers to make sure they are secured; and

(c) For release detection equipment: check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present, and ensure records of release detection testing are reviewed and are current, as specified in § 6000.

5904.3 Once a year, each owner or operator shall conduct a walkthrough inspection that, at a minimum, checks equipment as specified below:

(a) For containment sumps and under dispenser containment or dispenser cabinets: open and visually check for any damage, leaks to the containment area, or releases to the environment; remove any liquid (in contained areas) or debris; and check for a leak in the interstitial area; and

(b) For hand held release detection equipment: check devices such as tank gauge sticks or groundwater bailers for operability and serviceability.

5904. 4 Petroleum Equipment Institute Recommended Practice RP 900, “Recommended Practices for the Inspection and Maintenance of UST Systems” may be used to comply with the requirements of §§ 5904.2 and 5904.3.

5904.5 Owners and operators of heating oil tanks with a capacity of less than one thousand one hundred (1,100) gallons are exempt from the requirement to perform monthly walkthrough inspections.

5904.6 The owner and operator shall prepare a record following each inspection that includes a description of each area inspected, whether the area inspected was acceptable or needed to have some action taken, a description of any actions taken, and delivery records if spill prevention equipment is not checked at least every thirty (30) days.

5904.7 Owners and operators shall maintain records of inspections required by this section for a period of ten (10) years.

CHAPTER 60 UNDERGROUND STORAGE TANKS - RELEASE DETECTION

6000 RELEASE DETECTION – GENERAL PROVISIONS

6000.1 The owner or operator of each new or existing UST system shall utilize a method, or combination of methods, of release detection that meets the requirements of this section.

6000.2 The release detection method(s) utilized shall be suitable for the UST system according to the manufacturer's certification of performance.

6000.3 The owner or operator of each UST system shall comply with the release detection requirements for piping set forth in § 6004.

6000.4 If the owner or operator of any UST system cannot utilize a method of release detection that complies with the requirements of this chapter, the owner or operator shall close the UST in accordance with Chapter 61.

6000.5 Each release detection system shall be capable of detecting a release from any portion of the tank and also from the connected underground piping that contains or conveys a regulated substance.

6000.6 Each release detection system, including electronic and mechanical components, shall be installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.

6000.7 Each release detection system shall meet the applicable performance requirements for the particular system in §§ 6004 through 6013.

6000.8 An owner or operator shall not install a release detection system unless the equipment manufacturer or installer provides written performance claims, including a description of the manner in which the claims were derived or tested.

6000.9 Each release detection method or system shall be capable of detecting the leak rate or quantity specified for the method in this chapter, with a probability of detection of at least ninety-five percent (95%) and a probability of false alarm of no more than five percent (5%).

6000.10 The Department will not approve a leak detection method or system that does not meet the requirements of this section, presents a safety hazard, or lacks performance data proving the reliability of the method under normal installation and operating conditions.

6000.11 When a release detection system does not perform in accordance with the manufacturer's performance requirements or the requirements of this chapter, the owner or operator shall repair or replace the release detection system within forty-five (45) days of the date of improper performance in accordance with the provisions of this chapter, unless an alternate release detection system that complies with the requirements of this chapter is in use.

6000.12 The owner or operator shall notify the Department within twenty-four (24) hours of the expiration of the forty-five (45) day period set forth in § 6000.11 if the release detection system is not repaired or replaced, and shall comply with the temporary closure requirements set forth in § 6100, unless an alternate release detection system that complies with the requirements of this chapter is in use.

6000.13 When a release detection method operated in accordance with the performance standards of §§ 6004 through 6013 indicates that a release may have occurred, the owner or operator shall notify the Department in accordance with the provisions of Chapter 62.

6000.14 The owner or operator of an UST system shall operate and maintain the release detection system, and test electronic and mechanical components, in accordance with one of the following:

(a) The manufacturer's instructions;

(b) Petroleum Equipment Institute Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities"; or

(c) An alternative industry standard or code of practice approved by the Department in accordance with § 5506.

6000.15 The owner or operator shall have a certified UST System Technician or UST System Tester test the proper operation of the release detection system at least annually, including, as applicable to the facility:

(a) For automatic tank gauge and other controllers: test alarm, verify system configuration, and test battery backup;

(b) For probes and sensors: inspect for residual buildup, ensure floats move freely, ensure shaft is not damaged, ensure cables are free of kinks and breaks, test alarm operability and communication with controller;

(c) For automatic line leak detectors: test whether they meet the criteria in §§ 6004.3 and 6004.4 by simulating a leak;

(d) For vacuum pumps and pressure gauges: ensure proper communication with sensors and controller; and

(e) For hand-held electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.

6001 RELEASE DETECTION RECORDKEEPING

6001.1 The owner or operator of each UST shall maintain records demonstrating compliance with this chapter in accordance with this section and § 5602.

6001.2 All written performance claims pertaining to any release detection system that is in use, including a description of the manner in which those claims have been

justified or tested by the equipment manufacturer or installer, shall be maintained for at least ten (10) years after the date of installation.

6001.3 The results of any sampling, testing, or monitoring conducted under this chapter shall be maintained for at least ten (10) years, except as provided in § 6001.4.

6001.4 The results of tank tightness testing conducted in accordance with § 6007 shall be retained until the next tightness test is conducted.

6001.5 Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located at the UST facility shall be maintained for at least three (3) years after the servicing work is completed.

6001.6 All schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for at least ten (10) years from the date of installation of the release detection system.

6001.7 No later than October 13, 2021, an owner or operator using groundwater or vapor monitoring for release detection shall maintain a record of the site assessment conducted pursuant to §§ 6009.7 or 6010.7 for as long as the method is used. Records of site assessments developed after February 21, 2020 must be signed by a professional engineer or professional geologist, or equivalent licensed professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the Department.

6002 RELEASE DETECTION FOR HAZARDOUS SUBSTANCE UST SYSTEMS

6002.1 The owner or operator of each hazardous substance UST system shall provide release detection that meets the requirements of this section.

6002.2 Each hazardous substance UST system shall use secondary containment with interstitial monitoring in accordance with § 6011.

6002.3 The owner or operator shall check the secondary containment system for evidence of a release at least every thirty (30) days.

6002.4 The owner or operator shall test the secondary containment system every three (3) years to ensure that the interstitial area is liquid-tight or use continuous monitoring methods.

6002.5 For hazardous substance UST systems installed on or before February 8, 2007, the Department may approve an alternative method of release detection for a hazardous substance UST system if the owner or operator submits a request in accordance with § 5500.5 and:

(a) Demonstrates to the satisfaction of the Department that the proposed alternative method can detect a release of the stored substance as effectively as any of the methods allowed in §§ 6006 through 6012; and

(b) Provides information satisfactory to the Department on effective corrective action technologies, known and potential health risks, and the chemical and physical properties of the stored substance, and the physical characteristics of the UST system and facility.

6003 RELEASE DETECTION FOR PETROLEUM UST SYSTEM TANKS

6003.1 Each owner or operator of a petroleum UST system shall provide release detection for tanks in accordance with the provisions of this section.

6003.2 The owner or operator of a petroleum UST system shall conduct release detection in accordance with the requirements for the release detection method set forth in §§ 6005 through 6012 of this chapter.

6003.3 At least once every thirty (30) days, each petroleum UST shall be monitored for a release using one of the methods listed in §§ 6008 through 6012, except as provided in § 6003.4.

6003.4 An owner or operator of a heating oil tank with a capacity of one thousand one hundred (1,100) gallons or more may use one of the following methods of release detection as the sole method of release detection:

(a) Inventory control in accordance with § 6005; or

(b) Tank tightness testing, once every three (3) years, in accordance with § 6007.

6003.5 The owner or operator of a petroleum UST that is not a heating oil tank, with a capacity of five hundred fifty (550) gallons or less, may use manual tank gauging in accordance with § 6006 as the sole method of release detection.

6003.6 The owner or operator of a petroleum UST, other than a heating oil tank or petroleum UST with a capacity of five hundred fifty (550) gallons or less, installed or replaced after February 8, 2007, shall check for evidence of a release at least once every thirty (30) days using interstitial monitoring.

6003.7 The owner or operator shall test the secondary containment system every three (3) years to ensure that the interstitial area is liquid-tight or use continuous monitoring methods.

6004 RELEASE DETECTION FOR PETROLEUM UST SYSTEM PIPING

6004.1 The owner or operator of a petroleum UST system shall regularly monitor all underground piping that contains or conveys regulated substances for releases, in accordance with the provisions of this section.

6004.2 Each method of release detection for petroleum UST system piping, except piping associated with a heating oil tank installed on or before November 12, 1993, shall meet the requirements of this section.

6004.3 Underground piping that conveys pressurized regulated substances shall be equipped with an automatic line leak detector that alerts the operator to the presence of a leak by triggering an audible and visual alarm, or restricting or shutting off the flow of regulated substances through the piping.

6004.4 An automatic line leak detector shall detect, within one (1) hour, leaks of three gallons per hour (3 gal/hr) at ten pounds per square inch (10 psi) line pressure.

6004.5 The owner or operator of an UST shall annually test for the proper operation of the automatic line leak detector in accordance with the manufacturer's instructions.

6004.6 An owner or operator of an UST with underground piping that conveys pressurized regulated substances shall conduct a line tightness test annually in accordance with § 6004.8, or use monthly monitoring methods in accordance with § 6004.10.

6004.7 Except as provided in § 6004.9, an owner or operator of an UST with underground piping that conveys regulated substances under suction shall conduct a line tightness test at least once every three (3) years in accordance with § 6004.8, or use monthly monitoring methods in accordance with § 6004.10.

6004.8 Periodic line tightness testing of piping shall detect a leak rate of one tenth of a gallon per hour (0.1 gal/hr) at one and one half (1.5) times the operating pressure.

6004.9 No release detection is required for safe suction piping if:

(a) The below grade piping operates at less than atmospheric pressure;

(b) The below grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(c) Only one (1) check valve is included in each suction line;

(d) The check valve is located directly below and as close as practical to the suction pump; and

(e) The owner or operator maintains documentation that the piping complies with paragraphs (a) through (d) of this subsection and the documentation is readily available for inspection by the Department.

6004.10 Except as provided in § 6004.11, an owner or operator may conduct monthly monitoring of piping using any of the methods of release detection for tanks in §§ 6009 through 6011 if the method used is designed to detect a release from any portion of the underground piping that contains or conveys regulated substances.

6004.11 The owner or operator of an UST with underground piping installed or replaced after February 8, 2007, shall check for evidence of a release from the underground piping at least once every thirty (30) days using interstitial monitoring in accordance with § 6011.

6005 INVENTORY CONTROL AND STATISTICAL INVENTORY RECONCILIATION

6005.1 A release detection method that uses product inventory control shall meet the requirements of this section.

6005.2 An owner or operator may use product inventory control as the sole method of release detection only for heating oil tanks.

6005.3 Product inventory control shall be conducted monthly to detect a release of at least the combined amount of one percent (1%) of flow-through plus one hundred thirty (130) gallons on a monthly basis in the following manner:

(a) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank shall be recorded each operating day;

(b) The measurement equipment used shall be capable of measuring the level of product over the full range of the tank's height to the nearest one eighth (1/8) of an inch;

(c) The regulated substance inputs shall be reconciled with delivery receipts by measuring the tank inventory volume before and after delivery;

(d) Each delivery shall be made through a drop tube that extends to within six (6) inches of the tank bottom;

(e) Product dispensing shall be metered and recorded using devices that are registered with the Department of Consumer and Regulatory Affairs Office of Weights and Measures and in compliance with the Registration and Inspection of Weighing and Measuring Devices Amendment Act of 2004, effective December 7, 2004 (D.C. Law 15-205; D.C. Official Code

§§ 37-201.01 *et seq.*), or within an accuracy of six (6) cubic inches for every five (5) gallons of regulated substance withdrawn; and

(f) The water level at the bottom of the tank shall be measured at least once each month to the nearest one eighth (1/8) of an inch.

6006 MANUAL TANK GAUGING

6006.1 A release detection method that uses manual tank gauging shall meet the requirements of this section.

6006.2 An owner or operator may use manual tank gauging as the sole method of release detection only for a petroleum UST that is not a heating oil tank with a capacity of five hundred fifty (550) gallons or less.

6006.3 Manual tank gauging shall be conducted weekly.

6006.4 An owner or operator using manual tank gauging shall measure the liquid level in the tank at the beginning and end of a period of at least thirty-six (36) hours, during which no liquid is added to or removed from the tank. Each measurement shall be based on an average of two (2) consecutive stick readings. The measurements shall be recorded and maintained in accordance with § 5602.

6006.5 The equipment used for manual tank gauging shall be capable of measuring the level of product over the full range of the height of the tank to the nearest one eighth (1/8) of an inch.

6006.6 If the difference between the measurements at the beginning and end of a single weekly test exceeds ten (10) gallons, or if the average difference between the measurements at the beginning and end of four (4) consecutive weekly tests exceeds five (5) gallons, the owner or operator shall follow the requirements of Chapter 62 for a suspected release.

6007 TANK TIGHTNESS TESTING

6007.1 A release detection method that uses tank tightness testing shall meet the requirements of this section.

6007.2 An owner or operator may use tank tightness testing as the sole method of release detection only for heating oil tanks.

6007.3 Tank tightness testing shall be capable of detecting a leak rate of one tenth of a gallon per hour (0.1 gal/hr) from any portion of the tank that regularly contains or conveys a regulated substance, and shall account for the effects of the following factors when detecting a leak rate:

(a) Thermal expansion or contraction of the regulated substance;

(b) Vapor pockets;

(c) Tank deformation;

(d) Evaporation and condensation; and

(e) The location of the water table at the facility.

6007.4 An owner or operator shall conduct a tightness test in accordance with this section to satisfy the installation, upgrade, and/or repair requirements set forth in Chapters 57 through 59 before operating the newly installed, upgraded, and/or repaired UST system.

6007.5 An owner or operator shall use tightness testing in accordance with this section to confirm a suspected release under § 6203.

6008 AUTOMATIC TANK GAUGING

6008.1 A release detection method using automatic tank gauging equipment that tests for the loss of product and conducts inventory control shall meet the requirements of this section.

6008.2 The owner or operator shall ensure that the tank gauging probe is installed as close as possible to the middle of the tank and is not located adjacent to the fill pipe or submersible pump.

6008.3 An automatic product level monitor test shall be capable of detecting a leak rate of two tenths of a gallon per hour (0.2 gal/hr) from any portion of the tank that routinely contains a regulated substance.

6008.4 A tank installed after November 12, 1993, shall be installed horizontally without tank tilt if automatic tank gauging is used as a method of release detection.

6008.5 The automatic tank gauging system shall be inspected at least every thirty (30) days to ensure that it is operating correctly.

6008.6 The automatic tank gauging equipment shall meet the inventory control requirements of § 6005.3.

6008.7 The owner or operator shall perform the test for loss of product with the system operating in one of the following modes:

(a) In-tank static testing conducted at least once every thirty (30) days; or

(b) Continuous in-tank leak detection operating on an uninterrupted basis or alternatively, operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every thirty (30) days.

6008.8 An owner or operator of an UST system installed after February 8, 2007, may use automatic tank gauging as a release detection method only if secondary containment and interstitial monitoring methods are also used.

6009 VAPOR MONITORING

6009.1 A release detection method that monitors or tests for vapors within the soil gas of the excavation zone shall meet the requirements of this section.

6009.2 The materials used as backfill (such as gravel, sand, crushed rock, or similar materials) shall be sufficiently porous to readily allow diffusion of vapors from releases into the excavation zone.

6009.3 The stored regulated substance, or a tracer compound placed in the tank system, shall be sufficiently volatile to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank.

6009.4 The monitoring device measuring vapors shall not be rendered inoperative or less effective by groundwater, rainfall, soil moisture, or any other known interference to the point that a release could go undetected for more than fifteen (15) days.

6009.5 The level of background contamination in the excavation zone shall not interfere with the vapor monitoring method used to detect releases from the tank.

6009.6 The vapor monitor used shall be designed and operated to detect any significant increase above the background concentration in the excavation zone of:

(a) The regulated substance stored in the tank system;

(b) A component or components of the regulated substance; or

(c) A tracer compound placed in the tank system.

6009.7 Before using vapor monitoring, the owner or operator shall assess the excavation zone to ensure compliance with §§ 6009.2 through 6009.6 and determine the number and positioning of monitoring wells required to detect releases within the excavation zone from any portion of the tank that routinely contains regulated substances. The owner or operator shall install monitoring wells in accordance with the assessment before operating the UST system.

6009.8 Monitoring wells shall be clearly marked and secured to avoid unauthorized access and tampering. Monitoring wells shall not be marked in any way that could be associated with a regulated substance stored at the facility.

6009.9 An owner or operator of an UST system installed after February 8, 2007, may use vapor monitoring as a release detection method only if secondary containment and interstitial monitoring methods are also used.

6010 GROUNDWATER MONITORING

6010.1 A release detection method that tests or monitors for regulated substances in the groundwater or in the tank excavation zone shall meet the requirements of this section.

6010.2 The regulated substance stored shall be immiscible in water and have a specific gravity of less than one (1).

6010.3 The groundwater shall never be more than twenty feet (20 ft) from the ground surface, and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices shall not be less than one hundredth of a centimeter per second (0.01 cm/s). The soil should consist of gravel, coarse to medium sand, coarse silt, or other permeable materials.

6010.4 The slotted portion of the monitoring well casing shall be designed to prevent the migration of natural soils or filter pack into the well, while allowing entry of any regulated substance on the water table into the well, under both high and low groundwater conditions.

6010.5 Monitoring wells shall be sealed from the ground surface to the top of the filter pack in accordance with the requirements of 21 DCMR Chapter 18.

6010.6 Monitoring wells or devices shall intercept the excavation zone or be as close to the excavation zone as is technically feasible.

6010.7 Before using groundwater monitoring methods, the owner or operator shall assess the excavation zone and area immediately below the excavation zone to ensure compliance with §§ 6010.2 through 6010.6, and determine the number and position of monitoring wells or devices that will detect releases within the excavation zone from any portion of the tank that routinely contains a regulated substance. The owner or operator shall install monitoring wells or devices in accordance with the assessment before operating the UST system. A minimum of two (2) monitoring wells shall be required in each excavation zone.

6010.8 The continuous monitoring devices or manual methods used shall be capable of detecting the presence of at least one eighth (1/8) of an inch of free product on top of the groundwater in a monitoring well.

6010.9 Each monitoring well shall be clearly marked and secured to avoid unauthorized access and tampering.

6010.10 An owner or operator of an UST system installed after February 8, 2007, may use groundwater monitoring a release detection method only if secondary containment and interstitial monitoring methods are also used.

6011 INTERSTITIAL MONITORING

6011.1 Interstitial monitoring between an UST system and a secondary barrier immediately around or beneath the UST system shall meet the requirements of this section.

6011.2 The owner or operator of an UST system installed or replaced after February 8, 2007 shall check for evidence of a release at least once every thirty (30) days using interstitial monitoring.

6011.3 An interstitial monitoring system shall be designed, constructed, and installed to detect a leak from any portion of the tank or piping that routinely contains a regulated substance.

6011.4 Where vacuum monitoring is utilized, the vacuum shall be maintained at not less than five (5) inches of mercury, and shall not exceed manufacturer's instructions.

6011.5 If the vacuum falls below five (5) inches of mercury, the owner or operator shall follow the requirements of Chapter 62 for a suspected release.

6011.6 A vacuum shall not be re-instituted more frequently than once every three (3) months without prior approval of the Department.

6011.7 For double-walled USTs, the sampling or testing method shall be capable of detecting a leak through the inner wall in any portion of the tank that routinely contains a regulated substance.

6011.8 For tanks with an internally fitted liner, an automated device shall be used that is capable of detecting a leak between the inner wall of the tank and the liner. The liner shall be compatible with the substance stored.

6011.9 For UST systems with a secondary barrier within the excavation zone, the secondary barrier shall meet the following requirements:

(a) The secondary barrier around or beneath the UST shall consist of synthetic constructed material that is sufficiently thick and impermeable to direct a leak to the monitoring point and permit its detection, and the permeability

shall be not greater than one millionth of a centimeter per second (10^{-6} cm/s) for the regulated substance stored;

(b) The barrier shall be compatible with the regulated substance stored so that a leak from the UST will not cause a deterioration of the barrier sufficient to allow a release to pass through undetected; and

(c) If the tank is cathodically protected, the barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system.

6011.10 An UST with a secondary barrier within the excavation zone shall use a sampling or testing method that is capable of detecting a release between the UST and the secondary barrier.

6011.11 The testing or sampling method used shall not be rendered inoperative or less effective by groundwater, rainfall, soil moisture, or any other known interference to the point that a release could go undetected for more than thirty (30) days.

6011.12 The owner or operator of an UST system with a secondary barrier within the excavation zone shall assess the facility to ensure that the secondary barrier is always above the groundwater and not located in a twenty-five (25) year floodplain, unless the barrier and monitoring designs are designed for use under those conditions.

6011.13 The monitoring wells for each UST with a secondary barrier within the excavation zone shall be clearly marked and secured to avoid unauthorized access and tampering.

6011.14 Interstitial monitoring alarms are an unusual operating condition that shall be reported as specified under § 6202.5.

6011.15 If a system test confirms a leak in either the inner or outer tank wall or liner, effectively rendering the tank a single wall tank, the owner or operator shall repair, replace, upgrade, or close the UST as specified in § 6203.

6012 STATISTICAL INVENTORY RECONCILIATION

6012.1 A release detection method based on the application of statistical principles to inventory data similar to those described in § 6005 shall meet the requirements of this section.

6012.2 Statistical inventory reconciliation shall be conducted monthly and shall:

(a) Report a quantitative result with a calculated leak rate;

(b) Be capable of detecting a leak rate of two tenths of a gallon per hour (0.2 gal/hr) or a release of one hundred fifty (150) gallons within thirty (30) days; and

(c) Use a threshold for declaring a leak that does not exceed one half of the minimum detectible leak rate.

6012.3 An owner or operator using statistical inventory reconciliation shall verify the accuracy of the selected statistical inventory reconciliation method using a separate test procedure to confirm that the method can detect leaks at the required level in accordance with § 6012.2 and with the probabilities of detection and false alarm required in § 6000.9.

6012.4 An owner or operator using statistical inventory reconciliation shall ensure that the accuracy of the selected method has been evaluated and verified through independent third party certification and shall maintain these evaluation records for a period of ten (10) years.

6013 OTHER METHODS OF RELEASE DETECTION

6013.1 An owner or operator of an UST system installed on or before February 8, 2007 may apply to the Department for approval of another method of release detection by submitting a written request describing the method to the Department in accordance with § 5500.5.

6013.2 For UST systems installed on or before February 8, 2007, the Department may approve an application for the use of another method of release detection only if the owner or operator demonstrates that the method is capable of detecting a release as effectively as any of the methods allowed in §§ 6007 through 6012 and meets the requirements of this section.

6013.3 The alternative release detection method, or combination of methods, shall be capable of detecting either of the following:

(a) A leak rate of two tenths of a gallon per hour (0.2 gal/hr); or

(b) A release of one hundred fifty (150) gallons within a month.

6013.4 The alternative release detection method shall detect a leak rate or quantity in § 6013.3 with a probability of detection of at least ninety-five percent (95%) and a probability of false alarm no more than five percent (5%).

6013.5 In comparing methods, the Department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected.

6013.6 If an alternative method is approved, the owner or operator shall comply with any conditions imposed by the Department on its use.

6013.7 For any tanks installed or replaced after February 8, 2007, alternatives to interstitial monitoring shall not be approved or used.

CHAPTER 61 UNDERGROUND STORAGE TANKS – CLOSURE

6100 TEMPORARY CLOSURE

6100.1 For purposes of this section, an UST shall be deemed temporarily closed when it is taken out of service for any reason and is not being used to receive or dispense product.

6100.2 When an UST is temporarily closed, the owner or operator of the UST shall comply with the requirements of this section.

6100.3 An UST in temporary closure is subject to the registration requirements in § 5601 and the corrosion protection requirements in § 5901.

6100.4 A heating oil tank shall not be deemed temporarily closed until fifteen (15) months after it is last used to receive or dispense product, unless it cannot be used to dispense product in accordance with the UST Regulations.

6100.5 The owner or operator of an UST shall submit a temporary closure notification form, which is available on the Department's website at https://doee.dc.gov/page/ust-forms-guidance-and-public-documents, to the Department at least thirty (30) days prior to the temporary closure of the UST.

6100.6 The UST shall be emptied of product in accordance with § 6100.9 during temporary closure.

6100.7 During the period when the UST system is temporarily closed and still contains product, the owner or operator shall comply with release detection requirements in Chapter 60.

6100.8 If a release is suspected or confirmed during the period when the UST is temporarily closed, the owner or operator shall immediately comply with § 6100.9 and the applicable requirements of Chapter 62.

6100.9 Within ninety (90) days after an UST is temporarily closed, the owner or operator shall do the following:

(a) Remove all regulated substances from the UST and keep the UST empty for the balance of the temporary closure period. The UST system shall be deemed to be empty when all materials have been removed using commonly employed practices so that either of the following is achieved:

(1) No more than two and one half centimeters (2.5 cm) of residue remains in the UST; or

(2) No more than three tenths of one percent (0.3%) by weight of the total capacity of the UST system remains in the system;

(b) Ensure that all vent lines are open and functioning;

(c) Cap and secure all other lines, pumps, manways, and ancillary equipment; and

(d) Within seven (7) days after completing the activities required by §§ 6100.9(a) through (c), the owner or operator shall submit to the Department an amended UST facility notification form pursuant to § 5600.1 that is:

(i) Signed by the UST System Technician who performed the activities stated in §§ 6100.9(a) through (c); or

(ii) Signed by an UST System Technician who has inspected and verified that the owner or operator performed the activities stated in §§ 6100.9(a) through (c).

6100.10 Except as provided in §§ 6100.11 through 6100.12, the owner or operator shall permanently close the UST in accordance with the requirements of § 6101 once the UST has been temporarily closed for twelve (12) months.

6100.11 The owner or operator may submit a written request for an extension to the Department not less than thirty (30) days before the expiration of the twelve (12) month temporary closure period. The request for extension shall include results of a site assessment, conducted in accordance with §§ 6101.10 through 6101.12, of the soil and groundwater conditions near the UST and information about any corrective action taken to address any contamination discovered by the assessment due to any release from the UST.

6100.12 The Department may approve a request for extension of the temporary closure period for two (2) additional twelve (12) month periods. The Department may

approve additional extensions only if the Director determines that the additional extension is justified based on good cause shown.

6101 PERMANENT CLOSURE AND CHANGE-IN-SERVICE

6101.1 Each responsible party permanently closing an UST or changing the use of the UST to storage of a non-regulated substance (a change-in-service) shall comply with the requirements of this section.

6101.2 Not less than two (2) weeks before a permanent closure or a change-in-service of an UST, the responsible party shall notify the Department by submitting an UST activity notification form, which is available on the Department's website at https://doee.dc.gov/page/ust-forms-guidance-and-public-documents. Notice is not required if such action is taken pursuant to a corrective action plan approved by the Department.

6101.3 The responsible party may use the following codes of practice, or an alternative industry standard or code of practice approved by the Department in accordance with § 5506, to comply with the cleaning and closure requirements of this section:

(a) American Petroleum Institute Recommended Practice RP 1604, "Closure of Underground Petroleum Storage Tanks";

(b) American Petroleum Institute Standard 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry From Decommissioning Through Recommissioning";

(c) American Petroleum Institute Recommended Practice RP 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks"; or

(d) National Fire Protection Association Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair."

6101.4 Before a change-in-service, the responsible party shall empty and clean the tank by removing and properly disposing of all liquid and all accumulated sludge in compliance with applicable laws and regulations.

6101.5 Before an UST system is removed from the ground, the responsible party shall empty the UST system, if it is not already emptied during the temporary closure period, and clean it by removing and properly disposing of all liquids and all accumulated sludge in compliance with applicable laws and regulations.

6101.6 For each UST system that is to be closed permanently, the responsible party shall remove the tank from the ground, unless a tank removal variance is granted by the Department pursuant to § 6101.7.

6101.7 A responsible party may apply for a tank removal variance (for closure-in-place) by submitting the following documents:

(a) A written request for a tank removal variance;

(b) Written certification of the existence of the conditions stated in § 6101.8, with supporting documentation, from a professional engineer licensed in the District; and

(c) A tank interior inspection report or the results of analysis of soil borings taken from soil adjacent to the tank if the interior cannot be inspected.

6101.8 The Department may grant a tank removal variance if removal of the tank is likely to cause substantial structural damage to buildings or other improvements on the property, or there are other circumstances that make removal of the tank infeasible.

6101.9 If the Department grants a variance, the responsible party shall ensure that the tank is emptied, cleaned, and filled with an inert solid material, such as cement, or another material approved by the Department in accordance with § 5500.5.

6101.10 Before a change-in-service or permanent closure of an UST, the responsible party shall conduct a closure assessment of the excavation zone to test for the presence of a release in the areas around the UST system where contamination is most likely to be present.

6101.11 In selecting sample types, sample locations, and analytical methods for the closure assessment, the responsible party shall consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. The responsible party shall comply with any directives that may be issued by a Department inspector regarding the number of samples and the location of soil borings or groundwater monitoring wells.

6101.12 If contaminated soil, contaminated groundwater, free product, or vapor are discovered during the closure assessment, or by any other manner, the responsible party shall begin corrective action in accordance with the applicable provisions of Chapter 62, except as provided in § 6101.15.

6101.13 Soil excavated during removal or corrective action shall be handled as follows:

(a) Soil that has been tested and that does not exceed Tier 0, or Tier 1 for total petroleum hydrocarbon gasoline range organics (TPH-GRO) on sites with current or future residential use, screening levels may be placed on the site

and shall be covered with plastic as a soil erosion control measure until backfilled or permanently stabilized;

(b) Soil that exceeds Tier 0, or Tier 1 for TPH-GRO on sites with current or future residential use, standards shall be treated or properly disposed of at an approved disposal location;

(c) When approved by the Department, excavated soil may be stockpiled at the excavation site for no more than ten (10) business days pending completion of testing and analysis for contaminants; and

(d) Soil shall not be placed on another property unless specifically approved by the Department in accordance with § 5500.5.

6101.14 Soil that exceeds Tier 0, or Tier 1 for TPH-GRO on sites with current or future residential use, risk-based screening levels shall not be returned to the excavation pit or used on the site without treatment.

6101.15 If a release of a regulated substance has occurred, the responsible party shall evaluate the excavation zone as follows:

(a) Remove contaminated soils to a depth of at least five feet (5 ft) below the tank bottom and a width of at least five feet (5 ft) from the sides of the tank;

(b) Assess the excavation zone for evidence of contamination (such as free product or vapors requiring initial response, initial abatement actions, or free product removal pursuant to §§ 6203 or 6204) and sample the remaining soil for chemicals of concern;

(c) If the levels of chemicals of concern in the remaining soil exceed the Tier 1 screening levels, take at least one (1) groundwater sample to determine whether any chemicals of concern in groundwater exceed the Tier 1 screening levels;

(d) Remove additional soil from the excavation zone as necessary until the levels of chemicals of concern in the remaining soil are below Tier 1 screening levels, the groundwater does not exceed the Tier 1 screening levels, and there is no other evidence of contamination; and

(e) If the criteria set forth in paragraph (d) of this subsection cannot be met, begin corrective action in accordance with the applicable provisions of Chapter 62.

6101.16 Within thirty (30) days after completing the permanent closure or change-in-service, the responsible party shall submit to the Department a closure assessment

report in a format provided by the Department and submit an amended UST facility notification form, both of which are available on the Department's website at https://doee.dc.gov/page/ust-forms-guidance-and-public-documents. The Department may open a LUST case and require additional site assessment and cleanup according to Chapter 62.

6102 PREVIOUSLY CLOSED UST SYSTEMS

6102.1 If the Department determines that any release or suspected release from an UST system that was closed-in-place, removed, or temporarily closed poses a current or potential threat to human health and the environment, the Department may direct a responsible party to assess the excavation zone and take appropriate corrective action, including closure of the UST system in accordance with § 6101 if it is not already permanently closed.

6102.2 If the Department determines that an UST system has not been temporarily closed or closed-in-place in accordance with this chapter, the Department may direct a responsible party to permanently close the UST system and assess the excavation zone in accordance with § 6101.

6103 CLOSURE RECORDS

6103.1 Each responsible party shall maintain records in accordance with § 5602 that demonstrate compliance with closure requirements of this chapter.

6103.2 The responsible party shall retain the results of a closure assessment required under § 6101.10 for at least ten (10) years after permanent closure or change-in-service or deliver the records to the Department in accordance with the provisions of § 5602.6.

6103.3 After ten (10) years, the responsible party shall deliver all records demonstrating compliance with this chapter to the Department.

CHAPTER 62 UNDERGROUND STORAGE TANKS – REPORTING OF RELEASES, INVESTIGATION, CONFIRMATION, ASSESSMENT, AND CORRECTIVE ACTION

6200 OBLIGATIONS OF RESPONSIBLE PARTIES - RELEASES, SPILLS, AND OVERFILLS

6200.1 All responsible parties are subject to the requirements of this chapter.

6200.2 If the actions required by this chapter are not taken, the Department may undertake the corrective action and any responsible party shall be liable to the District government for the costs of any corrective action taken.

6200.3 Nothing in this chapter shall be construed to alter the private rights and liabilities between a neighboring property owner and a responsible party, or to relieve a responsible party of any liability he or she may have under statutory or common law for causing the release of the regulated substance which migrated onto a neighboring property.

6200.4 The provisions of 40 CFR §§ 280.200 through 280.230 (Lender Liability) are incorporated by reference and shall apply to all existing and future security interests, including holders of security interests as defined in 40 CFR § 280.200(d).

6200.5 For purposes of this chapter, a voicemail message shall not be considered telephone notification.

6201 REPORTING AND CLEANUP OF SPILLS AND OVERFILLS

6201.1 A responsible party shall take immediate action to contain and clean up any spill or overfill of a regulated substance from an UST system.

6201.2 A responsible party shall immediately report any spill or overfill of a regulated substance from an UST system when there is any danger of fire or explosion to the Department by telephone at (202) 535-2600 or by e-mail at ust.doee@dc.gov, and to the District Fire Chief at (202) 727-1614.

6201.3 A responsible party shall immediately contain and clean up a spill or overfill of petroleum that is less than twenty-five (25) gallons. If the cleanup cannot be completed within twenty-four (24) hours, the responsible party shall immediately notify the Department by telephone or e-mail as stated in § 6201.2.

6201.4 If a spill or overfill of petroleum results in a release to the environment of more than twenty-five (25) gallons, a responsible party shall report the release to the Department by telephone or e-mail as stated in § 6201.2 within twenty-four (24) hours of the occurrence. The responsible party shall begin corrective action in accordance with the applicable provisions of this chapter.

6201.5 A responsible party shall immediately report any spill or overfill of a hazardous substance to the Department by telephone or e-mail and the District Fire Chief as stated in § 6201.2, and to the District Homeland Security and Emergency Management Agency at (202) 727-6161. The responsible party shall immediately contain and clean up the spill or overfill. If the cleanup cannot be completed within twenty-four (24) hours, the responsible party shall begin corrective action in accordance with the applicable provisions of this chapter.

6201.6 In addition to the requirements of § 6201.5, if a spill or overfill of a hazardous substance results in a release to the environment that equals or exceeds the Comprehensive Environmental Response, Compensation, and Liability Act reportable quantity for the substance under 40 CFR Part 302 (Designation, Reportable Quantities, and Notification), a responsible party shall also report the release to the federal government's National Response Center at (800) 424-8802.

6201.7 If a spill or overfill of petroleum causes a sheen on surface water (such as a lake, pond, stream, river, or creek), a responsible party shall immediately report the release to the Department by telephone or e-mail as stated in § 6201.2, to the District Homeland Security and Emergency Management Agency at (202) 727-6161, and to the National Response Center at (800) 424-8802.

6202 REPORTING OF RELEASES OF REGULATED SUBSTANCES

6202.1 A responsible party who has reason to suspect a release from an UST shall notify the Department by telephone or e-mail as stated in § 6201.2 within twenty-four (24) hours.

6202.2 The following persons who know of, or have reason to suspect, a release from an UST system shall notify the owner or operator of the release or suspected release immediately, and notify the Department by telephone or e-mail as stated in § 6201.2 within twenty-four (24) hours of first having knowledge of the release or suspected release:

(a) Any authorized agent, contractor, or consultant for a responsible party;

(b) Any person who tests, installs, or permanently closes tanks;

(c) Any person who engages in site investigation, assessment, remediation, or geotechnical exploration; or

(d) Any public utility company or authorized agent of a public utility company.

6202.3 The notification of a release or suspected release to the Department shall include, if known:

(a) The name of the UST system's owner and operator, and any other responsible party;

(b) The location, date, time, volume, source, and cause of the release or suspected release;

(c) The substance released or suspected to have been released;

(d) Any immediate or ongoing action taken to mitigate the release;

(e) Any hazardous conditions caused by the release; and

(f) Any potential environmental hazard caused by the condition of the UST system.

6202.4 A responsible party shall not knowingly allow any release from an UST system to continue, and shall investigate and repair the problem causing the release as soon as possible.

6202.5 Each owner or operator of an UST system shall report the following conditions to the Department by telephone or e-mail as stated in § 6201.2 within twenty-four (24) hours of learning of the condition and shall follow the procedures in § 6203 whenever there is:

(a) A discovery of released regulated substances at the UST facility or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, or nearby surface water);

(b) Unusual operating conditions in the UST system (such as erratic behavior of product dispensing equipment, sudden loss of product from the UST system, unexplained presence of water in the tank, or liquid in the interstitial space of a secondarily contained system), unless:

(1) The system equipment or component is found not to be releasing regulated substances to the environment;

(2) Any defective system equipment or component is immediately repaired or replaced; and

(3) For a secondarily contained system, except as provided for in § 6011.11, any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed.

(c) Monitoring results, including an alarm, from a release detection method required under §§ 6002 through 6013, that indicate a release may have occurred unless:

(1) The monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result;

(2) The leak is contained in the secondary containment and:

(A) Except as provided for in § 6011.11, any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed; and

(B) Any defective system equipment or component is immediately repaired or replaced;

(3) When using the inventory control method described in § 6005, a second month of data does not confirm the initial result or an investigation determines that no release has occurred; or

(4) The alarm was investigated and the cause is determined to be a non-release event (for example, from a power surge or caused by filling the tank during release detection testing).

6202.6 A responsible party shall immediately investigate a suspected release or condition listed in § 6202.5 using the procedures in § 6203, and shall confirm whether a release has occurred within seven (7) days of the suspected release or discovery of the condition.

6202.7 If the Department has reason to believe a release has occurred, the Department may require the owner or operator of the UST to follow the procedures in § 6203.

6203 SITE INVESTIGATION, CONFIRMATION OF RELEASE, INITIAL ABATEMENT, AND INITIAL SITE ASSESSMENT

6203.1 When a release, or leak into the interstitial area of a secondarily contained system, is suspected, a responsible party shall conduct tightness testing in accordance with §§ 5902.7, 6004.8, and 6007 to determine whether:

(a) A leak exists in the portion of the tank that routinely contains a regulated substance or in the attached delivery piping; or

(b) A breach of either wall of the secondary containment has occurred.

6203.2 If the tightness test confirms a leak into the interstitial area or a release, the responsible party shall repair, replace, upgrade, or close the UST system, and begin corrective action in accordance with this chapter.

6203.3 The responsible party may use the UST system to store regulated substances before completing corrective action only if the source and cause of the leak or release has been identified and remedied.

6203.4 A responsible party shall also conduct a site investigation, as set forth in §§ 6203.5 through 6203.7, if:

(a) The tightness test results for the system, tank, or delivery piping indicate that a release has occurred; or

(b) The environmental contamination detected by visual or analytical data indicates that a release has occurred.

6203.5 When conducting a site investigation, the responsible party shall test for the presence of a release where contamination is most likely to be present at the UST site.

6203.6 In selecting the sample types, sample locations, and measurement methods for a site investigation, the responsible party shall consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater, the presence of a basement sump pump, and other factors appropriate for identifying the presence of a released substance and the source of the release. The responsible party shall comply with any Department directives, available on the Department's website at https://doee.dc.gov/page/ust-forms-guidance-and-public-documents, regarding sample types, sample locations, measurement methods, and sampling protocols.

6203.7 If the sample results of the site investigation do not confirm that a release has occurred, no further investigation is required.

6203.8 Upon discovery of a release or confirmation of a suspected release, a responsible party shall perform the following initial response actions:

(a) Immediately identify and mitigate any fire, explosion, and vapor hazards;

(b) Take immediate action to prevent any further release of the regulated substance into the environment;

(c) If the notification under § 6202 was of a suspected release or condition listed in § 6202.5, notify the Department by telephone or e-mail and the District Fire Chief, as stated in § 6201.2, no later than twenty-four (24) hours after confirmation of the release or of a false alarm; and

(d) Submit a written report containing the information required in § 6202.3 to the Department, in accordance with § 5500.4, within seven (7) days of discovery or confirmation of the release.

6203.9 Section 6203.8 does not apply to any UST system exempt from the UST regulations under § 5501.3, or to any UST system subject to the corrective action requirements under § 3004(u) of the Solid Waste Disposal Act, 42 USC § 6924(u), as amended.

6203.10 Upon discovery of a release or confirmation of a suspected release, a responsible party shall take the following initial abatement actions:

(a) Remove all regulated substance from the UST, unless the Department approves removal of a lesser amount that is sufficient to prevent further release to the environment;

(b) Visually inspect any aboveground releases or exposed belowground releases and prevent further migration of the released substance into surrounding soils and groundwater; and

(c) Continue to monitor and mitigate any fire and safety hazards posed by vapors or free product that have migrated from the excavation zone and entered into subsurface structures (such as sewers or basements).

6203.11 A responsible party shall remedy hazards posed by contaminated soils that are excavated or exposed as a result of site investigation, release confirmation, abatement, or corrective action activities. If the remedy includes treatment or disposal of soil, the responsible party shall comply with all applicable provisions of District laws and regulations, including 21 DCMR Chapters 5, 7, 8, and 20.

6203.12 Upon discovery of a release or confirmation of a suspected release, a responsible party shall conduct an initial site assessment that evaluates conditions within the property boundaries of the property where the UST is located, and prepare an initial site assessment report summarizing the results, which includes the following actions:

(a) Unless the presence, source, and cause of the release have been confirmed in the site investigation required by § 6203.4 or the closure assessment in § 6101.10, test for the presence of a regulated substance by taking soil

borings and by installing groundwater or soil vapor monitoring wells where contamination is most likely to be present at the UST facility;

(b) In selecting the sample types, sample locations, and measurement methods to test pursuant to § 6203.12(a), consider the nature of the stored substance, the type of backfill, depth to groundwater, and other factors as appropriate for identifying the presence and source of the release;

(c) Analyze and summarize the levels of contaminants in the soil borings and groundwater samples;

(d) Summarize the initial response actions taken pursuant to § 6203.8; and

(e) Summarize the initial abatement actions taken pursuant to § 6203.10.

6203.13 Upon discovery of a release or confirmation of a suspected release, a responsible party shall determine whether free product is present. If any phase of the site investigation determines that free product is present, the responsible party shall begin free product removal as soon as practicable in accordance with § 6204.

6203.14 Within sixty (60) days after release confirmation, a responsible party shall submit to the Department, in accordance with § 5500.4, an initial site assessment report prepared pursuant to § 6203.12 for review, and if applicable, include the first status report on the removal of free product. If further assessment is needed to determine the nature and extent of contamination from the release, the responsible party shall submit a work plan for comprehensive site assessment, in accordance with § 6205, for the Department's approval. A responsible party may request a meeting with the Department to discuss the work plan.

6203.15 For purposes of this section, the phrase “aboveground release” means a release to the surface of the land or to surface water, including a release from a portion of an UST system above the ground surface or a release associated with a transfer of a regulated substance to or from an UST system.

6203.16 For purposes of this section, the phrase “belowground release” means any release to the subsurface of the land and to groundwater, including a release from the portion of an UST system below the ground surface or a belowground release associated with a transfer of a regulated substance to or from an UST.

6204 REMOVAL OF FREE PRODUCT

6204.1 When an investigation indicates the presence of any free product, the responsible party shall remove measurable free product in accordance with this section until the Department determines that the free product has been removed to the maximum extent practicable.

6204.2 The Department may issue a directive with a schedule for removal of free product, or the responsible party may submit a schedule to the Department in writing, in accordance with § 5500.5, for the Department's approval.

6204.3 The responsible party shall conduct the removal of free product in a manner that minimizes the spread of contamination by using recovery techniques appropriate to the hydrogeological conditions at the site.

6204.4 The responsible party shall conduct the recovery and off-site disposal of free product in a manner that properly treats, discharges, recycles, or disposes of recovery byproducts in compliance with all applicable laws and regulations.

6204.5 The free product removal system shall be designed to prevent free product migration.

6204.6 The responsible party shall ensure that any flammable substances are handled in a manner that will prevent fire and explosion.

6204.7 The responsible party shall prepare and submit to the Department, in accordance with § 5500.4, a status report on the removal of any free product that provides at least the following information:

(a) The name of the person(s) responsible for implementing the free product removal measures;

(b) The estimated quantity, type, and viscosity of free product observed or measured on-site, including in wells, boreholes, and excavations;

(c) The type of free product recovery system used;

(d) Whether any groundwater treatment and discharge will take place during the recovery operation and where the discharge point will be located;

(e) The type of treatment applied to, and the effluent quality expected from, any such discharge;

(f) The steps that have been or are being taken to obtain necessary permits for any discharge; and

(g) The disposition of the recovered free product.

6204.8 Unless otherwise directed by the Department, the status report required in § 6204.7 shall be submitted to the Department, in accordance with § 5500.4, within sixty (60) days of release confirmation and then once each quarter until the Department determines that free product removal is complete.

6205 COMPREHENSIVE SITE ASSESSMENT

6205.1 Unless otherwise directed by the Department, the responsible party shall perform a comprehensive site assessment in the time and manner set forth in this section.

6205.2 Within sixty (60) days after Department approval of a work plan pursuant to § 6203.14, the responsible party shall submit a comprehensive site assessment report to the Department, in accordance with § 5500.4, in a form satisfactory to the Department, which is available on the Department's website at https://doee.dc.gov/page/lust-forms-guidance-and-public-documents.

6205.3 A comprehensive site assessment report shall include the following elements, as appropriate to the conditions of the site:

(a) The nature of the release, including: the chemical compound(s) present; its concentration(s); the quantity or quantities released if known; and the physical and chemical characteristic(s) related to potential human health and environmental impacts and cleanup procedures;

(b) Information from available sources or site investigations about:

(1) Current and reasonably foreseeable future surrounding land use;

(2) Surrounding populations;

(3) Water quality;

(4) Use and approximate location of wells potentially affected by the release;

(5) Subsurface soil conditions;

(6) Climatological conditions; and

(7) Locations of all subsurface utilities that are potential pathways, including sewers, water and gas pipelines, or other conduits;

(c) The results of the site investigation and any information gained while performing initial abatement measures pursuant to § 6203;

(d) The results of the free product investigations required under § 6203.13;

(e) The areal extent of the release, including the horizontal and vertical extent of the release, whether the chemicals of concern are distributed homogeneously or heterogeneously, and any future migration potential;

(f) The physical characteristics of the site, including characteristics affecting the occurrence, distribution, and movement of the released contaminant(s) and any characteristics affecting access to the site that may influence the feasibility of investigation and remediation procedures;

(g) A qualitative evaluation of the potential risks posed by the release, including identification of environmentally sensitive receptors, and an estimate of the impacts to human health and the environment that may occur as a result of the release;

(h) A comparison of contaminant levels to District soil and groundwater quality risk-based screening levels contained in § 6209; and

(i) Any other information requested by the Department or deemed useful or necessary by the responsible party.

6205.4 Comprehensive site assessment activities shall be conducted in accordance with a site safety and health plan that meets the requirements of 29 CFR § 1910.120. The site safety and health plan shall be available for inspection by the Department.

6205.5 Upon receipt and review of the comprehensive site assessment report, the Department may require the responsible party to conduct additional field studies and collect more data.

6205.6 The responsible party may request an extension of the sixty (60) day deadline set forth in § 6205.2 by submitting a written request for an extension to the Department, in accordance with § 5500.4, no later than forty-five (45) days after submitting the work plan pursuant to § 6203.14. The request shall include the following:

(a) A summary of all work performed and all information gathered to date pursuant to § 6205.3;

(b) A summary work plan for the additional assessment activities required; and

(c) A proposed schedule for completion of the remaining assessment activities and submission of the completed comprehensive site assessment report.

6205.7 The Department may grant or deny the request for extension, or grant the extension with modifications to the work plan or schedule.

6206 RISK-BASED CORRECTIVE ACTION (RBCA) PROCESS

6206.1 Risk-based decision making and development of a risk-based corrective action (RBCA) plan shall be conducted in accordance with this section and the

Department's RBCA technical guidance, which is available on the Department's website at https://doee.dc.gov/page/lust-forms-guidance-and-public-documents.

6206.2 Before initiating a risk-based decision making process to develop a RBCA plan for releases, a responsible party shall:

(a) Prevent further release from the UST by removing all products from the UST, or if approved by the Department, removing a lesser amount and performing any necessary repairs to the UST;

(b) Remove measurable free product to the maximum extent practicable;

(c) Remove impacted source material to the maximum extent practicable; and

(d) Select a qualified risk assessor who has successfully completed a risk-based corrective action training, such as training provided by the Interstate Technology & Regulatory Council, ASTM International, the U.S. Environmental Protection Agency, a state government, or a third party approved by the Department in accordance with § 5500.5.

6206.3 A responsible party using RBCA shall:

(a) Perform an initial site assessment, including identification of potential exposure pathways, take response action(s) as set forth in § 6203, and submit a work plan;

(b) Complete site classification as described in the Department's RBCA technical guidance, available on the Department's website at https://doee.dc.gov/page/lust-forms-guidance-and-public-documents, including a qualitative evaluation of the site based on known or readily available information to identify the need for interim remedial actions and further information gathering;

(c) Complete the comprehensive site assessment pursuant to § 6205 and the Tier 1 site assessment as described in the Department's RBCA technical guidance, which is available on the Department's website at https://doee.dc.gov/page/lust-forms-guidance-and-public-documents;

(d) Compare the concentrations of chemicals of concern with Tier 1 risk-based screening levels, which are specified in the Department's RBCA technical guidance, available on the Department's website at https://doee.dc.gov/page/lust-forms-guidance-and-public-documents;

(e) If the concentrations exceed Tier 1 risk-based screening levels, develop and implement a corrective action plan to achieve Tier 1 levels or proceed to perform Tier 2A or 2B site-specific evaluation as described in the

Department's RBCA technical guidance, which is available on the Department's website at https://doee.dc.gov/page/lust-forms-guidance-and-public-documents;

(f) If necessary for development of Tier 2 site-specific target levels, collect additional site-specific information and perform fate and transport analysis, including modeling, to determine points of demonstration;

(g) Develop and implement a corrective action plan to achieve the site-specific target levels or monitor for compliance; and

(h) When computer models are used in support of a case closure or no further action determination, provide a statement that the responsible party's staff or third-party contractor has been trained in the use of the District's RBCA software, which is available by contacting the RAM Group of Gannett Fleming, Inc. by e-mail to admin@ramgp.com, or other software, systems, or computer-based programs approved by the Department in accordance with § 5500.4.

6206.4 For RBCA in the District:

(a) The chemicals of concern shall include the petroleum products or by-products listed in Table 1 and any others deemed appropriate by the Department:

Table 1 – Chemicals of Concern

Benzene
Toluene
Ethylbenzene
Xylenes (total)
Ethylene dibromide (EDB)
Ethylene dichloride (EDC (1,2-DCA))
Methyl-tert-butyl-ether (MTBE)
Tertiary butyl alcohol (TBA)
Ethanol
Acenaphthene
Anthracene
Benzo(a)anthracene
Benzo(a)pyrene
Benzo(b)fluoranthene
Benzo(g,h,i)perylene
Benzo(k)fluoranthene
Chrysene
Fluoranthene
Fluorene
Naphthalene

Phenanthrene
Pyrene NC
TPH GRO
>C6-C8 Aliphatics
>C8-C10 Aliphatics
>C8-C10 Aromatics
TPH DRO
>C10-C12 Aliphatics
>C12-C16 Aliphatics
>C16-C21 Aliphatics
>C10-C12 Aromatics
>C12-C16 Aromatics
>C16-C21 Aromatics
TPH ORO
>C21-C35 Aliphatics
>C21-C35 Aromatics

(b) The point(s) of demonstration shall be:

(1) For Tier 1 assessment:

(A) The point of release or the source area;

(B) Groundwater affected by the contaminant plume, including any areas of the plume that are outside of the property boundary in accordance with the Department's RBCA technical guidance; and

(C) Soil throughout the area of the soil contaminated by the release and within the property boundary.

(2) For Tier 2 assessments, the point between the source and the potential point of exposure as approved by the Department.

(c) The maximum tolerable human health risk for carcinogens shall be a one in one million ($1x10^{-6}$) excess cancer risk level (the estimated incremental increase in cancer risk over a lifetime). For non-carcinogenic health effects, the hazard quotient and hazard index shall be no greater than one (1).

(d) The Tier 0 standards and the Tier 1 standards shall be the standards in §§ 6208 and 6209, respectively.

(e) The exposure routes shall include ingestion of groundwater or soil, dermal contact with surface water or soil, ground water protection, and inhalation of volatiles.

(f) For each exposure pathway, the points of exposure shall include groundwater, surface water, and soil and transport media shall include leaching to groundwater and soil vapor migration into buildings.

6206.5 If levels of chemicals of concern exceed the Tier 1 standards set forth in § 6209, the responsible party shall:

(a) Submit a corrective action plan pursuant to § 6207 to achieve the Tier 1 levels; or

(b) Conduct a Tier 2 site-specific evaluation following the procedures and protocols for Tier 2 evaluations contained in the Department's RBCA technical guidance, which is available on the Department's website at https://doee.dc.gov/page/lust-forms-guidance-and-public-documents.

6206.6 After completion of the RBCA process, the responsible party may apply for a case closure or no further action letter pursuant to the requirements of § 6210.

6206.7 For purposes of this section, the phrase "risk assessor" means an individual who evaluates the qualitative or quantitative risk posed to human health and the environment by the actual or potential presence or release of hazardous substances, pollutants, or contaminants.

6207 CORRECTIVE ACTION PLAN AND ITS IMPLEMENTATION

6207.1 After a release is confirmed, the Department may require the responsible party to develop and submit a corrective action plan (CAP) for remediating chemicals of concern in soil and groundwater.

6207.2 The responsible party shall submit a CAP, in accordance with § 5500.4, that provides for adequate protection of human health in accordance with § 6206.4(c) (maximum tolerable human health risks) and the environment, as determined by the Department, and shall modify the corrective action plan as necessary to meet this standard.

6207.3 A CAP shall propose corrective actions for the site that will:

(a) Ensure that measurable free product does not exist or is no longer recoverable at the site;

(b) Provide appropriate measures to protect the environmentally sensitive receptors that were identified in the comprehensive site assessment; and

(c) Remediate the site to one (1) of the following standards:

(1) The Tier 0 standards set forth in § 6208;

(2) The Tier 1 risk-based screening levels set forth in § 6209; or

(3) The Tier 2 site-specific target levels identified in the CAP and approved by the Department.

6207.4 If the responsible party elects to perform a Tier 2 evaluation, the CAP shall:

(a) Remediate levels of chemicals of concern to achieve the Tier 2 site-specific target levels;

(b) Provide for engineering or institutional controls, or both, that are approved by the Department in accordance with § 5500.5, if such controls are needed to achieve target levels or maintain activity and use limitations used in the risk assessment; and

(c) Provide for monitoring of the site as long as necessary to ensure that the chemicals of concern on the site will not adversely impact human health, safety, or the environment under present or reasonably foreseeable future uses of the site based on District zoning and other factors as described in the RBCA technical guidance.

6207.5 A CAP shall provide for proper disposal of any contaminated soils removed from the ground, and:

(a) Shall not permit the placement of contaminated soils that exceed Tier 0 standards back into the ground for the purposes of in situ remediation or storage, unless specifically approved by the Department in accordance with § 5500.5; and

(b) Shall not permit the placement of any soil excavated from the site on another property, unless specifically approved by the Department in accordance with § 5500.5.

6207.6 The responsible party shall prepare a site-specific quality assurance and quality control plan for the activities to be carried out during implementation of the CAP before starting CAP activities. The quality assurance and quality control plan shall cover all actions proposed in the CAP.

6207.7 A site-specific safety and health plan that meets the requirements of 29 CFR § 1910.120 shall be prepared and submitted to the Department in conjunction with the CAP.

6207.8 The Department may approve a CAP only if the Department determines that implementation of the CAP will adequately protect human health, safety, and the environment based on the following factors, as appropriate:

(a) The physical and chemical characteristics of the regulated substance released or threatened to be released, including its toxicity, persistence, and potential for migration;

(b) The hydrogeological characteristics of the site and the surrounding area;

(c) The proximity and quality of nearby surface water and groundwater, and current and reasonably foreseeable future uses of these waters;

(d) The potential effects of residual chemicals of concern on nearby surface water as defined in 21 DCMR § 1199 (such as creeks, ponds, lakes, and rivers) and groundwater;

(e) Potential risk to human health or the environment based upon current and reasonably foreseeable future uses of the site;

(f) The estimated timetable for completion of the remediation; and

(g) Any information assembled in compliance with this chapter.

6207.9 If such action will minimize environmental contamination and promote more effective corrective action, the responsible party may begin remediation of soil and groundwater before a CAP is approved, provided that the responsible party:

(a) Notifies the Department, in accordance with § 5500.4, and the owner of any adjacent property or property affected by the remediation, of its intention to begin remediation;

(b) Obtains provisional approval from the Department to begin remediation;

(c) Provides the Department with an opportunity to inspect the site during the remediation;

(d) Complies with any directives issued by the Department, including halting remediation or mitigating adverse consequences from cleanup activities; and

(e) Incorporates these self-initiated remediation measures in the final CAP submitted to the Department for approval.

6207.10 A responsible party may submit a written request for waiver of the Department's approval of the CAP, in accordance with § 5500.5, and begin implementation of the CAP, provided that the responsible party:

(a) Has satisfactorily performed another corrective action under Departmental oversight within the three (3) years immediately preceding the current request for a waiver of CAP approval;

(b) Notifies the Department of its intention to begin remediation and provides the Department with an opportunity to inspect the site during the remediation; and

(c) Agrees to comply with any directives issued by the Department, including halting remediation or mitigating adverse consequences from cleanup activities.

6207.11 Except as provided in §§ 6207.9 and 6207.10, the responsible party shall begin the remediation specified in the CAP, including modifications to the CAP made by the Department, within sixty (60) days after CAP approval, or in accordance with a schedule agreed to by the Department.

6207.12 The responsible party shall provide the Department with an opportunity to inspect the site prior to implementing the CAP upon the Department's request.

6207.13 The responsible party shall monitor, evaluate, and report the results of CAP implementation at least quarterly, or in accordance with a schedule approved by the Department in accordance with the procedures in § 5500.5.

6207.14 The responsible party may apply to the Department for modification of the CAP, in accordance with the procedures in § 5500.5, and may only implement the modification if the modification is approved in writing by the Department.

6207.15 If the Department determines that the implemented CAP is not achieving adequate protection of human health and the environment, the Department may require additional corrective action to be taken.

6207.16 The responsible party shall evaluate the effectiveness of the CAP and any CAP amendments at the end of each year of implementing the plan or amendment to determine whether additional measures must be implemented to protect human health and the environment and shall submit the evaluation to the Department, in accordance with § 5500.4.

6207.17 The Department may approve an alternative procedure for remediation of contaminants from past releases if the responsible party submits a written description of the alternative procedure to the Department in accordance with § 5500.5 and demonstrates to the satisfaction of the Department that:

(a) Compliance with the procedure in this section is not feasible; and

(b) The proposed alternative provides equivalent control of the cleanup to that of the procedures in this section.

6208 TIER 0 STANDARDS

6208.1 The Tier 0 standards for soil shall be the following:

(a) Total petroleum hydrocarbons (TPH), gasoline range organics (GRO), or diesel range organics (DRO) concentrations in soil shall be no greater than one hundred milligrams per kilogram (100 mg/kg); and

(b) Individual chemicals of concern concentrations in soil shall not exceed:

(1) For benzene: five thousandths of a milligram per kilogram (0.005 mg/kg);

(2) For tolulene: nine and six tenths milligrams per kilogram (9.6 mg/kg);

(3) For ethylbenzene: four hundredths of a milligram per kilogram (0.04 mg/kg); and

(4) For total xylenes: three and eighty-six hundredths of a milligram per kilogram (3.86 mg/kg).

6208.2 The Tier 0 standards for water shall be the following:

(a) Levels for ground water quality are the District Water Quality Standards for Ground Water in 21 DCMR § 1155; and

(b) Levels for surface water quality are the District Water Quality Standards in 21 DCMR § 1104.

6209 TIERS 1 AND 2 STANDARDS

6209.1 The Tier 1 and 2 standards for water, soil, soil vapor, and indoor air shall be the levels specified in the Department's RBCA technical guidance, which is available on the Department's website at https://doee.dc.gov/page/lust-forms-guidance-and-public-documents.

6209.2 Indoor air sampling shall be used in conjunction with sub-slab soil gas and ambient air sampling in a multiple lines of evidence approach to evaluating vapor instrusion risk.

6210 NO FURTHER ACTION AND CASE CLOSURE REQUIREMENTS

6210.1 A responsible party may request a no further action letter or a case closure letter by submitting a written request to the Department in accordance with § 5500.4. The responsible party or an authorized representative shall sign the request. The request shall include a summary of the site investigation and remediation process, including the following:

(a) The source and cause of the release if known;

(b) The estimated quantity by volume or mass and type of product released;

(c) The estimated amount of product recovered;

(d) An analysis demonstrating that the site meets the screening or target levels for cleanup established by the Department in §§ 6208 or 6209 as applicable; and

(e) All documents (such as permits, certificates, or approvals) relating to the transportation and disposal of solid and liquid wastes from the site (such as tanks, soils, product, or water), unless previously submitted to the Department, and if previously submitted, a list containing the names of the documents, dates of submission, and the division of the Department to which the documents were submitted.

6210.2 All records or reports documenting the transport and disposal of any free product, contaminated water or soil, or other waste generated at the site during implementation of the corrective action plan shall be maintained by the responsible party for a period of at least three (3) years from the date of issuance of no further action or case closure letter.

6210.3 The Department may issue a no further action or case closure letter only if it is satisfied that:

(a) The responsible party has implemented all corrective actions required by the Department;

(b) All free product has been removed to the maximum extent practicable; and

(c) The site does not pose a threat to human health or the environment.

6210.4 The Department may issue case closure letter if:

(a) The requirements for case closure set forth in §§ 6210.1 and 6210.3 have been met; and

(b) The site meets Tier 0 or Tier 1 cleanup standards.

6210.5 The Department may issue a no further action letter if:

(a) All of the corrective actions required by the Department have been implemented; and

(b) The corrective action achieved less than a complete cleanup under Tier 0 or Tier 1 standards or only achieved Tier 2 site-specific target levels.

6210.6 A case closure or no further action letter does not absolve a responsible party from previously incurred or potential future liability.

6210.7 If the Department denies the request for no further action or case closure, the responsible party may conduct further remediation or appeal the denial in accordance with § 6604.

6210.8 The responsible party shall remove all equipment, drums, and waste from the site and ensure that all wells are properly abandoned within six (6) months of receiving a no further action or case closure letter, unless otherwise authorized by the Department. The responsible party shall obtain a well abandonment permit if required under 21 DCMR Chapter 16.

6210.9 A no further action letter may include conditions such as monitoring chemicals of concern in indoor air (vapor intrusion), soil vapor, soil, or water, and reporting the monitoring results to the Department, or maintaining engineering and institutional controls.

6210.10 The Department may require the responsible party to execute and record an environmental covenant in accordance with D.C. Official Code §§ 8-671.01 through 8-671.14 to ensure compliance with the terms and conditions of a no further action letter. The environmental covenant may include activity and use limitations and any other information, restrictions, or requirements authorized under D.C. Official Code § 8-671.03.

6210.11 The Department may rescind any letter that is obtained through fraud or misrepresentation.

6211 PUBLIC PARTICIPATION IN CORRECTIVE ACTION

6211.1 For each release that requires a corrective action plan, the Department will provide a public notice designed to reach those members of the public directly affected by the release and the planned corrective action.

6211.2 Notice of the corrective action plan may be provided by publication in local newspapers, the District of Columbia Register, block advertisements, public

service announcements, letters to individual households, personal contacts by Department staff, e-mails to stakeholders, posting on the Department's website, or notification to the affected Advisory Neighborhood Commissioners and civic associations.

6211.3 Any person directly impacted by a release that has migrated onto his or her property has a right to obtain a copy of any comprehensive site assessment, RBCA site evaluation, or corrective action plan, and if the person requests, shall be given an opportunity to comment on the corrective action plan.

6211.4 If implementation of an approved corrective action plan does not achieve the cleanup levels established in the plan and the Department is considering case closure or no further action, the Department will give public notice in accordance with §§ 6211.1 and 6211.2.

6211.5 The Department will investigate complaints concerning any violation(s) of the UST Regulations and will notify the complainant of the results of the investigation.

6212 VOLUNTARY REMEDIATION ACTION PROGRAM (VRAP)

6212.1 The Department may permit a person, other than a responsible party, to remediate leaking underground storage tank (LUST) sites in accordance with the UST Regulations, provided that the person:

(a) Intends to develop the LUST facility or site for personal or business reasons;

(b) Intends to conduct a phased investigation of the conditions at the LUST facility or site prior to acquiring or developing the LUST facility or site; or

(c) Is a neighboring property owner who is unable to obtain relief from the responsible party.

6212.2 A person who wishes to voluntarily remediate a LUST site shall submit a Voluntary Remedial Action Program (VRAP) application to the Department in accordance with § 5500.4 that contains the following:

(a) Proof that the applicant satisfies § 6212.1;

(b) A statement of interest in undertaking corrective action at the site;

(c) Evidence of financial responsibility to satisfactorily complete the remediation using any mechanism in § 6701;

(d) A copy of a written access agreement or other document that permits the applicant to access the site;

(e) An application fee as specified in § 5605;

(f) Any available documentation demonstrating that the applicant is not a responsible party; and

(g) Proof that the applicant, if a business entity, is a registered business in the District of Columbia.

6212.3 Upon receiving a VRAP application, the Department may, in its discretion, approve or deny the application. If approved, the Department will issue a conditional authorization letter that authorizes the Voluntary Remediating Party (VRP) to participate in the VRAP, contingent upon the VRP's submission and the Department's approval of a corrective action plan that meets the requirements of §§ 6206 and 6207.

6212.4 The VRP may, in its discretion, enter into an agreement to release the responsible party or parties from liability. A VRP that wishes to assume responsible party status shall submit a responsible party transfer request to the Department in accordance with § 5500.4. Any release granted to a responsible party must state that the release may be voided by the Department under the following circumstances:

(a) The responsible party or the VRP submitted false or misleading information to the Department in the responsible party transfer request; or

(b) The VRP failed to complete the corrective action and the Department or the U.S. Environmental Protection Agency expended funds to remediate the site.

6212.5 A VRP shall be liable for all work performed at the site.

6212.6 Unless the VRP has assumed responsible party status, a VRP will only be required to perform the work agreed upon with the Department in the corrective action plan. The VRP shall comply with any directives issued by the Department pertaining to investigation and remediation of the site and the notification requirements in §§ 5600, 5603, and 6202. If the corrective action includes closure of an UST, the VRP shall comply with all requirements of Chapter 61.

6212.7 A VRP, other than a VRP that has released the original responsible party and assumed responsible party status in accordance with § 6212.5, may cease corrective action activities at the site before completing remediation of the site and incur no liability, other than liability pursuant to § 6212.5, provided the VRP:

(a) Has not aggravated the site conditions or increased the costs of subsequent corrective action;

(b) Gives written notice in accordance with § 5500.4 to the Department of the VRP's intention to cease activities at the site; and

(c) Stabilizes the site by properly backfilling any excavations, properly securing or abandoning any monitoring wells, and any other actions required to secure the site as may be ordered by the Department.

6212.8 After completing all actions under the approved corrective action plan, a VRP may submit a written request for a no further action or a case closure letter as set forth in § 6210.

6212.9 The Department may revoke its approval of a VRAP application if a VRP:

(a) Refuses to comply with directives issued by the Department; or

(b) Fails to begin, or actively implement, corrective action within two (2) years of the date of approval of the VRAP Application, or stops corrective action for more than two (2) years, unless otherwise authorized by the Department; provided, however, that nothing in this paragraph shall prohibit the Department taking immediate action as necessary to address an imminent threat to human health or the environment.

CHAPTER 63 UNDERGROUND STORAGE TANKS - RIGHT OF ENTRY FOR INSPECTIONS, MONITORING, TESTING, AND CORRECTIVE ACTION

6300 RIGHT OF ENTRY

6300.1 An inspector designated by the Department may, at any reasonable time and upon presentation of appropriate credentials to the owner, operator, or agent in charge, enter without delay any place where an UST is or was located or where a release is suspected, for the purpose of enforcing the Act or the UST Regulations.

6300.2 Appropriate credentials include a photo identification card or badge showing the name of the inspector and his or her employment with the Department.

6300.3 The inspector may enter the facility, with or without prior notice, as follows:

(a) In emergency situations, at any hour; and

(b) In non-emergency situations, between the hours of 9:00 a.m. and 5:00 p.m. on weekdays, and any other time that the facility where the UST is located is open for business.

6300.4 Emergency situations include any situation posing an immediate threat to public health or the environment, such as free product floating on surface or ground water, or an ignition source near a leaking UST.

6301 ENTRIES FOR INSPECTIONS AND MONITORING

6301.1 An inspector designated by the Department may:

(a) Inspect any UST, UST system, or area that may be impacted by a release or suspected release from an UST or UST system;

(b) Inspect and obtain samples of any regulated substance contained in, or released from, any UST or UST system;

(c) Inspect and copy any record, report, information, or test result required to be maintained pursuant to the Act or the UST Regulations, or that is otherwise relevant to the operation of any UST system; and

(d) Conduct monitoring or testing of any UST system, associated equipment, contents, surrounding soils, air, surface water, or groundwater.

6301.2 If the inspector obtains any sample prior to leaving the premises, the inspector will give the owner, operator, or agent in charge a receipt that describes the sample obtained, and if requested, a portion of the sample equal in volume or weight to the portion obtained. If any analysis is made of the sample, a copy of the results of the analysis will be furnished promptly to the owner, operator, or agent in charge.

6301.3 The Department may require the owner, operator, or other responsible party to provide information or records, conduct monitoring or testing, or take any necessary corrective action in accordance with the requirements of § 5602 and Chapters 60 and 62.

6301.4 If the Department makes a written request for submission of records, documents, or other information required to be maintained by the owner, operator, or other responsible party, the records or documents shall be submitted to the Department within twenty (20) days of a request, unless a different time period is specified by the Department.

6302 ENTRY FOR CORRECTIVE ACTION

6302.1 The Department may enter upon property to perform, or cause to be performed, release response and corrective actions that are necessary to protect human health or the environment, including in any of the following circumstances:

(a) No responsible party subject to the requirements of Chapter 62 and capable of implementing the required corrective action can be found within ninety (90) days or a shorter period, as may be necessary to protect human health or the environment;

(b) A situation exists that requires immediate action by the Department to protect human health or the environment; or

(c) The responsible party has failed or refused to comply with an order issued by the Department requiring compliance with the UST Regulations and:

(1) The responsible party did not appeal the order pursuant to Chapter 66; or

(2) The order was upheld after an appeal pursuant to Chapter 66.

6302.2 Except as provided in § 6302.4, the Department will provide prior written notice to the real property owner of its intent to enter the property to take corrective action and will serve the notice in one of the following ways:

(a) By personal delivery to a person of suitable age and discretion residing or employed at the last known address of the real property owner;

(b) By registered first-class mail to the last known address of the real property owner; or

(c) If service cannot be effected as provided in paragraph (a) or (b) of this subsection, then:

(1) By publishing the notice once a week for three (3) weeks in a newspaper of general circulation in the District of Columbia; and

(2) By conspicuous posting of the notice on the property.

6302.3 If the real property owner is a corporation, any notice served on the president, treasurer, general manager, registered agent, or any principal officer of such corporation in the manner provided in § 6302.2 shall be deemed to have been served on the corporation.

6302.4 If a release of a regulated substance from an UST system creates an imminent threat to human health or the environment requiring summary corrective action, and the emergency nature of the situation makes it impractical to give prior notice as provided in § 6302.2, the Department may provide notice by conspicuous posting on the property at the earliest time feasible before commencing work.

CHAPTER 64 UNDERGROUND STORAGE TANKS – CORRECTIVE ACTION BY THE DISTRICT AND COST RECOVERY

6400 CORRECTIVE ACTION BY THE DISTRICT

6400.1 The Department may undertake corrective action to protect human health or the environment when any of the circumstances in §§ 6302.1(a) through (c) exist. The Department may take summary corrective action if a release of a regulated substance from an UST system creates an imminent threat to human health or the environment.

6400.2 Corrective action by the Department may include, but is not limited to, the following:

(a) Temporary or permanent relocation assistance for residents exposed to contamination from an UST site;

(b) Provision of alternative household water supplies;

(c) Exposure or risk assessments;

(d) Repair, upgrade, or closure of the UST system;

(e) Site assessment;

(f) Transportation and disposal of solid and liquid wastes from the site (such as tanks, soils, product, or water); and

(g) Development and implementation of a corrective action plan in accordance with Chapter 62.

6400.3 The Department may initiate summary corrective action if, in the judgment of the Department, a release of a regulated substance creates an imminent threat to human health or the environment.

6401 COST RECOVERY

6401.1 The Department may recover the District's corrective action costs pursuant to the District of Columbia Underground Storage Tank Management Act of 1990, D.C. Official Code § 8-113.09(b); the District of Columbia Hazardous Waste Management Act of 1977, D.C. Official Code § 8-1311(a)(2)(B); the Water Pollution Control Act of 1984, D.C. Official Code § 8-103.17(e); the Brownfield Revitalization Amendment Act of 2000, D.C. Official Code § 8-632.01; or any other authority.

6401.2 If the District incurs costs under § 9003(h)(7) of the Resource Conservation and Recovery Act, 42 USC § 6991b(h)(7), for undertaking corrective action or enforcement action with respect to the release of petroleum from an UST, the owner or operator shall be liable to the District for the costs.

CHAPTER 65 UNDERGROUND STORAGE TANKS – LICENSING, CERTIFICATION, OPERATOR REQUIREMENTS, AND OPERATOR TRAINING

6500 LICENSING AND CERTIFICATION OF UST SYSTEM INSTALLERS, REMOVERS, TESTERS, AND TECHNICIANS

6500.1 An individual who performs UST system activities in the District, which include installation, upgrade, repair, tightness testing, or permanent closure of any UST or UST system component, shall be certified in accordance with this chapter or be supervised on-site by an individual certified in accordance with this chapter.

6500.2 An individual performing or supervising UST system installation, upgrade, retrofit, or repair shall be certified as an UST System Technician.

6500.3 An individual performing or supervising UST system closure-in-place or removal shall be certified as an UST System Technician or UST Closure Specialist.

6500.4 An individual performing or supervising UST system tightness testing shall be certified as an UST System Tester.

6500.5 The owner or operator of each UST system shall ensure that any UST system activity is performed by, or is done under the continuous on-site supervision of, a person certified to perform or supervise the activity under this chapter.

6500.6 Each UST System Technician, UST Closure Specialist, and UST System Tester performing or supervising an UST system activity shall carry the certificate issued by the Department while performing or supervising UST system activities. The certificate shall be available for inspection by the owner, operator, and the Department.

6500.7 Each business that performs UST system activities in the District shall be licensed by the Department under this chapter. The business shall employ an individual certified to perform each of the UST system activities for which the business is licensed.

6500.8 Each business that is licensed to perform UST system activities in the District shall provide the Department with a list of employees who are not certified as UST System Technicians, UST Closure Specialists, or UST System Testers, but perform UST system activities under on-site supervision.

6500.9 No business may transfer the license issued to it by the Department.

6500.10 Within ten (10) business days after closure or termination of a licensed business, the business shall surrender the license to the Department for cancellation.

6501 CERTIFICATION PROCEDURES

6501.1 The Department may certify an individual to perform the UST activities set forth in § 6500 in the District only if the individual:

(a) Submits a complete application and pays the initial application fee specified in § 5605;

(b) Provides evidence of satisfactory completion of a recognized training program in the UST system activities for which the applicant seeks certification; and

(c) Has at least five (5) years experience in the United States engaging in the activities for which the applicant seeks certification, or passes a written test of the applicant's knowledge of the technical area for which the applicant seeks certification, the Act, and the UST Regulations.

6501.2 The Department may license a business to perform the UST system activities in § 6500 in the District only if the business:

(a) Submits a complete application and pays the initial application fee specified in § 5605;

(b) Demonstrates, to the satisfaction of the Department, that the business is qualified to perform the UST activities for which it seeks a license; and

(c) Demonstrates, to the satisfaction of the Department, that the business employs at least one individual who has expertise and is certified by the Department to perform or supervise the UST activities the business will offer.

6501.3 The Department may certify an individual or license a business that is certified or licensed to perform UST system activities in Delaware, Maryland, Pennsylvania, Virginia, or West Virginia to perform the UST system activities set forth in § 6500 in the District, if the applicant:

(a) Submits a complete application and pays the initial application fee specified in § 5605;

(b) Is currently certified or licensed by one or more of the states listed as an UST System Technician, UST Closure Specialist, UST System Tester, or currently holds a certification or license determined by the Department to be equivalent in accordance with § 5500.5; and

(c) Is currently in good standing in each of the states in which the applicant is certified or licensed.

6501.4 The Department may require an applicant certified or licensed in one of the states in § 6501.3 to take a test to verify the applicant's knowledge of the Act and the UST Regulations.

6501.5 An applicant for certification or a license under § 6501.3 may only be certified or licensed to perform the same UST system activities that the applicant was certified or licensed to perform in the state in which the applicant is certified or licensed.

6501.6 An individual or business shall apply for a certification or license by submitting an application form provided by the Department, which is available on the Department's website at https://doee.dc.gov/publication/ust-contractor-certification-applications-business-and-individual, along with the following documents:

(a) A copy of the applicant's current Occupational Safety and Health Administration Hazardous Waste Operations and Emergency Response Standard certification;

(b) Documentation of insurance coverage;

(c) If the applicant is a business, a copy of a valid, current District of Columbia business license; and

(d) If the applicant is seeking certification under § 6501.3:

(1) A letter from a state official of each state listed in § 6501.3 in which the applicant is certified or licensed, stating that the applicant is in good standing; and

(2) A list of any additional states in which the applicant is certified or licensed to perform UST system activities.

6501.7 The initial certification or license issued by the Department will be valid for one (1) year from the date the certification or license is issued.

6501.8 An individual or business may renew the certification or license for one (1) or two (2) years by submitting an application form, the renewal fee specified in § 5605, and the documents listed in § 6501.6. The fee for a two (2) year renewal will be twice the annual fee specified in § 5605.

6502 OPERATOR DESIGNATION

6502.1 The owner of a regulated UST system in the District, except an UST system that has been permanently closed in accordance with Chapter 61, shall designate at least one Class A, one Class B, and one Class C operator for each UST facility. One operator may be designated as both the Class A and the Class B operator, except at fuel dispensing operations. Twenty-four (24) hour dispensing facilities, such as gas stations, shall have multiple Class C operators designated.

6502.2 No facility shall dispense or store a regulated substance unless operators have been designated and trained as required in this section and § 6503.

6502.3 A Class A operator shall have primary responsibility for operating and maintaining the UST facility in compliance with the Act and UST Regulations. Class A operators shall:

(a) Ensure that UST systems are properly installed, inspected, tested, and repaired, and that the required records are retained and made available to the Department;

(b) Be familiar with training requirements for each class of operators and be able to provide the required training for Class C operators; and

(c) Prepare facility procedures for Class B and C operators.

6502.4 A Class B operator shall be responsible for the daily operation and maintenance of UST systems at one or more facilities. Class B operators shall:

(a) Check spill and overfill prevention equipment and corrosion protection equipment to ensure proper function, and that any required system tests are performed at appropriate intervals;

(b) Ensure release detection equipment is operational, release detection is performed at proper intervals, and release detection records are retained and made available to the Department; and

(c) Be familiar with all aspects of Class B and Class C operator responsibilities and be able to provide the required training for Class C operators.

6502.5 A Class C operator shall be responsible for responding to alarms or other indications of emergencies caused by a spill or release from an UST system or equipment failures. Class C operators shall:

(a) Control or monitor the dispensing and sale of regulated substances;

(b) Follow written instructions or procedures on how to respond to alarms or releases provided by the Class A or Class B operators; and

(c) Notify Class A or B operators and appropriate emergency responders of releases and other emergencies in accordance with facility procedures and applicable laws and regulations.

6502.6 Trained operators shall be readily available to respond to suspected or confirmed releases, other unusual operating conditions, emergencies, and equipment failures as follows:

(a) A Class A or Class B operator shall be available for immediate telephone consultation at all times when a facility is in operation;

(b) A Class A or Class B operator shall be on-site at the UST facility within twenty-four (24) hours of being contacted;

(c) For staffed facilities, a Class C operator shall be on-site whenever the facility is in operation; and

(d) For unstaffed facilities, a Class C operator shall be available for immediate telephone consultation and shall be able to be on-site within two (2) hours of being contacted.

6502.7 Emergency contact information (name, position title and telephone numbers) shall be prominently displayed at all facilities, and unstaffed facilities shall also have emergency procedures prominently displayed to users.

6502.8 No person shall serve as a designated operator unless he or she has successfully completed all training required in § 6503.

6502.9 The owner of an UST system shall maintain a list of designated operators. The list shall identify the current Class A, B, and C operators for the facility and shall include:

(a) The name and operator class of each operator and the date each operator successfully completed training; and

(b) For operators that are not on-site when the facility is in operation, emergency telephone numbers to contact the operators.

6502.10 A copy of the following documentation shall be on-site and readily available for inspection at the facility:

(a) Certificates of training for Class A and B operators, and documentation of the trainer, trainee, and date training occurred for Class C operators;

(b) The facility list of Class A, B, and C operators; and

(c) Class C operator facility procedures, including emergency notification procedures.

6502.11 Class C operator and owner contact information, including name, telephone number, and any emergency contact information, shall be conspicuously posted at unstaffed facilities.

6503 OPERATOR TRAINING AND TRAINING PROGRAM APPROVAL

6503.1 The owner of an UST system shall ensure that all operators have received the training required by this section. Class A and B operators shall complete retraining every five (5) years or as required by the Department in accordance with § 6503.2. Class C operators shall receive retraining as provided in § 6503.5.

6503.2 If the Department determines that a petroleum UST system is not in compliance with any requirement of the Act or UST Regulations, the designated Class A and B operators shall repeat the required training, or any applicable part of the training as determined by the Department. Operators shall complete the required retraining within thirty (30) days of being notified by the Department.

6503.3 A Class A operator shall successfully complete a training course approved by the Department that includes general knowledge of the requirements of the Act and UST Regulations. At the completion of the training course, the operator shall be able to demonstrate knowledge of operation, maintenance, and recordkeeping requirements, including the following:

(a) Spill and overfill prevention;

(b) Release detection and related reporting, record keeping, testing, and inspection requirements;

(c) Corrosion protection;

(d) Emergency response;

(e) Product and equipment compatibility;

(f) Financial responsibility;

(g) Notification and UST registration requirements;

(h) Temporary and permanent UST closure requirements;

(i) Class B and C operator training requirements; and

(j) Environmental and regulatory consequences of releases.

6503.4 A Class B operator shall successfully complete a training course approved by the Department that includes detailed instruction on operation and maintenance of UST systems and the requirements of the Act and UST Regulations. Training shall provide specific information about the components of UST systems, UST construction materials, methods of release detection, and release prevention, including the following:

(a) Spill and overfill prevention;

(b) Release detection and related reporting requirements;

(c) Corrosion protection;

(d) Emergency response;

(e) Product and equipment compatibility;

(f) Report and recordkeeping requirements;

(g) Class C operator training requirements; and

(h) Environmental and regulatory consequences of releases.

6503.5 Class C operators shall complete training provided by a Class A or B operator or successfully complete a training course approved by the Department. The training shall enable the Class C operator to take action in response to emergencies or alarms caused by spills or releases from an UST system. Training shall include written instructions and notification procedures for the Class C operator to follow in the event of an emergency. After the initial training, the Class A or B operator shall retrain the Class C operator on these instructions and emergency procedures at least every twelve (12) months. At the conclusion of the training, the Class A or B operator shall evaluate the ability of the Class C operator to respond to emergencies and provide additional training as necessary to ensure the Class C operator is able to respond.

6503.6 An operator successfully completes training if he or she:

(a) Attends the entire training course;

(b) Demonstrates knowledge of the course material by receiving a grade of eighty percent (80%) or higher on an examination containing material presented in the training course or demonstrates to the trainer his or her ability to perform operation and maintenance checks of UST system equipment, including release detection; and

(c) Receives a training certificate from the training provider.

6503.7 When a Class A or B operator is replaced, the new operator shall be trained within thirty (30) days of assuming duties for that class of operator.

6503.8 Class C operators shall be trained before assuming the duties of a Class C operator.

6503.9 A training provider may request approval of a training course by submitting a request in writing to the Department in accordance with § 5500.5 and providing any information about the course requested by the Department. The Department may, in its discretion, approve or disapprove the training course. Each training provider shall obtain written approval from the Department before offering training courses for Class A, B, or C operators in the District.

6503.10 The owner or operator shall maintain documentation that the designated Class A, B, and C operators have completed the required training and retraining for as long as the Class A, B, and C operators are designated.

CHAPTER 66 UNDERGROUND STORAGE TANKS – ENFORCEMENT

6600 ENFORCEMENT AUTHORITY

6600.1 The Department may take one or more of the following administrative actions:

(a) Issue an administrative civil fine, penalty, or fee under § 6600.5;

(b) Issue a directive under § 6601;

(c) Issue an administrative order under § 6602; and

(d) Deny, suspend, revoke, or restrict a license or certificate under § 6603.

6600.2 If a person fails to comply with a notice of violation or threatened violation issued under § 6602.1 within the time stated in the notice, the Department may initiate a civil action in the Superior Court of the District of Columbia, pursuant to the approval and supervision of the Attorney General of the District of Columbia, for injunctive relief, damages, civil penalties, or recovery of any corrective action costs necessary to promptly and effectively terminate the violation or threatened violation and protect life, property, or the environment.

6600.3 To correct a situation that immediately threatens health or the environment, or to restrain any person from engaging in any unauthorized activity that immediately endangers or causes damage to public health or the environment, the Department may initiate a civil action in the Superior Court of the District of Columbia and seek a temporary restraining order in lieu of issuing an administrative order, pursuant to the approval and supervision of the Attorney General of the District of Columbia.

6600.4 The District may bring a civil action in the Superior Court of the District of Columbia, or in any other court of competent jurisdiction, for recovery of corrective action costs in accordance with § 6400.

6600.5 As an alternative to a civil judicial action, the Department may impose an administrative civil fine, penalty, or fee pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 *et seq.*).

6600.6 Except when otherwise provided by statute, a person violating a provision of this chapter shall be fined according to the schedules in Chapters 32 (Civil Infractions: Schedule of Fines) and 40 (Department of the Environment Infractions) of Title

16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations.

6600.7 The imposition of a civil fine or penalty does not preclude the Department from initiating an administrative or judicial civil action seeking injunctive relief, damages, or costs except that a person shall not, for the same violation of this chapter, be assessed both a judicial civil fine and an administrative fine.

6601 DIRECTIVE

6601.1 The Department may issue a directive requiring an owner, operator, or responsible party to:

(a) Provide any information, record, documentation, report, plan, or form with respect to the UST system if necessary to determine compliance with the UST regulations;

(b) Conduct investigations, monitoring, or testing of the UST system, associated equipment, contents, surrounding soils, air, surface water, or groundwater;

(c) Conduct a repair, upgrade, replacement, or temporary or permanent closure of the UST system or equipment; or

(d) Take any necessary corrective action.

6601.2 The directive will be in writing and will identify the actions that the responsible party is required to take and the time period within which the actions must be performed.

6601.3 A directive may be served on a person or the person's authorized agent by one or more of the following methods:

(a) Personal service;

(b) Delivery to the last known home or business address and leaving it with a person over the age of eighteen (18) residing or employed there; or

(c) United States Postal Service mail, first class and postage prepaid, to the last known home or business address. A courtesy copy may be sent via email or fax.

6601.4 If a person objects that a required action in a directive is not necessary or appropriate from a technical, engineering, geophysical, or other scientific perspective, the person shall submit a written statement to the Department, in

accordance with § 5500.4, including the grounds for the objection, within the time period stated in the directive.

6601.5 A person named in the directive may file an appeal with the Department in accordance with the procedures in § 6604 within fifteen (15) days after a directive is served, or within twenty (20) days of the date of the directive if served by mail, unless a later date is approved in writing by the Department.

6602 ADMINISTRATIVE ORDER

6602.1 If the Department believes or has reason to believe that there is a violation or threatened violation of the Act or the UST Regulations, the Department may issue a written notice of the violation or threatened violation to the owner, operator, or any other responsible party deemed appropriate by the Department and may require the person to take corrective measures that the Department considers reasonable and necessary.

6602.2 If a person fails to comply with the notice of violation issued pursuant to § 6602.1 within the time stated in the notice, the Department may issue a proposed administrative order, which may be a compliance order, cease and desist order, or both.

6602.3 The proposed order shall be in writing and:

(a) Include a statement of the nature of the violation or threatened violation;

(b) Explain that the person has a right to a hearing;

(c) Allow a reasonable time for compliance with the order, consistent with the likelihood of harm and the need to protect health, safety, life, property, and the environment;

(d) State any penalties for failure to comply with the order.

6602.4 A proposed order may be served on a person or the person's authorized agent by one or more of the methods listed in § 6601.3, or if there is an immediate threat to human health or the environment by:

(a) Telephone or e-mail, followed by service by another method listed in § 6601.3; or

(b) If the owner, operator, or responsible party cannot be located, conspicuous posting on the property.

6602.5 A proposed order shall become effective and final, unless the person or persons named in the order requests a hearing under § 6604 no later than fifteen (15) days

after the order is served or no later than twenty (20) days after the date of the order if served by mail.

6602.6 The Department may issue an immediate order to require a person to correct a situation that immediately threatens health or the environment, or to restrain any person from engaging in any unauthorized activity that immediately endangers or causes damage to public health or the environment.

6602.7 The Department may issue an immediate order prohibiting the delivery of regulated substances or other use of an UST system in situations that threaten health or the environment including, but not limited to, the following:

(a) An accumulation of toxic, flammable, or explosive vapors in a structure, sewer, or excavation;

(b) Free floating product on surface or ground water;

(c) Potential for migration of a release to surface waters or other sensitive environmental receptors;

(d) An open pit or excavation that is not secured properly during or left in place after corrective action;

(e) Anything which may cause potential exposure of humans, plants, or animals to hazardous substances;

(f) Missing or inoperable required spill or overfill prevention, release detection, or corrosion protection equipment; or

(g) Failure to register an UST system.

6602.8 An immediate order is effective upon issuance and is final unless the person named in the order requests a hearing under § 6604 within seventy-two (72) hours after the order is served.

6603 SUSPENSION, REVOCATION, RESTRICTION, OR DENIAL OF A LICENSE OR CERTIFICATE

6603.1 In order to protect the public health, safety, and welfare, the Department may suspend, revoke, or refuse to issue, renew, or restore a license or certificate after giving written notice if the Department finds that the applicant or holder:

(a) Failed to meet and maintain the standards established by the Act and the UST Regulations;

(b) Submitted a false or fraudulent record, invoice, or report;

(c) Engaged in fraud or misrepresentation in the application for licensure or certification;

(d) Had a history of repeated violations of the Act or the UST Regulations; or

(e) Had a license or certification denied, revoked, or suspended in another state or jurisdiction.

6603.2 Notice of a proposed action to suspend, revoke, or refuse to issue, renew, or restore a license or certificate will be served as specified in § 6601.3.

6603.3 A proposed action shall become effective and final, unless the applicant or license or certificate holder requests a hearing under § 6604 no later than fifteen (15) days after the action is served, or no later than twenty (20) days after the date of the action if served by mail.

6603.4 If the Department determines during or after an investigation that the conduct of any licensed business or certified individual presents an imminent danger to the health or safety of the residents of the District, the Department may summarily suspend or restrict the license of the business or the certificate of the individual in accordance with this chapter.

6603.5 At the time of the summary suspension or restriction, the Department will provide the licensee or certificate holder with a written notice stating:

(a) The action that is being taken;

(b) The basis for the action; and

(c) The right of the licensee or certificate holder to request a hearing.

6603.6 In the case of a summary action under § 6603.5:

(a) The suspension or restriction shall be effective immediately and shall become final, unless the license or certificate holder requests a hearing within seventy-two (72) hours after the notice is served; and

(b) A hearing will be held within fifteen (15) days of receipt of a timely request and a decision will be issued no later than fifteen (15) days after the hearing.

6604 APPEALS TO THE DEPARTMENT

6604.1 A person named in a directive, order, proposed order, action or proposed action of the Department under §§ 6210.7, 6601, 6602, or 6603 may appeal in accordance with this section.

6604.2 Before or in lieu of requesting a hearing under § 6605, a person named in a Department directive, order, or action may make an informal appeal in the manner and by the date stated in the directive, order, or action by providing orally or in writing any information or material that would support a change in or withdrawal of the Department's directive, order, or action.

6604.3 If the matter is not resolved under § 6604.2, the aggrieved person may appeal to the Deputy Director of the Department's Environmental Services Administration in accordance with § 5500.5.

6604.4 If the matter is not resolved under § 6604.3, the aggrieved person may appeal the decision of the Deputy Director of the Environmental Services Administration to the Director of the Department in accordance with § 5500.5.

6604.5 Appeals under §§ 6604.3 and 6604.4 must be in writing and present all information and material that the aggrieved person wishes to present for consideration on appeal.

6604.6 When considering an appeal, the Deputy Director or the Director may stay the effect of a decision or action being appealed pending determination of the appeal.

6604.7 Unless stayed by the Deputy Director or the Director, the original decision or action remains in effect during pendency of the appeal.

6604.8 Any person adversely affected or aggrieved by a decision of the Director may request a hearing in accordance with § 6605.

6605 APPEALS TO THE OFFICE OF ADMINISTRATIVE HEARINGS

6605.1 A person adversely affected or aggrieved by a decision of the Director under § 6604 or named in a notice of infraction assessing a civil fine, penalty, or fee under § 6600.5 may appeal in accordance with this section.

6605.2 To appeal the decision or notice of infraction, the person shall file an administrative appeal with, and request a hearing before, the District of Columbia Office of Administrative Hearings (OAH).

6605.3 The person shall file a written appeal with OAH within fifteen (15) calendar days of service of the decision or notice of infraction or no later than twenty (20) days after the date of the decision or notice if served by mail.

6605.4 The hearing and prehearing practice shall be conducted in accordance with the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801 *et seq*.) and the regulations set forth at Title 1, Chapter 28 of the District of Columbia Municipal Regulations.

6605.5 The final OAH decision on an administrative appeal under this section shall constitute the final action of the Department, and shall be subject to the applicable statutes and rules of judicial review for OAH final orders.

CHAPTER 67 UNDERGROUND STORAGE TANKS – FINANCIAL RESPONSIBILITY

6700 PETROLEUM UST SYSTEMS

6700.1 The owner and operator of a petroleum UST shall demonstrate financial responsibility in accordance with the provisions of this chapter, except as otherwise provided in this section, for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

6700.2 State and federal government entities whose debts and liabilities are the debts and liabilities of a state, the United States, or the District of Columbia government are exempt from the requirements of this chapter.

6700.3 The requirements of this chapter do not apply to owners or operators of any UST described in §§ 5501.3 or 5503.

6700.4 If the owner and operator of a petroleum UST are separate persons, only the owner is required to demonstrate financial responsibility; however, both the owner and operator are liable for noncompliance.

6700.5 An owner is not required to maintain financial responsibility under this chapter for an UST after the UST has been permanently closed or undergone a change-in-service in accordance with Chapter 61, except as provided in § 6700.6.

6700.6 If the closure assessment performed in accordance with § 6101 indicates that corrective action is needed, the owner or operator shall maintain financial responsibility until the corrective action is completed in accordance with Chapter 62.

6700.7 The amounts of financial assurance required under this section do not include legal defense costs.

6700.8 The owner of any petroleum UST who has not previously filed a certification of financial responsibility with the Department shall immediately file, in accordance with § 5500.4, the certification in the form prescribed by Appendix 67-1 (Certification of Financial Responsibility).

6700.9 Within thirty (30) days after installation of a new petroleum UST or changing the substance stored in an UST to petroleum, the owner of the petroleum UST system shall file a certification of financial responsibility with the Department as described in § 6700.8.

6700.10 The owner of a petroleum UST shall demonstrate financial responsibility in the per-occurrence amount of at least one million dollars ($1,000,000):

(a) For a petroleum UST that is located at a petroleum marketing facility; and

(b) For a petroleum UST that handles an average of more than ten thousand (10,000) gallons of petroleum per month based on annual throughput for the previous calendar year.

6700.11 The owner of a petroleum UST not covered under § 6700.10 shall demonstrate financial responsibility in the per-occurrence amount of five hundred thousand dollars ($500,000).

6700.12 The owner of a petroleum UST shall demonstrate financial responsibility in at least the following annual aggregate amounts:

(a) For an owner of one (1) to one hundred (100) petroleum USTs, one million dollars ($1,000,000); and

(b) For an owner of one-hundred-one (101) or more petroleum USTs, two million dollars ($2,000,000).

6700.13 For the purposes of §§ 6700.12 and 6700.16 only, the term "petroleum UST" means a single containment unit and does not mean combinations of single containment units.

6700.14 Except as provided in § 6700.15, if an owner uses separate mechanisms or separate combinations of mechanisms authorized under § 6701, the amount of assurance provided by each separate mechanism or combination of mechanisms shall be meet the aggregate amount specified in §§ 6700.10 through 6700.12.

6700.15 If an owner uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different USTs, the annual aggregate amount required under § 6700.12 shall be based on the number of tanks covered by each separate mechanism or separate combination of mechanisms.

6700.16 Owners shall review the amount of aggregate assurance required whenever one (1) or more additional petroleum USTs are acquired or installed. If, after review, the number of petroleum USTs for which financial responsibility must be demonstrated exceeds one hundred (100), the owner shall comply with the requirements of § 6700.12(b) by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If financial responsibility is being demonstrated by a combination of mechanisms, the owner shall demonstrate financial responsibility in the amount of at least two million dollars ($2,000,000) of annual aggregate assurance by the first-occurring effective date anniversary of any one of the mechanisms, combined (other than a financial test or guarantee) to provide assurance.

6700.17 The per-occurrence and annual aggregate coverage amounts required under this section shall not in any way limit the liability of the owner or operator.

6701 FINANCIAL RESPONSIBILITY MECHANISMS

6701.1 Subject to the limitations of §§ 6701.2 and 6701.3, the owner of a petroleum UST may use any single mechanism or combination of mechanisms listed in §§ 6703 through 6710 to demonstrate financial responsibility under this chapter for one (1) or more USTs.

6701.2 An owner may use a guarantee or surety bond to establish financial responsibility only if the Office of the Attorney General of the District of Columbia has submitted a written statement to the Department that the guarantee or surety bond

executed as described in this chapter is a legally valid and enforceable obligation in the District.

6701.3 An owner may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under §§ 6703 through 6705, the financial statements of the owner are not consolidated with the financial statements of the guarantor.

6701.4 Subject to the requirements of §§ 6701.5 and 6701.6, an owner may substitute any alternative financial assurance mechanism or combination of mechanisms specified in §§ 6703 through 6710 for a financial assurance mechanism currently in place.

6701.5 If an owner substitutes an alternative financial mechanism, the owner shall maintain the existing financial assurance mechanism or combination of mechanisms in effect, in compliance with the requirements of § 6700, until the transition to the alternative mechanism or mechanisms is completed.

6701.6 An owner shall obtain alternative assurance of financial responsibility within thirty (30) days after the owner receives notice of any of the following:

(a) Commencement of a voluntary or involuntary proceeding under Title 11 of the United States Code (Bankruptcy) naming a provider of financial assurance as a debtor;

(b) Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism;

(c) Failure of a guarantor to meet the requirements of the financial test required under this chapter; or

(d) Any other incapacity of a provider of financial assurance.

6701.7 Whenever there is a change in a financial assurance mechanism used to demonstrate financial responsibility, the owner shall update the certification of financial responsibility within thirty (30) days of the change in accordance with §5500.4 and in the form prescribed by Appendix 67-1 (Certification of Financial Responsibility).

6702 FINANCIAL RESPONSIBILITY RECORDS AND REPORTS

6702.1 Each owner shall maintain a copy of each financial assurance mechanism used to demonstrate financial responsibility under §§ 6703 through 6710 of this chapter for each UST until released from the requirements of this chapter under §§ 6700.5 or 6700.6.

6702.2 An owner may maintain the documentary evidence required under § 6702.1 at the UST facility or the owner's or operator's place of business. Records that are not maintained at the UST facility shall be made available to the Department upon request.

6702.3 Each owner using an assurance mechanism specified in §§ 6703 through 6710 shall maintain a copy of the assurance instrument in the form prescribed in §§ 6703 through 6710.

6702.4 Each owner using a financial test of self-insurance or guarantee shall maintain a copy of the chief financial officer's letter of assurance based on year-end financial statements for the most recent completed financial reporting year. This letter shall be on file at the UST facility or the owner’s or operator’s place of business not later than one hundred twenty (120) days after the close of the owner's financial reporting year.

6702.5 An owner using a guarantee, surety bond, or letter of credit shall maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

6702.6 An owner using an insurance policy or risk retention group coverage shall maintain a copy of the signed insurance policy or risk retention group coverage policy, along with the endorsement or certificate of insurance and any amendments to the agreements.

6702.7 An owner shall maintain a copy of the certification of financial responsibility that is required to be filed under §§ 6700.8, 6700.9 and 6701.7 at the UST facility or the owner's place of business.

6702.8 An owner shall submit evidence of current financial responsibility to the Department not later than thirty (30) days after the owner or operator identifies a spill, overfill, release, or suspected release from an UST system required to be reported under § 6201 or § 6202.

6702.9 An owner shall submit evidence of current financial responsibility to the Department not later than thirty (30) days after the owner or operator receives notice of the incapacity of a provider of assurance under § 6701.6.

6702.10 The Department may require an owner at any time to submit evidence of financial assurance or any other information relevant to compliance with §§ 6703 through 6711.

6703 FINANCIAL TEST OF SELF-INSURANCE

6703.1 An owner or a guarantor may satisfy the requirements of § 6700 by passing either of the financial tests set forth in this section.

6703.2 To pass a financial test of self-insurance, the owner or guarantor shall meet either of the following based on year-end financial statements for the latest completed fiscal year:

(a) The criteria of Test A, as set forth in § 6704; or

(b) The criteria of Test B, as set forth in § 6705.

6703.3 To demonstrate that the owner or guarantor meets either of the financial tests under § 6703.2, the chief financial officer of the owner or guarantor shall sign a letter of assurance in the form specified in Appendix 67-2 (Financial Test of Self-Insurance) not later than one hundred twenty (120) days after the close of each financial reporting year, as defined by the twelve (12) month period for which financial statements used support the financial test are prepared.

6703.4 If an owner no longer meets the requirements of the financial test set forth in §§ 6704 or 6705 based on year-end financial statements, the owner shall obtain alternative assurance not later than one hundred fifty (150) days after the end of the year for which the financial statements used were prepared.

6703.5 The Department may require reports of financial condition at any time from the owner or guarantor demonstrating compliance with this section. If the Department finds, on the basis of any report or other information, that the owner or guarantor no longer meets the financial test requirements of this section, the owner shall be required to obtain alternative assurance not later than thirty (30) days after the Department notifies the owner of the finding.

6703.6 If an owner fails to obtain alternative assurance as required by §§ 6703.4 or 6703.5, the owner shall notify the Department, in accordance with § 5500.4, of the failure not later than ten (10) days after the expiration of the required period.

6704 FINANCIAL TEST OF SELF-INSURANCE: TEST A

6704.1 To meet financial Test A, the owner, guarantor, or both shall have a tangible net worth of at least ten (10) times the sum of the following:

(a) The total of the applicable aggregate amount required by § 6700, based on the number of USTs for which a financial test is used to demonstrate financial responsibility to the Department;

(b) The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and the amount of liability coverage for which a financial test is used to demonstrate financial responsibility to the Department; and

(c) The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to the Department.

6704.2 The owner or guarantor seeking to meet financial Test A shall have a tangible net worth of at least ten million dollars ($10,000,000).

6704.3 The owner or guarantor seeking to meet financial Test A shall have a letter of assurance signed by the chief financial officer in the form specified by Appendix 67-2 (Financial Test of Self-Insurance Letter from Chief Financial Officer).

6704.4 The owner or guarantor seeking to meet financial Test A must either:

(a) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Utilities Service; or

(b) Report the firm's tangible net worth annually to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.

6704.5 The owner or guarantor seeking to meet financial Test A cannot have year-end financial statements, if independently audited, that include an adverse auditor’s opinion, a disclaimer of opinion, or a “going concern” qualification.

6705 FINANCIAL TEST OF SELF-INSURANCE: TEST B

6705.1 To meet financial Test B, the owner or a guarantor shall meet the federal financial test requirements set forth in 40 CFR § 264.147(f)(1), substituting the appropriate amount specified in § 6700.12(a) or (b) for the "amount of liability coverage" each time specified in the federal regulations.

6705.2 The fiscal year-end financial statements of the owner or guarantor seeking to meet financial Test B shall be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.

6705.3 The owner or guarantor seeking to meet financial Test B cannot have year-end financial statements that include an adverse auditor's opinion, a disclaimer of opinion, or a “going concern” qualification.

6705.4 The owner or guarantor seeking to meet financial Test B shall have a letter of assurance signed by the chief financial officer in the form specified by Appendix 67-2 (Financial Test of Self-Insurance).

6705.5 If the financial statements of the owner or guarantor seeking to meet financial Test B are not submitted annually to the U.S. Securities and Exchange Commission,

the Energy Information Administration, or the Rural Utilities Service, the owner or guarantor shall obtain a special report by an independent certified public accountant stating the following:

(a) The certified public accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the owner or guarantor with the amounts in the financial statements; and

(b) In connection with that comparison, no matters came to the attention of the certified public accountant that caused him or her to believe the specified data should be adjusted.

6706 GUARANTEES

6706.1 An owner may satisfy the requirements of § 6700 by obtaining a guarantee that conforms to the requirements of this section.

6706.2 The guarantor shall be a firm that:

(a) Has a controlling interest in the owner;

(b) Has a controlling interest in a firm that has a controlling interest in the owner;

(c) Is controlled through stock ownership by a common parent firm that has a controlling interest in the owner; or

(d) Is engaged in a substantial business relationship with the owner and issues the guarantee as an act incident to that business relationship.

For purposes of this section, the phrase “controlling interest” means direct ownership of at least fifty percent (50%) of the voting stock of another entity.

6706.3 Each guarantee issued under this section shall be provided in the form prescribed by Appendix 67-3 (Guarantee).

6706.4 Not later than one hundred twenty (120) days after the close of each financial reporting year, the guarantor shall demonstrate that it meets the financial test criteria of §§ 6704 or 6705 based on year-end financial statements for the latest completed financial reporting year by completing a letter of assurance from the chief financial officer, as described in § 6703.3, and delivering the letter to the owner.

6706.5 If the guarantor fails to satisfy the financial tests of either §§ 6704 or 6705 at the end of any financial reporting year, the guarantor shall notify the owner by

certified mail, return receipt requested, not later than one hundred twenty (120) days after the end of that financial reporting year, and before cancellation or non-renewal of the guarantee.

6706.6 If the Department notifies the guarantor that the guarantor no longer satisfies the financial tests of either §§ 6704 or 6705, or the requirements of § 6703.3, the guarantor shall notify the owner by certified mail, return receipt requested, not later than ten (10) days after receiving the notification from the Department.

6706.7 The guarantee shall terminate not less than one hundred twenty (120) days after the date the owner receives the notification pursuant to §§ 6706.5 or 6706.6 as evidenced by the return receipt. The owner shall obtain alternative assurance in accordance with § 6701.6.

6706.8 An owner that uses a guarantee to satisfy the requirements of § 6700 shall establish a standby trust fund in accordance with § 6711 when the guarantee is obtained.

6706.9 Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee shall be deposited directly into the standby trust fund in accordance with § 6712.

6707 INSURANCE AND RISK RETENTION GROUP COVERAGE

6707.1 An owner may satisfy the requirements of § 6700 by obtaining liability insurance that meets the requirements of this section from a qualified insurer or risk retention group.

6707.2 The liability insurance required under this section may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

6707.3 Each certificate of insurance and each insurance policy endorsement issued under this section shall be in the form prescribed by Appendix 67-4 (Certificate of Insurance) or Appendix 67-5 (Endorsement).

6707.4 Each insurance policy shall be issued by an insurer or risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in the District of Columbia.

6708 SURETY BONDS

6708.1 An owner may satisfy the requirements of § 6700 by obtaining a surety or performance bond that conforms to the requirements of this section.

6708.2 The surety company issuing the bond shall be among those listed as acceptable sureties on federal bonds in the latest U.S. Department of the Treasury Circular 570.

6708.3 Each surety bond shall be provided in the form prescribed by Appendix 67-6 (Performance Bond).

6708.4 Under the terms of the bond, the surety shall become liable on the bond obligation when the owner fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums set forth in § 6700.

6708.5 The owner who uses a surety bond to satisfy the requirements of § 6700 shall establish a standby trust fund in accordance with § 6711 when the surety bond is acquired.

6708.6 Under the terms of the bond, all amounts paid by the surety under the bond shall be deposited directly into the standby trust fund in accordance with § 6712.

6709 LETTER OF CREDIT

6709.1 An owner may satisfy the requirements of § 6700 by obtaining an irrevocable standby letter of credit that meets the requirements of this section.

6709.2 The issuing institution shall be an entity that has the authority to issue letters of credit in the District of Columbia and whose letter of credit operations are regulated and examined by an agency of the federal government or the District of Columbia.

6709.3 Each letter of credit issued under this section shall be in the form prescribed by Appendix 67-7 (Irrevocable Standby Letter of Credit).

6709.4 An owner who uses a letter of credit to satisfy the requirements of § 6700 shall also establish a standby trust fund in accordance with § 6711 when the letter of credit is acquired.

6709.5 Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Department shall be deposited by the issuing institution directly into the standby trust fund in accordance with § 6712.

6709.6 Each letter of credit shall be irrevocable with a term specified by the issuing institution.

6709.7 Each letter of credit shall provide that credit be automatically renewed for the same term as the original term, unless the issuing institution notifies the owner by certified mail, return receipt requested, of its decision not to renew the letter of

credit at least one hundred twenty (120) days before the current expiration date. Under the terms of the letter of credit, the one hundred twenty (120) days shall begin on the date when the owner receives the notice, as evidenced by the return receipt.

6710 PRIVATE TRUST FUNDS

6710.1 An owner may satisfy the requirements of § 6700 by establishing a private trust fund that conforms to the requirements of this section.

6710.2 The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by an agency of the federal government or the District of Columbia.

6710.3 Each trust agreement shall be in the form prescribed by Appendix 67-8 (Trust Agreement) and shall be accompanied by a formal certification of acknowledgement in the specified form.

6710.4 The private trust fund, when established, shall be funded for the full required amount of assurance or funded for part of the required amount of assurance and used in combination with other mechanism(s) that provide the remaining required assurance.

6710.5 If the value of the trust fund is greater than the required amount of assurance, the owner may submit a written request to the Department in accordance with § 5500.4 for release of the excess.

6710.6 If other financial assurance, or combination of assurance mechanisms, as specified in §§ 6703 through 6709, is substituted for all or part of the trust fund, the owner may submit a written request to the Department in accordance with § 5500.4 for release of the excess.

6710.7 Not later than sixty (60) days after receiving a request from the owner for release of funds as specified in §§ 6710.5 or 6710.6, the Department will instruct the trustee in writing to release to the owner the excess funds in the amount specified by the Department.

6711 STANDBY TRUST FUNDS

6711.1 An owner using any of the mechanisms authorized under §§ 6706, 6708, or 6709 shall establish a standby trust fund when the mechanism is acquired.

6711.2 The trustee of a standby trust fund shall be an entity that has the authority to act as a trustee and whose trust operations are examined and regulated by an agency of the federal government or the District of Columbia.

6711.3 Each standby trust agreement shall be in the form prescribed by Appendix 67-8 (Trust Agreement), and shall be accompanied by the prescribed formal certification of acknowledgement.

6711.4 The Department will instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the Department determines that no additional corrective action costs or third-party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.

6711.5 An owner may establish a single trust fund as the depository mechanism for all funds assured in compliance with this chapter, including standby trust funds.

6712 DRAWING ON FINANCIAL ASSURANCE MECHANISM

6712.1 A guarantor, surety, or issuer of a letter of credit shall place the amount of funds specified by the Department, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if both of the following occur:

(a) The owner fails to establish alternative financial assurance within sixty (60) days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or other financial assurance mechanism; and

(b) The Department determines or suspects that a release from an UST covered by the mechanism has occurred and has notified the owner or operator, or the owner or operator has notified the Department of a release from an UST covered by the assurance mechanism.

6712.2 A guarantor, surety, or person issuing a letter of credit shall place the amount of funds specified by the Department, up to the limit of funds provided by the financial assurance mechanism, into a standby trust if any of the conditions set forth in §§ 6712.3(a), (b)(1), or (b)(2) occurs.

6712.3 The Department may draw on a standby trust fund when either of the following occurs:

(a) The Department makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and the owner or operator, after appropriate notice and opportunity to comply, has not conducted corrective action as required under Chapter 62; or

(b) The Department has received either of the following:

(1) Certification from the owner, the third-party liability claimant(s), and the attorneys representing the owner and the third-party liability claimant(s) that a third-party liability claim should be paid.

The certification shall be in the form prescribed by Appendix 67-9 (Certification of Valid Claim); or

(2) A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage that was caused by an accidental release from an underground storage tank covered by financial assurance under this chapter, and the Department determines that the owner or operator has not satisfied the judgment.

6712.4 If the Department determines that the amount of corrective action costs and third-party liability claims eligible for payment as provided in § 6712.3(b) may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment shall be corrective action costs necessary to protect human health and the environment.

6712.5 The Department will pay third-party liability claims in the order in which the Department receives certifications and valid court orders under § 6712.3(b).

6713 REPLENISHMENT OF GUARANTEES, LETTERS OF CREDIT, OR SURETY BONDS

6713.1 If at any time after a standby trust is funded with funds drawn from a guarantee, letter of credit, or surety bond, and the amount in the standby trust is reduced below the full amount of coverage required, the owner shall do either of the following by the anniversary date of the financial mechanism from which the funds were drawn:

(a) Replenish the value of financial assurance to equal the full amount of coverage required; or

(b) Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

6713.2 For purposes of this section, the full amount of coverage required is the amount of coverage required under § 6700. If a combination of mechanisms was used to provide the assurance funds that were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

6714 CANCELLATION OR NON-RENEWAL OF FINANCIAL ASSURANCE

6714.1 Except as otherwise provided in this chapter, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail, return receipt requested, to the owner.

6714.2 Termination of a guarantee, surety bond, or letter of credit may not occur until one hundred twenty (120) days after the date on which the owner receives the notice of termination, as evidenced by the return receipt.

6714.3 Termination of insurance or risk retention group coverage, except for non-payment of premium(s) or misrepresentation by the insured, may not occur until sixty (60) days after the date on which the owner receives the notice of termination, as evidenced by the return receipt. Termination due to non-payment of premium(s) or misrepresentation by the insured may not occur until a minimum of ten (10) days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

6714.4 The provider of financial assurance shall send a copy of each notice of cancellation or termination to the Department, in accordance with § 5500.4, at the same time the notice is sent to the owner.

6714.5 If a provider of financial responsibility cancels or fails to renew for reasons other than the incapacity of the provider as specified in § 6701.6, the owner shall obtain alternate coverage as specified in this section not later than sixty (60) days after receipt of the notice of termination.

6714.6 If an owner fails to obtain alternate coverage within sixty (60) days after receiving a notice of termination, the owner shall notify the Department of the failure in accordance with § 5500.4 and submit the following to the Department:

(a) The name and address of the provider of the financial assurance mechanism subject to termination;

(b) The effective date of termination; and

(c) The evidence of the financial assurance mechanism subject to the termination that is maintained in accordance with § 6702.

6715 BANKRUPTCY OR INCAPACITY

6715.1 Within ten (10) days after commencement of a voluntary or involuntary proceeding under Title 11 of the United States Code (Bankruptcy) naming an owner as debtor, the owner shall, in accordance with § 5500.4, notify the Department by certified mail, return receipt requested, of the commencement of the proceedings, and submit to the Department the appropriate forms listed in §§ 6702.4 through 6702.7 documenting current financial responsibility.

6715.2 Within ten (10) days after commencement of a voluntary or involuntary proceeding under Title 11 of the United States Code (Bankruptcy) naming a guarantor providing financial assurance as debtor, the guarantor shall notify the

owner by certified mail, return receipt requested, of the commencement of proceedings, as required under § 6706.

6715.3 An owner who obtains financial assurances by a mechanism other than the financial test of self-insurance is deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit.

6715.4 An owner shall obtain alternative financial assurance, in accordance with this chapter, not later than thirty (30) days after receiving notice of the bankruptcy or incapacity of its provider of financial assurance, or the suspension or revocation of the authority of its provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit.

6715.5 If an owner does not obtain alternative assurance within thirty (30) days after notification of bankruptcy or incapacity, as provided in this section, the owner shall notify the Department.

APPENDIX 67-1

CERTIFICATION OF FINANCIAL RESPONSIBILITY

_____[owner]_____hereby certifies that it is in compliance with the financial responsibility requirements of 20 DCMR Chapter 67.

The financial assurance mechanism(s) used to demonstrate financial responsibility under 20 DCMR Chapter 67 are as follows:

[Type of mechanisms]

_____

[Name of issuer]

_____

[Mechanism number (if applicable)]

_____

[Amount of coverage]

_____

[Effective period of coverage]

_____

[Whether mechanism covers "taking correction action" or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases."]

_____

_____

_____

[Type of mechanisms]

_____

[Name of issuer]

_____

[Mechanism number (if applicable)]

_____

[Amount of coverage]

_____

[Effective period of coverage]

_____

[Whether mechanism covers “taking correction action” or “compensating third parties for bodily injury and property damage caused by” either “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases.”]

_____

_____

_____

[Signature of owner]

_____

[Name of owner]

_____

[Title]

_____

[Date]

_____

[Signature of witness or notary]

_____

[Name of witness or notary]

_____

[Date]

_____

APPENDIX 67-2

FINANCIAL TEST OF SELF INSURANCE
LETTER FROM CHIEF FINANCIAL OFFICER

I am the chief financial officer of_____[name and address of the owner or guarantor]. This letter is in support of the use of_____["the financial test of self-insurance" and/or "guarantee"] to demonstrate financial responsibility for _____["taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by _____["sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least_____[dollar amount] per-occurrence and _____[dollar amount] annual aggregate arising from operating (an) underground storage tank(s). Underground storage tanks at the following facilities are assured by this financial test by this _____["owner" and/or "guarantor"].

UST Facility I.D. Number	Number of UST(s)	Name/Address of UST(s) Facility
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

[List for each facility: the name and address of the facility where tanks assured by this financial test are located, and whether tanks are assured by this financial test. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 20 DCMR § 5600.]

A _____["financial test" and/or "guarantee"] is also used by _____["owner" or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under other EPA regulations or state programs authorized by EPA under 40 CFR Parts 145 and 271:

EPA Regulation	**Amount**
Closure (§§ 264.143 and 265.143)	_____
Post-Closure Care (§§ 264.145 and 265.145)	_____
Liability Coverage (§§ 264.147 and 265.147)	_____
Corrective Action (§ 264.101(b))	_____
Plugging and Abandonment (§ 144.63)	_____
Closure	_____

Post-Closure Care	_____
Liability Coverage	_____
Corrective Action	_____
Plugging and Abandonment	_____
Total	_____

This _____["owner" or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his or her financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of 20 DCMR § 6704 are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of 20 DCMR § 6705 are being used to demonstrate compliance with the financial test requirements.]

Alternative I

1.	Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee.	$ _____	
2.	Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee.	$ _____	
3.	Sum of lines 1 and 2 ___	$ _____	
4.	Total tangible assets___	$ _____	
5.	Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6] _____	$ _____	
6.	Tangible net worth [subtract line 5 from line 4].	$ _____	
		Yes	No
7.	Is line 6 at least ten million dollars ($ 10,000,000)?	____	____
8.	Is line 6 at least 10 times line 3?	____	____

9.	Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission?	____	____
10.	Have financial statements for the latest fiscal year been filed with the Energy Information Administration?	____	____
11.	Have financial statements for the latest fiscal year been filed with the Rural Utilities Service?	____	____
12.	Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met.]	____	____

Alternative II

1.	Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee.	$_____
2.	Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test or guarantee.	$_____
3.	Sum of lines 1 and 2 _____	$_____
4.	Total tangible assets _____	$_____
5.	Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6]_____	$_____
6.	Tangible net worth [subtract line 5 from line 4]	$_____
7.	Total assets in the U.S. [required only if less than ninety percent (90%) of assets are located in the U.S.] _____	$_____

		Yes	No
8.	Is line 6 at least ten million dollars ($ 10,000,000)?	_____	_____

9.	Is line 6 at least six (6) times line 3?	_____	_____
10.	Are at least ninety percent (90%) of assets located in the U.S.? [If "No," complete line 11]	_____	_____
11.	Is line 7 at least six (6) times line 3? [Fill in either lines 12-15 or lines 16-18]	_____	_____
12.	Current Assets _____	$ _____	
13.	Current Liabilities_____	$ _____	
14.	Networking capital [subtract line 13 from line 12]	$ _____	
		Yes	No
15.	Is line 14 at least six (6) times line 3?	_____	_____
16.	Current bond rating of most recent bond issue.	_____	_____
17.	Name of rating service _____		
18.	Date of maturity of bond_____		
		Yes	No
19.	Have financial statements for the latest fiscal year been filed with the SEC, the Energy Information Administration, or the Rural Utilities Service?	_____	_____

[If "No," please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4-18 above and the financial statements for the latest fiscal year.]

[For both Alternative I and Alternative II complete the certification with this statement.]

I hereby certify that the wording of this letter is identical to the wording specified in Appendix 67-2 of 20 DCMR Chapter 67 as such regulations were constituted on the date shown immediately below.

[Signature]_____

[Name]_____

[Title]_____

[Date]_____

APPENDIX 67-3

GUARANTEE

Guarantee made this_____[date] by _____[name of guaranteeing entity], a business entity organized under the laws of the District of Columbia, herein referred to as guarantor, to the Department of Energy and Environment (Department) and to any and all third parties, and obligees, on behalf of_____[owner] of _____[business address].

RECITALS:

(1) Guarantor meets or exceeds the financial test criteria of 20 DCMR § 6703 and agrees to comply with the requirements for guarantors as specified in 20 DCMR §§ 6706.4 through 6706.8.

(2) _____[owner] owns the following underground storage tank(s) covered by this guarantee:

UST Facility I.D. Number	Number of UST(s)	Name/Address of UST(s) Facility
_____	_____	_____
_____	_____	_____
_____	_____	_____

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 20 DCMR § 5600, and the name and address of the facility.]

This guarantee satisfies 20 DCMR Chapter 67 requirements for assuring funding for _____["taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from the above-identified underground storage tank(s) in the amount of _____[dollar amount] per-occurrence and _____[dollar amount] annual aggregate.

(3) _____[Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner); "On behalf of our affiliate" (if guarantor is a related firm of the owner); or "Incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner)] _____[owner], guarantor guarantees to the Department and to any and all third parties that:

In the event that _____[owner] fails to provide alternate coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and the Director of the Department has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the Director, shall fund a standby trust fund in accordance with the provisions of 20 DCMR § 6712, in an amount not to exceed the coverage limits specified above.

In the event that the Director determines that _____[owner] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 20 DCMR Chapter 62, the guarantor upon written instructions from the Director shall fund a standby trust fund in accordance with the provisions of 20 DCMR § 6712 in an amount not to exceed the coverage limits specified above.

If _____[owner] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by _____["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Director, shall fund a standby trust fund in accordance with the provisions of 20 DCMR § 6712 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of § 6703, guarantor shall send within one hundred twenty (120) days of such failure, by certified mail, notice to _____[owner]. The guarantee will terminate one hundred twenty (120) days from the date of receipt of the notice by _____[owner], as evidenced by the return receipt.

(5) Guarantor agrees to notify _____[owner] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of _____[owner] pursuant to 20 DCMR Chapters 55 through 70.

(7) Guarantor agrees to remain bound under this guarantee for so long as _____ [owner] must comply with the applicable financial responsibility requirements of the regulations under 20 DCMR Chapter 67 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to _____[owner], such cancellation to become effective no earlier than one hundred twenty (120) days after receipt of such notice by _____[owner], as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of _____[owner] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of _____[owner] arising from, and in the course of, employment by _____[owner];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by _____[owner] that is not the direct result of a release from a petroleum underground storage tank; and

(e) Bodily damage or property damage for which _____[owner] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of §§ 6700.10 through 6700.17; and

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Department, by any or all third parties, or by _____[owner].

I hereby certify that the wording of this guarantee is identical to the wording specified in Appendix 67-3 of 20 DCMR Chapter 67 as such regulations were constituted on the effective date shown immediately below.

[Effective date] _____

[Name of guarantor] _____

[Authorized signature for guarantor] _____

[Name of person signing] _____

[Title of person signing] _____

{Signature of witness or notary] _____

APPENDIX 67-4

CERTIFICATE OF INSURANCE

Name and address of each covered location:

_____
_____
_____

Policy number:

_____

Period of coverage [current policy period]:

_____

Address of [Insurer or Risk Retention Group]:

_____
_____

Name of insured:

_____

Address of insured:

_____

CERTIFICATION:

(1) _____[name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

UST Facility I.D. Number	Number of UST(s)	Name/Address of UST Facility
_____	_____	_____
_____	_____	_____
_____	_____	_____

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 20 DCMR § 5600 and the name and address of the facility] for _____[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different

tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are _____[insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy.

This coverage is provided under_____[policy number]. The effective date of said policy is_____[date].

(2) The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in paragraph 1:

(a) Bankruptcy or insolvency of the insured shall not relieve the _____ [Insurer or Group] of its obligations under the policy to which this certificate applies.

(b) The _____["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured from any such payment made by the _____["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 20 DCMR §§ 6703 through 6710.

(c) Whenever requested by the Director, the _____["Insurer" or "Group"] agrees to furnish to the Director a signed duplicate original of the policy and all endorsements.

(d) Cancellation or any other termination of the insurance by the _____ ["Insurer" or "Group"], except for non-payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten (10) days after a copy of such written notice is received by the insured.

[Insert for claims-made policies]:

(e) The insurance covers claims otherwise covered by the policy that are reported to the _____["Insurer" or "Group"] within six (6) months of the effective date of cancellation or non-renewal of the policy except where the new

or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.

I hereby certify that the wording of this instrument is identical to the wording in Appendix 67-4 of 20 DCMR Chapter 67, and that the _____["Insurer" or "Group"] is _____["licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states"]

[Signature of Authorized Representative of Insurer] _____

[Name of person signing] _____

[Title of person signing] _____

Authorized representative of _____[name of Insurer or Risk Retention Group]

[Address of Representative] _____

APPENDIX 67-5

ENDORSEMENT

Name and address of each covered location:

_____
_____
_____

Policy number:

_____

Period of coverage [current policy period]:

_____

Address of [Insurer or Risk Retention Group]:

_____
_____
_____

Name of insured:

_____

Address of insured:

_____

ENDORSEMENT:

(1) This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks:

UST Facility I.D. Number	Number of UST(s)	Name/Address of UST Facility
_____	_____	_____
_____	_____	_____
_____	_____	_____

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 20 DCMR § 5600 and the name and address of the facility.]

For _____[insert: “taking corrective action” and/or "compensating third parties for bodily injury and property damage caused by" either “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases” in accordance with

and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are _____[insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each UST or location], exclusive of legal defense costs which are subject to a separate limit under the policy]. This coverage is provided under _____[policy number]. The effective date of said policy is _____[date].

(2) The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) through (e) of this paragraph 2 are hereby amended to conform with subsections (a) through (e):

(a) Bankruptcy or insolvency of the insured shall not relieve the _____ ["Insurer" or "Group"] of its obligations under the policy to which this endorsement is attached;

(b) The _____["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the _____["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 20 DCMR §§ 6703-6710;

(c) Whenever requested by the Director of the Department of Energy and Environment, _____["Insurer" or "Group"] agrees to furnish to the Director a signed duplicate original of the policy and all endorsements;

(d) Cancellation or any other termination of the insurance by the _____ ["Insurer" or "Group"], except for non-payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten (10) days after a copy of such written notice is received by the insured.

[Insert for claims made policies]:

(e) The insurance covers claims otherwise covered by the policy that are reported to the _____["Insurer" or "Group"] within six (6) months of the effective date of the cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.

I hereby certify that the wording of this instrument is identical to the wording in Appendix 67-5 of 20 DCMR Chapter 67 and that the _____["Insurer" or "Group"] is _____["licensed to transact the business of insurance or eligible to provide insurance as excess or surplus lines insurer in one or more states"].

[Signature of Authorized Representative of Insurer or Risk Retention Group]

_____

[Name of person signing] _____

[Title of person signing] _____

Authorized Representative of _____[name of Insurer or Risk Retention Group]

[Address of Representative] _____

APPENDIX 67-6

PERFORMANCE BOND

Date bond executed: _____

Period of coverage: _____

Principal: _____[legal name and business address of owner]

Type of Organization: _____[insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation (if applicable): _____

Surety(ies): _____[name(s) and business address(es)]

SCOPE OF COVERAGE:

UST Facility I.D. Number	Number of UST(s)	Name/Address of UST(s) Facility
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 20 DCMR § 5600, and the name and address of the facility as above.]

List the coverage guaranteed by the bond: _____
["Taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the underground storage tank."]

Penal Sums of Bond:

Per-occurrence $ _____
Annual aggregate $ _____
Surety's bond number: _____

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the District of Columbia Department of Energy and Environment (Department) in the above penal sums for the payment of which we bind ourselves, our heirs, executors,

administrators, successors, and assigns jointly and severally; provided, that where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under Subtitle I of the Solid Waste Disposal Act, as amended, to provide financial assurance for _____
[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above; and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully _____["take corrective action, in accordance with 20 DCMR Chapter 62 and the Director of the Department's instructions for," and/or "compensate injured third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tank(s) identified above, or if the Principal shall provide alternative financial assurance, as specified in 20 DCMR Chapter 67, within one hundred twenty (120) days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

This obligation does not apply to any of the following:

(a) Any obligation of _____[owner] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of _____[owner] arising from, and in the course of, employment by _____[owner];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care of, custody, or control of, or occupied by _____[owner] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which _____[owner] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a

contract or agreement entered into to meet the requirements of 20 DCMR §§ 6700.10 through 6700.17.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Director that the Principal has failed to _____ ["take corrective action, in accordance with 20 DCMR Chapter 62 and the Director's instructions," and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform _____["corrective action in accordance with 20 DCMR Chapter 62 and the Director's instructions," and/or "third-party liability compensation"] or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the Director under 20 DCMR § 6712.

Upon notification by the Director that the Principal has failed to provide alternate financial assurance within sixty (60) days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the Director has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the Director under § 6712.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statute, rules and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal, provided, however, that cancellation shall not occur during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by the Principal, as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Thereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Appendix 67-6 of 20 DCMR Chapter 67 as such regulations were constituted on the date this bond was executed.

Principal

[Signature(s)] _____

[Name(s)] _____

[Title(s)] _____

[Corporate seal] _____

Corporate surety(ies)

[Name and address] _____

[State of incorporation] _____

[Liability limit] $ _____

[Signature(s)] _____

[Names(s) and title(s)] _____

[Corporate seal)] _____

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $ _____

APPENDIX 67-7

IRREVOCABLE STANDBY LETTER OF CREDIT

_____[Name and address of issuing institution]

_____[Name and address of Director of District of Columbia Department of Energy and Environment]

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of _____[owner] of _____[address] up to the aggregate amount of _____[in words] U.S. dollars ($ _____[insert dollar amount]), available upon presentation of:

(1) Your sight draft, bearing reference to this letter of credit, No. _____; and

(2) Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of Subtitle I of the Solid Waste Disposal Act, as amended."

This letter of credit may be drawn on to cover _____[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of _____[in words] $_____[insert dollar amount] per occurrence and _____[in words] $_____[insert dollar amount] annual aggregate:

UST Facility I.D. Number	Number of UST(s)	Name/Address of UST(s) Facility
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 20 DCMR § 5600, and the name and address of the facility.]

The letter of credit may not be drawn on to cover any of the following:

(a) Any obligation of _____[owner] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of _____[owner] arising from, and in the course of, employment by _____[owner];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by _____[owner] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which _____[owner] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 20 DCMR §§ 6700.10 through 6700.17.

This letter of credit is effective as of _____[date] and shall expire on _____[date], but such expiration date shall be automatically extended for a period of _____[at least the length of the original term] on _____[expiration date] and on each successive expiration date, unless, at least one hundred twenty (120) days before the current expiration date, we notify _____[owner] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that _____[owner] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for one hundred twenty (120) days after the date of receipt by _____[owner], as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of _____[owner] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in Appendix 67-7 of 20 DCMR Chapter 67 as such regulations were constituted on the date shown immediately below.

[Signature(s) of official(s) of issuing institution]

_____

[Title(s) of official(s) of issuing institution]

_____

[Date]

_____

This credit is subject to _____[insert “the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce,” or “the Uniform Commercial Code”].

APPENDIX 67-8

TRUST AGREEMENT

Trust agreement, the "Agreement," entered into as of _____[date] by and between _____[name of owner], a _____[name of state] _____["corporation," "partnership," "association," or "proprietorship"], the "Grantor," and _____[name of corporate trustee], _____[insert "Incorporated in the state of _____" or "a national bank"], the Trustee.

Whereas, the United States Environmental Protection Agency, "EPA," an agency of the United States Government, has established certain regulations applicable to the Grantor, requiring that an owner or operator of an underground storage tank shall provide assurance that funds will be available when needed for corrective action and third-party compensation for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the underground storage tank. The attached Schedule A lists the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located that are covered by the [insert "standby" where trust agreement is a standby trust agreement] trust agreement.

(This paragraph is only applicable to the standby trust agreement.) [Whereas, the Grantor has elected to establish _____[insert either "a guarantee," "surety bond," or "letter of credit"] to provide all or part of such financial assurance for the underground storage tanks identified herein and is required to establish a standby trust fund able to accept payments from the instrument];

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement:

(a) The term "Grantor" means the owner who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

SECTION 2. IDENTIFICATION OF THE FINANCIAL ASSURANCE MECHANISM

(This section and paragraph is only applicable to the standby trust agreement.) [This Agreement pertains to the _____[identity the financial assurance mechanism,

either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments].

SECTION 3. ESTABLISHMENT OF FUND

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the District of Columbia Department of Energy and Environment (Department). The Grantor and the Trustee intend that no third-party have access to the Fund except as herein provided. (The following sentence is only applicable to the standby trust agreement) [The Fund is established initially as a standby to receive payments and shall not consist of any property.] Payments made by the provider of financial assurance pursuant to the Director of the Department's instruction are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the Department.

SECTION 4. PAYMENT FOR ["CORRECTIVE ACTION" AND/OR "THIRD-PARTY LIABILITY CLAIMS"]

The Trustee shall make payments from the Fund as the Director shall direct, in writing, to provide for the payment of the costs of _____[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tanks covered by the financial assurance mechanism identified in the Agreement.

The Fund may not be drawn upon to cover any of the following:

(a) Any obligation of _____[owner] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to any employee of _____[owner] arising from, and in the course of employment by _____[owner];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by _____[owner] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which _____[owner] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other

than a contract or agreement entered into to meet the requirements of 20 DCMR §§ 6700.10 through 6700.17.

The Trustee shall reimburse the Grantor, or other persons as specified by the Department, from the Fund for corrective action expenditures and/or third-party liability claims in such amounts as the Director shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Director specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

SECTION 5. PAYMENTS COMPRISING THE FUND

Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

SECTION 6. TRUSTEE MANAGEMENT

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his or her duties with respect to the trust fund solely in the interest of the beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(a) Securities or other obligations of the Grantor, or any other owner or operator of the tanks, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 USC §§ 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

SECTION 7. COMMINGLING AND INVESTMENT

The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 USC §§ 80a-1 *et seq*., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

SECTION 8. EXPRESS POWERS OF TRUSTEE

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

SECTION 9. TAXES AND EXPENSES

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

SECTION 10. ADVICE OF COUNSEL

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

SECTION 11. TRUSTEE COMPENSATION

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

SECTION 12. SUCCESSOR TRUSTEE

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail ten (10) days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in Section 9.

SECTION 13. INSTRUCTIONS TO THE TRUSTEE

All orders, requests, and instructions by the Grantor to the trustee shall be in writing, signed by such persons as are designated in Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor’s orders, requests, and instructions. All orders, requests, and instructions by the Director to the Trustee shall be in writing, signed by the Director, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Director hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Director, except as provided for herein.

SECTION 14. AMENDMENT OF AGREEMENT

This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and the Director if the Grantor ceases to exist.

SECTION 15. IRREVOCABILITY AND TERMINATION

Subject to the right of the parties to amend this Agreement as provided in Section 14, above, this Trust shall be irrevocable and shall continue until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the Director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

SECTION 16. IMMUNITY AND INDEMNIFICATION

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

SECTION 17. CHOICE OF LAW

This Agreement shall be administered, construed, and enforced according to the laws of the District of Columbia, or the Comptroller of the Currency in the case of National Association banks.

SECTION 18. INTERPRETATION

As used in this Agreement, words in singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in Appendix 67-8 of 20 DCMR Chapter 67 as such regulations were constituted on the date written above.

[Signature of grantor] _____

[Name of the grantor] _____

[Title] _____

Attest:

[Signature of trustee] _____

[Name of trustee] _____

[Title] _____

[Seal] _____

Attest:

[Signature of witness] _____

[Name of witness] _____

[Title] _____

[Seal] _____

District of Columbia, _____ss:

On this _____[date], before me personally came _____ [owner] who, being by me duly sworn, did depose and say that he/she resides at _____[address] that he/s he is _____[title] of _____[corporation], the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he/she signed his/her name thereto by like order.

[Signature of notary public] _____

[Name of notary public] _____

SCHEDULE A TO PRIVATE TRUST AGREEMENT

UST Facility I.D. Number	Number of UST(s)	Name/Address of UST(s) Facility
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 20 DCMR §5600, and the name and address of the facility.]

SCHEDULE B TO PRIVATE TRUST AGREEMENT

_____
_____
_____
_____
_____

[Grantor should list here the name, title, and business address of each person with authority to issue orders, requests or instructions pertaining to this Private Trust Agreement on behalf of Grantor.]

APPENDIX 67-9

CERTIFICATION OF VALID CLAIM

The undersigned, as principals and as legal representatives of _____[owner] and _____[insert name and address of third-party claimant], hereby certify that the claim of bodily injury [and/or] property damage caused by accidental release arising from operating _____[owner's] underground storage tank should be paid in the amount of $ [_____].

[Signatures]

_____

Owner

_____

Attorney(s) for Owner

_____

(Notary)

_____

Date

[Signatures]

_____

Claimant(s)

_____

Attorney(s) for Claimant(s)

_____

(Notary)

_____

Date

CHAPTER 70 UNDERGROUND STORAGE TANKS – DEFINITIONS

7099 DEFINITIONS

7099.1 When used in the UST Regulations, the following terms and phrases shall have the meanings ascribed:

Accidental release - any release of petroleum, neither expected nor intended by the tank owner or operator, arising from operating an underground storage tank that results in the need for corrective action or compensation for bodily injury or property damage.

Act - the District of Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242; D.C. Official Code §§ 8-113.01 *et seq*.).

Agent in charge - a person designated by an owner or operator with direct supervisory responsibility for an activity or operation at a facility, such as the transfer of a regulated substance to or from any point in the facility.

Airport hydrant fuel distribution system or **airport hydrant system -** an UST system used to fuel aircraft and that operates under high pressure with large diameter piping that typically terminates into one or more hydrants or fill stands. The airport hydrant system begins where fuel enters one or more tanks from an external source, such as a pipeline, barge, rail car, or other motor fuel carrier.

Ancillary equipment - any device, including but not limited to piping, fittings, flanges, valves, and pumps, used to distribute, meter, or control the flow of regulated substances to and from an UST.

Authorized agent - a person authorized by appointment or by law to receive service of process for another person, including a registered agent.

Beneath the surface of the ground - located under the land's surface or covered with earthen materials.

Bodily injury - the meaning given to this term under applicable District of Columbia law; however, the term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

Cathodic protection - a technique to prevent corrosion of a metal surface by making the surface the cathode of an electrochemical cell. For example, a

tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

Change-in-service - the transition from storing a regulated substance in an UST system to storing a non-regulated substance, such as water, in the UST system.

Chemical(s) of concern - constituents of a regulated substance that are identified for evaluation in the risk assessment process.

Class A operator - the individual who has primary responsibility to operate and maintain the UST system in accordance with applicable requirements of the Act and UST Regulations. The Class A operator typically manages resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

Class B operator - the individual who has day-to-day responsibility for implementing applicable regulatory requirements of the Act and UST Regulations. The Class B operator typically implements in-field aspects of operations, maintenance, and associated recordkeeping for the UST system.

Class C operator - the individual responsible for initially addressing emergencies presented by a spill or release from an UST system. The Class C operator typically controls or monitors the dispensing or sale of regulated substances.

Closure-in-place - a method of permanently closing an UST system that cannot be removed from the ground by removing all of the regulated substances left in the UST system and filling the tank with inert material.

Compatible - the ability of two (2) or more substances to maintain the respective physical and chemical properties upon contact with one another for the design life of the UST system under conditions likely to be encountered in the UST.

Consumptive use - when describing heating oil use, consumed on the premises where the UST is located.

Containment sump - a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps, and related components in the containment area. Containment sumps may be single walled or secondarily contained and located at the top of tank (such as a tank top or submersible turbine pump sump), underneath the dispenser (such as a under-dispenser containment sump),

or at other points in the piping run (such as a transition or intermediate sump).

Corrective action - the sequence of actions that address a release or threatened release from an UST or UST system, which include site investigation, initial response and abatement, free product removal, well installation, site assessment, development of a corrective action plan, remediation, site monitoring, and well closure.

Corrosion expert - a person who is accredited or certified as being qualified by the National Association of Corrosion Engineers, or is a registered professional engineer with certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

Department - the District of Columbia Department of Energy and Environment.

Dielectric material - a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system from one another, such as a tank from piping.

Dispenser - equipment located aboveground that dispenses regulated substances from the UST system.

Dispenser system - the dispenser and the equipment necessary to connect the dispenser to the UST system.

District - the District of Columbia.

Earthen materials - earth, soil, ground, clay, gravel, sand, silt, and rock.

Electrical equipment - underground equipment that contains dielectric fluid that is necessary for the operation of equipment, such as transformers and buried electrical cable.

Emergency generator tank - an UST that stores fuel solely for the use of emergency power generation or backup systems.

Engineering control - a physical modification to a site or facility (such as a slurry wall, cap, vapor barrier, or point of use water treatment system) to reduce or eliminate the potential for exposure to chemical(s) of concern.

Environmentally sensitive receptor - a wetland; wildlife breeding or wintering area for a species of concern; habitat for an endangered plant or animal

species; federal or local park; or other area or thing that can be adversely impacted by exposure to pollution or contamination.

Excavation zone - 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.

Existing UST system - an UST system used to contain a regulated substance for which installation commenced on or before November 12, 1993. Installation is considered to have commenced if the owner or operator obtained all federal and District of Columbia government approvals or permits necessary to begin physical construction of the facility or installation of the tank system, and either:

(a) A continuous physical construction or installation program has begun at the facility; or

(b) The owner or operator has entered into contractual obligations for physical construction at the facility or installation of the tank system to be completed within a reasonable time and that could not be canceled or modified without substantial loss.

Exposure - an organism's contact with chemical(s) of concern that may be absorbed at the exchange boundaries (such as skin, lungs, and liver).

Exposure assessment - an assessment to determine the extent of exposure of, or potential for exposure of, receptors to regulated substances from a release from an UST based on factors such as the nature and extent of the contamination, the existence of or potential for exposure pathways (including ground or surface water contamination, air emissions, and food chain contamination), the size of the community within the likely pathways of exposure, and the comparison of expected exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants.

Exposure pathway - the course a chemical (or chemicals) of concern takes from the source area(s) to an exposed organism. An exposure pathway describes a unique mechanism by which an individual or population is exposed to a chemical(s) of concern originating from a site. Each exposure pathway includes a source or release from a source, a point of exposure, and an exposure route. If the exposure point differs from the source, a transport medium (such as air) is also included.

Exposure route - the manner in which a chemical(s) of concern comes in contact with an organism (such as ingestion, inhalation, or dermal contact).

Facility – a location containing one (1) or more underground storage tanks .

Farm tank - a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. Farms include fish hatcheries, rangeland, and nurseries with growing operations.

Field-constructed tank - a tank constructed in the field, such as a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field.

Financial reporting year - the latest consecutive twelve (12) month period for which any of the following reports used to support a financial test is prepared:

(a) A 10-K report submitted to the Securities and Exchange Commission;

(b) An annual report of tangible net worth submitted to Dun and Bradstreet; or

(c) Annual reports submitted to the Energy Information Administration or the Rural Utilities Service.

Flow-through process tank - a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process, or for the storage of finished products or by-products from the production process.

Free product - a regulated substance that is present as a non-aqueous phase liquid.

Gathering line - any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

Green remediation - integrating environmentally beneficial or neutral practices into decision making, design, and implementation of remedial action, including conservation of natural resources, efficient use of energy, protection of air quality, recycling wastes, and minimizing pollution at the source.

Guarantor - any person, other than the owner, who provides evidence of financial responsibility for the underground storage tank facility.

Hazard index - the sum of two (2) or more hazard quotients for all relevant chemicals of concern and each of their exposure pathways.

Hazard quotient - the ratio of the level of exposure of a chemical of concern over a specified time period to a reference dose for that chemical of concern derived for a similar exposure period and exposure pathway.

Hazardous substance - a hazardous substance as defined in § 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601(14) (but not including any substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act of 1976, 42 USC §§ 6901 *et seq.*).

Hazardous substance UST system - an UST system that contains a hazardous substance, or any mixture of hazardous substances and petroleum, and which is not a petroleum UST system.

Heating oil - petroleum that is No. 1, No. 2, No. 4 (light), No. 4 (heavy), No. 5 (light), No. 5 (heavy), and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

Heating oil tank - an UST used for storing heating oil for consumptive use on the premises where the tank is located.

Hydraulic lift tank - a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate a lift, elevator, or other similar device.

Inert material - a substance or material that is not chemically or biologically reactive, such as cement slurry, flowable fly ash, flowable mortar, or polyurethane or expandable foam.

Initial response the action first taken to mitigate hazards to human health, safety, and the environment, including immediate or short-term abatement or containment measure to prevent the spread of a release.

Institutional control - a limitation on use of or access to a site or facility to eliminate or minimize potential exposure to one or more chemicals of concern, such as an easement, environmental covenant, zoning restriction, groundwater use restriction, or enforcement order.

Interim remedial action - ongoing action to mitigate fire and safety hazards and to prevent further migration of hydrocarbons in their vapor, dissolved, or liquid phase.

Leaking underground storage tank system or **LUST system -** an UST system from which there is a release of a regulated substance to the environment.

Legal defense cost - any expense that an owner or operator, or a provider of financial assurance, incurs in defending against claims or actions brought:

(a) By the U.S. Environmental Protection Agency, the District of Columbia, or a state to require corrective action or to recover the costs of corrective action;

(b) By or on behalf of a third party for bodily injury or property damage caused by an accidental release; or

(c) By any person to enforce the terms of a financial assurance mechanism.

Liquid trap - a sump, well cellar, or other trap 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. A liquid trap 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.

Maintenance - the normal operational upkeep to prevent an UST system from releasing a regulated substance.

Monitoring pipe - an observation well installed in the excavation zone, and used for measuring a release of regulated substance from the tank. The term does not include a groundwater monitoring well installed outside the excavation zone and used to sample groundwater for the presence of contamination.

Motor fuel - a complex blend of hydrocarbons typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances (such as motor gasoline blended with alcohol).

Natural attenuation - the reduction in the concentration(s) of chemicals of concern in environmental media due to naturally occurring physical, chemical, and biological processes (such as diffusion, dispersion, adsorption, chemical degradation, and biodegradation).

New UST system - an UST system that is or will be used to contain an accumulation of regulated substances and for which installation began after November 12, 1993.Installation is considered to have commenced if the owner or operator obtained all federal and District of Columbia government approvals or permits necessary to begin physical construction of the facility or installation of the tank system, and either:

(a) A continuous physical construction or installation program has begun at the facility; or

(b) The owner or operator has entered into contractual obligations for physical construction at the facility or installation of the tank system to be completed within a reasonable time and that could not be canceled or modified without substantial loss.

Non-aqueous phase liquid - a chemical that is insoluble or only slightly soluble in water and exists on or below the groundwater table.

Non-safe suction piping - all suction piping not meeting the definition of safe suction piping**.**

Occurrence - an accident, including continuous or repeated exposure to conditions, that results in a release from an UST. This definition is not intended either to limit the meaning of "occurrence" in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of "occurrence."

On the premises where located - with respect to heating oil USTs, located on the same property where the stored heating oil is used.

Operational life - the period beginning from when installation of an UST system has commenced until the time the UST system is permanently closed in accordance with Chapter 61.

Operator - any person in control of, or having responsibility for, the daily operation of a facility.

Overfill release- a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

Owner -

(a) In the case of an UST in use on or after November 8, 1984, any person who owns an UST used for the storage, use, or dispensing of regulated substances; or

(b) In the case of an UST in use before November 8, 1984, but no longer in use on that date, any person who owned a tank immediately before discontinuation of its use.

Person - any individual, partnership, corporation (including a government corporation), trust, firm, joint stock company, association, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, the District of Columbia government, the United States government, a foreign government, or any interstate body.

Petroleum - crude oil or any fraction of crude oil, that is liquid at standard conditions of temperature and pressure of sixty degrees (60º) Fahrenheit and fourteen and seven tenths pounds per square inch (14.7 psi) absolute.

Petroleum marketing facility - a facility at which petroleum is produced or refined, and any facility from which petroleum is sold or transferred to other petroleum marketers or to the public.

Petroleum UST system - an UST system that contains petroleum or a mixture of petroleum with *de minimis* quantities of other regulated substances. Petroleum UST systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

Pipe or piping - a hollow cylinder or tubular conduit that is constructed of non-earthen materials.

Pipeline facility - a new or existing pipe right-of-way and any associated equipment, facilities, or buildings, including gathering lines.

Point of demonstration - a location selected at or between the source and the potential point of exposure where the concentration of one or more chemicals of concern shall be at or below the determined target levels in media (for example, ground water, soil, or air).

Point of exposure - the point at which an individual or population may come in contact with one or more chemicals of concern originating from a source.

Pressurized piping - UST system piping that regularly carries a regulated substance with a force behind the flow that is greater than the ambient atmospheric pressure.

Property damage - the meaning given to this term by applicable law of the District of Columbia. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However,

exclusions for property damage shall not include corrective action associated with releases from tanks which are covered by the policy.

Provider of financial assurance - an entity that provides financial assurance to an owner or operator of an UST through one of the mechanisms listed in §§ 6703-6710, including a guarantor, insurer, risk retention group, surety, issuer of a letter of credit, or trustee.

Real property owner - the owner of real property where an underground storage tank is or was located, or where contamination from an underground storage tank is discovered.

Receptors - individuals, populations, structures, utilities, wildlife, wetlands, habitats, parks, surface waters, and water supply wells that are or may be adversely affected by a release.

Regulated substance -

(a) Any hazardous substance defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 USC § 9601(14), but not including any substance regulated as a hazardous waste under subtitle C of title II of the Solid Waste Disposal Act, approved October 21, 1976, 42 USC §§ 6901 *et seq*.;

(b) Petroleum; or

(c) Any petroleum-based substance comprised of a complex blend of hydrocarbons, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

Release - any spill, leak, emission, discharge, escape, leach, or disposing from an UST. The term includes, but is not limited to, any release into ground water, surface water, or subsurface soils.

Release detection - determining whether a release of a regulated substance has occurred from an UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

Remediation or **remedial action -** any activity conducted to clean up a site where contamination by petroleum or chemicals of concern exceeds District of Columbia or federal standards for soil or water quality, or otherwise deemed necessary to protect human health, safety, and the environment. Examples include removal of contaminated soil, treatment of soil or

groundwater, or installation of engineering controls, including the use of green remediation techniques.

Repair - to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, or other UST system component that has caused a release of product from the UST system or has failed to function properly.

Replace -

(a) For a tank, to remove a tank and install another tank; and

(b) For piping, to remove fifty percent (50%) or more of piping and install other piping, excluding connectors, connected to a single tank. For tanks with multiple piping runs, this definition applies independently to each piping run.

Residential tank - a tank located on property used primarily for dwelling purposes.

Responsible party -

(a) An owner or operator;

(b) A person who caused or contributed to a release from an underground storage tank system;

(c) A person who caused a release as a result of transfer of a regulated substance to or from an underground storage tank system;

(d) A person found to be negligent, including any person who previously owned or operated an underground storage tank or facility, or who arranged for or agreed to the placement of an underground storage tank system by agreement or otherwise; or

(e) The owner of real property where an underground storage tank is or was located, or where contamination from an underground storage tank is discovered if the owner or operator of the tank as defined in this chapter cannot be located or is insolvent, or if the real property owner refuses without good cause to permit the owner or operator of the tank access to the property to investigate or remediate the site.

Risk assessment - an analysis of the potential for adverse health effects from exposure to a chemical of concern to determine whether remedial action is needed or to develop target levels for remedial action.

Risk-based corrective action or RBCA - a risk-based decision making process designed to integrate risk and exposure assessments to tailor corrective action activities to site-specific conditions and risks, and to ensure that the chosen action is protective of human health and the environment.

Risk-based screening level or **screening level –** the risk-based corrective action target level for a chemical of concern developed under the Tier 1 evaluation.

Safe suction piping - suction piping designed and constructed to meet the following standards:

(a) The below-grade piping operates at less than atmospheric pressure;

(b) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(c) Only one (1) check valve is included in each suction line; and

(d) The check valve is located directly below and as close as practical to the suction pump.

Secondary containment - a release prevention and release detection system for a tank or piping. This system has an inner and outer barrier with a space in-between , also called the interstitial space, that is monitored for leaks. This term includes containment sumps when used for interstitial monitoring of piping.

Septic tank - a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from the 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.

Significant operational compliance inspection or **SOC inspection –** an inspection by a DOEE inspector or an approved third party to verify the compliance of an active UST facility with release detection, spill and overfill prevention, financial responsibility, recordkeeping, and operator training requirements.

Site - the area where one or more chemicals of concern have migrated, including areas outside the property boundary where an UST is or was located.

Site assessment - an evaluation of subsurface geology, hydrology, and surface characteristics to determine if a release has occurred, the levels of chemicals of concern, and the extent of the migration of chemicals of concern. The site assessment collects data on ground water quality and potential receptors, and generates information to support remedial action decisions.

Site investigation - initial testing at the location of a release or suspected release to confirm the existence of a release by sampling the soil and water around the UST system for the presence of contaminants.

Site-specific target level - risk-based remedial action target level for one or more chemicals of concern developed for a particular site under the Tier 2 evaluation.

Soil vapor - gaseous elements and compounds in the small spaces between particles in the subsurface unsaturated zone and that may be transported under pressure towards ground surface.

Source - with respect to a release from an UST, the UST, its piping, and any product contained therein.

Source area - either the location of free product or the location of the highest soil and ground water concentrations of chemicals of concern.

Stage I vapor recovery - control of gasoline vapors during UST tank refueling operations by delivery truck.

Stage II vapor recovery - control of gasoline vapors from vehicle refueling stations in accordance with 20 DCMR § 705.

Stormwater or wastewater collection system - piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water runoff 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.

Substantial business relationship - the extent of a business relationship necessary under the applicable laws of the District of Columbia to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner.

Suction piping - Underground piping that conveys regulated substances under suction, not pressure, which could be safe suction or non-safe suction.

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

Tangible net worth - the tangible assets that remain after deducting all liabilities. These assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

Tank - a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (such as concrete, steel, or plastic) that provide structural support.

Target levels - numeric values or other performance criteria that are protective of human health, safety, and the environment.

Termination - with respect to Appendices 67-4 and 67-5, only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date from the retroactive date of the original policy.

Tier 0 evaluation - an analysis of levels of chemicals of concern based upon a comparison of test results from soil and water samples to the District of Columbia's standards for concentrations of chemicals of concern, as established in § 6208.

Tier 1 evaluation - a risk-based analysis conducted in accordance with the District's RBCA technical guidance to develop non-site-specific values for direct and indirect exposure pathways using conservative exposure factors and fate and transport for potential pathways and various property use categories (such as residential, commercial, and industrial uses).

Tier 2 evaluation - a risk-based analysis conducted in accordance with the District's RBCA technical guidance applying the direct exposure values established under a Tier 1 evaluation at the point(s) of exposure developed for a specific site and developing values for potential indirect exposure pathways at the points of exposure based on site-specific conditions.

Training program - any program that meets the requirements of Chapter 65 that provides information to and evaluates the knowledge of a Class A, Class B, or Class C operator about requirements for UST systems through testing,

practical demonstration, classroom or online instruction, or another approach approved by the Department.

Under-dispenser containment - containment underneath a dispenser system that will prevent leaks from the dispenser and piping within or above the under-dispenser containment from reaching soil or groundwater.

Underground area - an underground room, such as a basement, cellar, shaft, or vault, that provides enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

Upgrade - the addition or retrofit of some systems, such as cathodic protection, lining, or spill and overfill controls, to improve the ability of an UST system to prevent the release of a regulated substance.

UST or **Underground storage tank -** one (1) or a combination of tanks, including the underground pipes that connect tanks, that is used to contain an accumulation of regulated substances, the volume of which (including the volume of connected underground pipes connected) is ten (10) percent or more beneath the surface of the ground.

UST Closure Specialist - a person performing oversight of UST closures, including tank removal, closure-in-place, inspection, and review and submittal of closure report.

UST Regulations - Chapters 55-70 of Title 20 (Environment) of the District of Columbia Municipal Regulations.

UST system or **tank system -** an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

UST System Technician - a person responsible for conducting, or providing continuous on-site supervision of, the installation, upgrade, repair, retrofit, abandonment, or removal of UST tanks.

UST System Tester - a person conducting, or providing continuous on-site supervision of, UST system tightness testing.

Voluntary remediating party - a person, who is not a responsible party, who undertakes a corrective action at a LUST site or facility.

Voluntary remediation - a corrective action performed by a person who is not a responsible party.

Wastewater treatment tank - a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.