

ARTICLE XI

**NASSAU COUNTY PUBLIC HEALTH
ORDINANCE**

**TOXIC AND HAZARDOUS MATERIALS
STORAGE, HANDLING
AND CONTROL**

ARTICLE XI NASSAU COUNTY PUBLIC HEALTH ORDINANCE
TOXIC AND HAZARDOUS MATERIALS STORAGE, HANDLING AND CONTROL

Section	Title	Page
1	Declaration of Policy	2
2	Statement of Purpose	2
3	Definitions	3
4	Powers of the Commissioner	7
5	Prohibited Discharges, Transporting and Disposal	9
6	Permits and Registration	10
7	Exemptions	11
8	Transfer of Permits Prohibited	14
9	Storage and Transfer Facilities	15
10	Underground Storage Facilities	18
11	Aboveground Storage Facilities	21
12	Transfer Operations	23
13	Bulk Storage of Toxic or Hazardous Materials	24
14	Containers	26
15	Reporting, Records, Cleanup	27
16	Confidentiality of Records	29
17	Posting and Labeling	30
18	Waivers	31
19	Effective Date	32

Section 1. - Declaration of Policy

The State designated best use of all groundwaters of Nassau County is as a source of drinking water. The federal government has officially designated Nassau County groundwaters as sole source aquifers for water supply. In addition, the surface waters of the County are extensively used for fishing, swimming and clamming. Therefore, it is hereby declared to be the policy of Nassau County Board of Health to require the use of all available practical methods to prevent and control water pollution caused by toxic and hazardous materials so as to maintain the quality of the groundwater and surface water resources as near to their natural conditions of purity as reasonably possible and thus safeguard the health of the public.

Section 2. - Statement of Purpose

It is the intent and purpose of this Article to safeguard the water resources of the County of Nassau from contamination by toxic and hazardous materials including petroleum products by preventing pollution from the more than 100 million gallons of toxic and hazardous materials currently being stored, transferred, or used by various residential, commercial and industrial facilities. The discharge of these toxic and hazardous materials is caused by leaking tanks, improper storage and handling, as well as accidental spills. The potential for these discharges will be effectively reduced by requiring that proper storage and handling are provided; that new tanks meet rigid standards; and that all tanks are routinely tested and inspected to ensure compliance.

Section 3. - Definitions

Whenever used in the Article, unless otherwise stated, the following terms shall have the indicated meanings:

- a. **Abandonment** means leaving containers, tanks, pipes, vehicles containing toxic or hazardous materials unattended in terms of:
 - 1) relinquishment or termination of possession, ownership, or control by the owner thereof, or;
 - 2) remaining out of service for one (1) year or more, or;
 - 3) declaration by the owner that control will be discontinued.
- b. **Aboveground** when referring to tanks, means more than 90 percent of the volume located or situated above the final ground surface.
- c. **Bulk Storage** means the loose or bagged storage of dry or semidry materials.
- d. **Commissioner** means the Commissioner of the Nassau County Department of Health.
- e. **Container** means any portable device in which toxic or hazardous material is stored, transported, treated, disposed of, or otherwise handled.
- f. **Department** means the Nassau County Department of Health and also any person employed by the Nassau County Department of Health and authorized by the Commissioner to carry out the provisions of this Article.
- g. **Discharge** means to release by any means or to relinquish control in a manner that could result in a release to the surface waters, groundwaters, surface of the ground or below the surface of the ground. Discharge includes, but is not necessarily limited to, the following, either singly or in any combination:

- 1) Leaks from the failure of a storage facility;
 - 2) Spills during transport or transfer of toxic or hazardous materials;
 - 3) Disposal of soils, sand, or debris containing toxic or hazardous materials;
 - 4) Disposal of toxic or hazardous materials to: storm drains, roof drains, sewer systems, or any other drainage system or leaching system;
 - 5) Burial, land-spreading or dumping anywhere, but not limited to landfills and scavenger facilities, of toxic or hazardous materials or waste.
- h. **Discovery** means either actual discovery or knowledge of the existence of a storage facility or part thereof, or possession of sufficient knowledge of the facts and circumstances involved so that the existence of the storage facility or part thereof should have been discovered.
- i. **Disposal** means the discharge, deposition, injection, dumping, incinerating, spilling, leaking, or placing of any toxic or hazardous material into or on any land or water so that such toxic or hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
- j. **Double-walled** means constructed with more than one containment layer having space between the layers that completely surrounds the inner containment chamber sufficient to allow monitoring of any leakage into or out of the confined space.

- k. Facility or Storage Facility means one or more tanks, containers, pipes, fittings, connections, vaults, buildings, yards, pavements or other structures used or designed to be used, either singly or in any combination, for the storage and/or transfer of toxic or hazardous materials or for the storage and/or transfer of portable containers containing toxic or hazardous materials. A facility may include aboveground or below ground tanks, containers, bulk storage areas, or any combination thereof as well as any appurtenant structures.
- l. Impervious means possessing the quality equivalent to a layer of natural and/or man-made material of sufficient thickness, density and composition so as to prevent the discharge into the underlying ground, groundwater or adjacent surface water of any toxic or hazardous substances for a period of at least as long as the maximum anticipated time during which the toxic or hazardous substances will be in contact with the material, and sufficient to allow complete recovery of any spilled product with minimum disturbance of the containment material.
- m. Industrial Waste Transporter means a person in the business of collecting and transporting industrial wastes who possesses a current, valid industrial waste transporter permit issued by the New York State Department of Environmental Conservation.
- n. New York State Discharge Standards means effluent standards, and/or limitations as found in Title 6, Parts 701-703 of the Official Compilation of Codes, Rules and Regulations of the State of New York and as they may be amended.

- o. Out-of-Service, means not in use, meaning no regular filling or drawing; or not being maintained, meaning lacking adherence to the requirements of this Article; or uncontrolled, meaning not attended or secured; or any combination thereof.
- p. Person means an individual, trust, firm, joint stock company, corporation, partnership, municipality, or association.
- q. Petroleum means any petroleum-based or partly or wholly synthetically constituted oil of any kind which is liquid at 20°C under normal atmospheric pressure and has been refined, rerefined, otherwise processed, contaminated in any way or used, including, but not limited to, that which is suitable for use as a motor fuel or lubricant in the operation or maintenance of an engine, a fuel utilized for the generation of heat or usable energy, all fuel oils, hydraulic fluids, antifreeze, and cutting oils.
- r. Pollution means the presence in the ambient environment of conditions and/or contaminants in quantities or characteristics, which are or may be injurious to human, plant, animal life or to property, or which, unreasonably interferes with the comfortable enjoyment of life and property.
- s. Product-tight means chemical or physical imperviousness of a vessel to the material, which is or could be contained therein so as to prevent the seepage of the product through the container.
- t. Secondary Containment means containment space that prevents any materials spilled or leaked from reaching the land or water outside the containment area before cleanup occurs.

- u. Single-Walled means constructed with walls made of but one thickness of material. Laminated, coated, or clad materials shall be considered as single-walled.
- v. Storage means the containment of any material, for any length of time, in such a manner as not to constitute disposal of such material.
- w. Substantial Modifications shall mean the construction of any additions or changes to an existing storage facility or restoration, refurbishment or renovation which:
 - 1) increases or decreases the in-place storage capacity of the facility;
 - 2) alters the physical configuration; or
 - 3) impairs or affects the physical integrity of the facility or its monitoring systems.

The repair or replacement of a piping system or other existing equipment will not be considered as a substantial modification.

- x. Substantially Complete means that construction has progressed to the point that changes cannot readily be made to bring the facility into compliance with the requirements of this Article without substantial reconstruction or difficulty.
- y. Tank means a stationary device, designed to contain an accumulation of material and which is constructed primarily of nonearthen materials (i.e., wood, concrete, steel, plastic) which also provide structural support.
- z. Tightness Test means a test that will determine if a tank and/or piping system is tight or not tight. The test must be capable of detecting a leak as small as five-hundredths (0.05) of a gallon in one hour accounting for variables.

- aa. Toxic or Hazardous Material means any substance, solution or mixture including petroleum products which, because of its quality, quantity or concentration, its physical, chemical, or infectious characteristics, or any combination of the foregoing, presents or may present an actual or potential hazard to human health, or a threat to the quality of the drinking water supply or a threat to surface water quality, if such substance, solution, mixture or combination thereof is discharged directly or indirectly to the land or waters of the County of Nassau. Toxic or Hazardous Materials shall be as determined by the Commissioner and shall also include any solid or semisolid material which, if left to stand or if exposed to water or other materials will leach out or wholly or partially dissolve forming a toxic or hazardous material.
- bb. Toxic or Hazardous Wastes means toxic or hazardous materials as defined in Section 3.aa., excluding antifreeze, generated by or as the result of operations of any manufacturing or other industrial or medical facility or commercial establishment, which toxic or hazardous materials are not actually used in a final product for sale or use or in the production of such products, and shall also include those toxic or hazardous materials retained as by-products of the operations within such manufacturing or other industrial or commercial establishment for the purpose of recouping salvage value. All toxic and hazardous wastes are toxic and hazardous materials.
- cc. Underground when referring to tanks means 10 percent or more of the volume located or situated below the final ground surface.

Section 4. - Powers of the Commissioner

- a. The Commissioner may make, or cause to be made, any investigation or study which, in his opinion, is desirable for enforcing the provisions of this Article or controlling or reducing the potential for pollution of the groundwaters or surface waters of the County from toxic or hazardous materials.
- b. The Commissioner shall prepare regulations and may from time to time prepare revisions to such regulations to properly implement the provisions of this Article, to include technical requirements, administrative procedures, forms, and schedule of fees for services, provided that such regulations are consistent with this Article and are adopted by the Nassau County Board of Health.
- c. The Commissioner may order the owner or any other person in possession or control of any land, structure or equipment, or agent of such owner or other person, to take whatever action is necessary, to bring said land, structure, or equipment into compliance with the provisions of this Article. Such action may include, but is not necessarily limited to the following, either singly or in any combination thereof:
 - 1) ordering tank testing or the testing of the physical integrity of pipes or any other part of a storage facility or ordering the physical testing of the integrity of an entire storage facility;
 - 2) ordering the removal of the contents of a tank, portable container, storage facility, or any part thereof;
 - 3) ordering the removal, abandonment, or reconstruction of any tank, storage facility, or any part thereof installed in contravention of any of the requirements of this Article.

- 4) ordering that physical improvements be performed on any tank, storage facility or part thereof before permitting it to be returned to service including, but not limited to, such improvements as tank lining removal and replacement, and bottom and structural repairs;
 - 5) ordering the preparation of and/or implementation of contingency plans for emergencies, if there is evidence that such plans may be necessary to protect the public from toxic or hazardous materials stored at any particular facility;
 - 6) ordering the posting of a performance bond or other security acceptable to the Commissioner, if the evidence indicates to the Commissioner's satisfaction, that such may be necessary to protect the public from any actual or potential adverse health and safety effects of operating such a facility;
 - 7) establishing special requirements for any permit issued in accordance with the provisions of this Article;
 - 8) ordering the testing by the owner or operator of the contents of any tank, portable container, pipe or storage or transfer facility to establish if the contents are a toxic or hazardous material; and,
 - 9) ordering that employees of the Department be provided access to any and all portions of a facility for the purpose of determining compliance with all provisions of this Article.
- d. The Commissioner may lower the quantity limitations listed in Section 7 - Exemptions for specific toxic or hazardous materials where necessary to protect the public health.

- e. When a leak of toxic and hazardous materials or wastes is suspected or appears probable, or where tests or inspections have not been performed, or where accurate inventory records are not kept and reconciled as required by this Article, the Commissioner may order the owner or operator to inspect and to test the tanks or equipment for tightness and structural soundness. If the owner or operator fails to conduct such tests and inspections within ten (10) days, the Department may conduct, or have conducted, such inspections or tests for tightness or structural soundness. The expenses of conducting such tests as ordered by the Commissioner shall be paid by the facility owner and or any other person in possession or control of said facility.

Section 5. - Prohibited Discharges, Transporting and Disposal

- a. No person shall discharge toxic or hazardous materials or wastes in Nassau County, without a State Pollutant Discharge Elimination System (SPDES) Permit or a permit issued by the Department for that purpose and without being in compliance with all provisions of that permit.
- b. No person shall pick up, transport, or dispose of toxic or hazardous waste in Nassau County without having a valid and appropriate New York State industrial waste transporter's permit or a permit issued by the Department for that purpose and without being in compliance with all provisions of that permit.
- c. Any permitted industrial waste transporter shall maintain a copy of the permit on each vehicle operated by said transporter, at all times.

- d. No person shall generate, store or transfer toxic or hazardous waste in Nassau County without a valid permit issued by the New York State Department of Environmental Conservation and/or the Department for that purpose and without being in compliance with all provisions of that permit.

Section 6. - Permits and Registration

- a. No person shall use, operate, construct, install, or substantially modify a storage facility, or part thereof designed, used for, or containing toxic or hazardous materials and waste without having registered all tanks at the facility with the Department and without having obtained a valid construction or operation permit therefor issued under this Article. All petroleum storage facilities with a total storage capacity greater than 1,100 gallons must be registered with the Department by December 27, 1986.
- b. Any person in possession of or acting pursuant to a permit issued under the provisions of this Article shall not undertake, allow, or cause, any act in contravention of any provision of the permit and of this Article.
- c. No permit to construct or operate a storage facility as required pursuant to this Article shall be issued by the Department unless and until the prospective permittee:
 - 1) has provided a listing to the Department of all of the toxic or hazardous materials and waste that are or will be stored at the storage facility, including the chemical names of all substances or combinations or mixtures thereof by container or tank and quantity; and,

- 2) has demonstrated in writing that said storage facility complies with all of the provisions of this Article; and,
 - 3) has registered all tanks with the Department in accordance with the requirements of this Article.
- d. Any permit issued pursuant to this Article shall be effective only for the specified duration of time indicated thereon, not to exceed five (5) years from the effective date thereof.
 - e. Any permit issued pursuant to this Article may be combined with other permits issued by the Department. The decision to combine permits rests solely with the Department.
 - f. Plans for new construction or substantial modifications to existing facilities must be prepared by a licensed professional engineer proficient in such matters.

Section 7. - Exemptions

- a. Toxic or hazardous materials
 - 1) Tanks for the storage of toxic or hazardous materials which meet all of the following criteria shall be exempt from all provisions of this Article except for those contained in Sections 3 - Definitions; 4 - Powers of the Commissioner; 5 - Prohibited Discharges; 7 - Exemptions; 9.a.10) and 9.a.11) - General, 9.b.2)a) - New Facilities; 10.b.1) - New Facilities; 15.a. and 15.c. - Reporting, Records, Cleanup; 17 - Posting and Labeling; 18 - Waivers; 19 - Effective Date; and the Regulations adopted thereunder.
 - a) The materials so stored are not toxic or hazardous wastes, and
 - b) the total storage capacity of the tanks is less than 50 gallons for any halogenated hydrocarbons, and

- c) the total storage capacity of [the] all tanks at the facility is less than 250 gallons for any other toxic or hazardous materials.
- 2) Containers for the storage of toxic or hazardous materials which meet all of the following criteria shall be exempt from all provisions of this Article except those contained in Sections 3 - Definitions; 4 - Powers of the Commissioner; 5 - Prohibited Discharges; 7 - Exemptions; 9.a.10) and 9.a.11) - General, 9.b.2)a) - New Facilities; 15.a. and 15.c. - Reporting, Records, Cleanup; 17 - Posting and Labeling; 18 - Waivers; 19 - Effective Date, and the requirements adopted thereunder.
- a) The materials so stored are not toxic or hazardous wastes, and
 - b) the total storage capacity of the containers is less than 50 gallons for any halogenated hydrocarbons, and
 - c) the total storage capacity of the containers is less than 250 gallons for any other toxic or hazardous materials, and
 - d) the containers are stored within a weathertight, heated structure.
- 3) All storage of toxic and hazardous materials in containers of five gallon capacity or smaller, where the total capacity stored at any time does not exceed 250 gallons or where the dry storage in bags, bulk or small containers does not exceed 2,000 pounds, is exempt from all provisions of this Article unless specifically ruled otherwise by the Commissioner on a case-by-case basis as inconsistent with the intent of this Article.

- 4) All storage of toxic or hazardous materials in tanks or containers which are covered by the provisions of the Nassau County Fire Prevention Ordinance are exempt from all provisions of this Article.
- 5) All existing fuel oil storage facilities with a capacity of 1100 gallons or less which are used solely for on-site space heating purposes shall be exempt from all provisions of this Article, except for Sections 3 - Definitions; 4 - Powers of the Commissioner; 5 - Prohibited Discharges; 7 - Exemptions; 9.a.2), 9.a.10) and 9.a.11) - General; 15.a. and 15.c. - Reporting, Records, Cleanup; 18 - Waivers; 19 - Effective Date, and any Regulations adopted thereunder.
- 6) All new and replacement underground fuel oil storage facilities with a capacity of 1100 gallons or less used solely for on-site space heating purposes shall be exempt from all provisions of this Article except for Sections 3 - Definitions; 4 - Powers of the Commissioner; 5 - Prohibited Discharges; 7 - Exemptions; 9.a.2), 9.a.10) and 9.a.11) - General, 9.b.2.a) - New Facilities; 10.b. - New facilities; 15.a. and 15.c. - Reporting, Records, Cleanup; 18 - Waivers; 19 - Effective Date, and any Regulations adopted thereunder.
- 7) All new and replacement aboveground fuel oil storage facilities with a capacity of 1,100 gallons or less used solely for on-site heating shall be exempt from all provisions of this Article except for Sections 3 - Definitions; 4 - Powers of the Commissioner; 5 - Prohibited

Discharges; 7 - Exemptions; 9a.10) and 9.a.11) - General, 9.b.2)a) - 11.b New Facilities; 15.a and 15.c - Reporting, Records, Cleanup; 18 - Waivers; 19 - Effective Date, and any Regulations adopted thereunder.

- 8) All aboveground and underground petroleum storage facilities that are oil production facilities, facilities licensed under Article 12 of the Navigation Law, or facilities regulated under the federal Natural Gas Act are exempt from all provisions of this Article.

b. Toxic or Hazardous Wastes

- l) All storage of toxic and hazardous wastes except medical wastes in tanks and containers which meet all of the following criteria shall be exempt from all provisions of this Article except those contained in Sections 3 – Definitions; 4 - Powers of the Commissioner; 5 - Prohibited Discharges; 7 - Exemptions; 9.a.10) and 9.a.11) - General, 9.b.2)a) - New Facilities; 15.a. and 15.c. - Reporting, Records, Cleanup; 17 - Posting and Labeling; 18 - Waivers; 19 - Effective Date, and the Regulations adopted thereunder.

- a) The total generation per month, and storage or accumulation at any time is less than 100 kilograms of hazardous waste, and
- b) for industrial or commercial establishments the total storage or accumulation at any time is 27.5 gallons or less of liquid wastes which if disposed or discharged would be in noncompliance with a New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) Permit

if said permit were to be issued.

- 2) Medical wastes generated in a private home by a resident of the home or by a person providing care to a resident of the home shall be exempt from regulation by this ordinance if the waste is disposed of from the home.

Section 8. - Transfer of Permits Prohibited

No person shall transfer a permit issued pursuant to Section 6 of this Article from one location to another, from one storage facility to another, or from one person to another. Any permit transferred in violation of this section shall be deemed null and void, and without any effect whatsoever as of the date of said unlawful transfer. However, upon making proper application, a new owner of a facility which was previously operating under a valid permit may continue the same operation under the terms of the old permit until such time as the new permit is issued or denied.

Section 9. - Storage and Transfer Facilities

a. General

- 1) All storage facilities or parts thereof must be equipped with a means of calculating product delivery and consumption. Accurate records must be kept of all deliveries and consumption and the figures reconciled daily in an approved manner. Any unusual inventory variations greater than 3/4 of 1 percent shall be immediately reported to the Department.
- 2) No person shall abandon or render out-of-service any storage or transfer facility or part thereof without doing so in accordance with requirements adopted under this Article.

- a) Forms of surety or financial assurances may be required by the Department to ensure proper closure of the facilities. The amount of such financial assurances will be set by the Commissioner.
- 3) No person shall sell or transfer to another an improperly abandoned storage or transfer facility or land containing these facilities unless the purchasing party has been made fully aware in writing of such improper abandonment.
- 4) The owner or other person in possession or control of a storage or transfer facility or part thereof shall not render it out-of-service unless said storage facility or part thereof is planned to be returned to active service within one (1) year of its placement out-of-service, it is returned to active service within said one (1) year pursuant to the provisions of this Article, it is drained of all liquid, the fill line, gauge opening and discharge line are capped and blind flanged and secured against tampering, and the vent line is left open.
- 5) No person shall place toxic or hazardous materials in an abandoned or out of service storage facility.
- 6) No person shall bring an out-of-service storage or transfer facility back into service without the written approval of the Department.
- 7) No person shall repair, alter or prepare for use or bring back into service any abandoned storage or transfer facility without first obtaining a permit from the Department.

- 8) The owner or other person in possession or control of a storage or transfer facility or part thereof or the real property on or in which it is situated shall upon discovery of abandonment:
 - a) Immediately remove all toxic or hazardous materials and;
 - b) Within 90 days permanently remove the storage or transfer facility, or part thereof, in accordance with the requirements adopted under this Article unless approval is granted by the Commissioner to do otherwise.
- 9) No person shall replace or cause the replacement of any storage or transfer facility or part thereof for any reason without complying with the new storage or transfer facility Regulations adopted under this Article.
- 10) When a storage or transfer facility or part thereof is found to be leaking, it must immediately be emptied of all contents therein contained and rendered out - of - service by the owner or his agent unless written approval is specifically granted by the Department to do otherwise.
- 11) The owner or other person in possession or control of a leaking storage or transfer facility or part thereof shall not cause or permit the leaking portion to remain in service or to continue to retain its toxic or hazardous material contents after said owner or other person in possession or control knows or should know of the existence of the leak.

b. New Facilities

- 1) For the purpose of this Article a new storage or transfer facility shall be one for which construction is not substantially complete by the effective date of this Article.
- 2) No person shall fabricate, construct, install, sell, use, put into service, or maintain a new storage or transfer facility or part thereof:
 - a) in a manner which will allow the discharge of toxic or hazardous materials to the ground, groundwaters, or surface waters of Nassau County; and
 - b) without previously having submitted plans therefore to the Department, and without having received approval of said plans; and
 - c) without providing proof of compliance with the plans submitted to and approved by the Department. Proof of compliance shall include a certification by a licensed professional engineer stating that the construction is in complete compliance with the approved plans; and
 - d) without complying with all Regulations adopted under this Article with respect to but not limited to, materials of construction, overfill protection, spill protection, monitoring and leak detection, cathodic protection, weather and moisture protection, secondary containment, and certification of installation.

c. Existing Facilities

- 1) For the purpose of this Article an existing storage or transfer facility shall be one for which construction was substantially complete by the effective date of this Article.
- 2) No person shall substantially modify, cause or allow the substantial modification of any existing storage or transfer facility:
 - a) without previously having submitted plans therefore to the Department and without having received approval of said plans; and
 - b) without providing proof of compliance with the plans submitted to and approved by the Department. Proof of compliance shall include certification by a licensed professional engineer that the construction is in complete compliance with the approved plans; and
 - c) without complying with all Regulations adopted under this Article.
- 3) a) No person shall use or maintain the existence of any existing storage or transfer facility without modifying the facility or repairing any defects in said storage facility so as to comply with all requirements adopted under this Article including, but not limited to, overfill protection, spill protection, monitoring and leak detection, cathodic protection, secondary containment and interior coating.

- b) All modification of storage and transfer facilities for products covered under this Article except existing underground storage facilities, existing on the effective date of this Article shall be completed in accordance with a schedule to be developed in the Regulations adopted under this Article but in no event later than January 1, 1996.
- c) All storage and transfer facilities that cannot be modified in accordance with the Regulations adopted under this Article and the schedule developed in the Regulations shall be replaced in accordance with the requirements for new storage and transfer facilities.

Section 10. - Underground Storage Facilities

a. General

- 1) In addition to the requirements of this section, all underground storage facilities must conform to the requirements of Section 9.
- 2) All underground storage facilities or parts thereof must be provided with a means of monitoring frequently and accurately for any leakage or spillage that may occur. All leak detection systems and tanks shall be monitored by the facility operator on a weekly basis and the results recorded and kept with the product inventory records. Leak detection and monitoring must conform to the Regulations adopted under this Article.

b. New Facilities

- 1) All new underground storage tanks, including all piping, shall be double walled or equivalent and in accordance with all requirements adopted under this Article. All new underground storage facilities of less than 1,100 gallons storage capacity used solely for on site space heating purposes may be of single walled fiberglass construction. All tanks and appurtenances are to be installed in a professional and workmanlike manner in accordance with manufacturer's recommendations. The determination of equivalency shall rest solely with the Department.
- 2) A means of overfill protection shall be provided for all new underground storage facilities or parts thereof and for all replacement underground storage facilities or parts thereof. Overfill protection shall consist of either an overfill protection device or a product-tight containment capable of intercepting and preventing the release to the ground, groundwater, or surface water of an overfill spill and shall be in accordance with the Regulations adopted under this Article.
- 3) All new underground storage facilities must be tested for tightness in accordance with Regulations adopted under this Article before being placed in service.

c. Existing Facilities

- 1) All underground storage facilities existing on August 1, 1986 which do not meet the requirements for new tanks, must be tested and inspected at the following frequency:

Testing Schedule (Corrodible and Noncorrodible Tanks)

<u>Age of Tank</u>	<u>Test Date (Initial)</u>
25 years or greater	August 1, 1987
10 years to 24 years	December 27, 1987
5 years to 9 years	August 1, 1991 or on 10th anniversary, whichever is sooner
0 to 4 years	within 6 mos. of 5th anniversary

Note: Underground storage tanks that contain #5 or #6 Fuel Oil and that are 10 years of age or older are exempt from the above Initial Testing Schedule and are required to be initially tested by December 27, 1988.

Repeat Testing

Corrodible Tanks

Tanks 20 years of age or older, retest every year; tanks less than 20 years of age, retest every 2 years.

Noncorrodible Tanks

Test every 5 years, after initial test.

- 2) Testing and inspection for tightness shall include all tanks, piping, fittings, valves and connections for the facility.
- 3) If for any reason testing satisfactory to the Department cannot be performed, the storage facility must be rendered out of service or brought up to the requirements for new storage facilities.

- 4) Testing and inspection shall be done in accordance with the Regulations adopted under this Article and shall be recorded on a Certificate of Test Completion supplied by or acceptable to the Department.
- 5) Certificates of Test Completion and other supporting material shall be prepared by the tester and submitted to the Department within thirty (30) days after completion of the testing.
- 6) Certificates of Test Completion shall be prepared and all testing performed by a tester whose qualifications are acceptable to the Department. Acceptance of qualifications will be based on submission of proof that the tester has received training and/or certification from a recognized school or agency or other proof of training, experience or expertise in testing underground tanks.
- 7) All existing underground storage facilities shall be replaced or modified so as to be in accordance with the requirements for new storage facilities in accordance with the following schedule. The age of a tank is the age measured from the date of installation as of August 1, 1986.

Replacement Schedule

<u>Age of Tank in Service</u>	<u>Replace Tank by:</u>
30 years or older	August 1, 1990
25 years to 29 years	August 1, 1993
20 years to 24 years	August 1, 1996
15 years to 19 years	August 1, 1999
Less than 15 years	August 1, 2005

Section 11. - Aboveground Storage Facilities

a. General

- 1) In addition to the requirements of this section all aboveground storage facilities must conform to the requirements of Section 9.

b. New Facilities

- 1) No person shall construct, fabricate, install, use or maintain any new aboveground storage facility without providing a positive means of detecting an overfilling condition therein before any spillage can occur, which detection system shall include but not be limited to, alarms both visible and audible at a point on the premises most frequently manned. The overflow point must be clearly visible to the operator filling the facility where possible or an operator of the receiving facility when the fill point is remote from the receiving facility.
- 2) No person shall fabricate, construct, install, use or maintain any new aboveground storage facility sitting on the ground and making contact therewith or partially buried in the ground, unless and until the exterior surface of the areas in contact with the ground are cathodically protected in accordance with the requirements adopted under this Article.
- 3) All tanks and appurtenances are to be installed in a professional and workmanlike manner and in accordance with industry standards. All piping to and from the storage facility is to be protected from corrosion in accordance with the Regulations adopted under this Article.

- 4) No person shall fabricate, construct, install, use, or maintain any new aboveground storage facility or part thereof without having constructed around and under it an impervious containment and dike enclosing the storage facility and provided leak detection in accordance with the Regulations adopted under this Article.
 - 5) For aboveground 275-gallon capacity petroleum product storage tanks used solely for heating purposes at single-family residences, a concrete pad extending six inches from the outside boundaries of the tank may be utilized to satisfy secondary containment provisions.
- c. Existing Facilities
- 1) All existing aboveground storage tanks sitting on or in the ground and making contact therewith shall be drained, cleaned, sand blasted, tested and repaired, and the interior bottom coated to prevent corrosion in accordance with the Regulations adopted under this Article. The above shall be completed in accordance with the permit but in no event more than five years from the effective date of this Article.
 - 2) All existing aboveground storage tanks which are in contact with the ground shall be equipped with overfill protection and cathodic protection in accordance with the Regulations adopted under this Article. Overfill and cathodic protection shall be installed in accordance with the permit but in no event more than five years from the effective date of this Article.

- 3) Any existing aboveground storage facility operator, owner, lessee or person shall inspect their tanks and file an acceptable Proof of Inspection with the Department in accordance with the Regulations adopted under this Article. Aboveground storage facilities or parts thereof sitting on the ground and in contact therewith or partially buried in the ground and in contact therewith shall be emptied and cleaned to facilitate inspection of portions thereof not accessible from the outside. Inspections shall be performed at frequencies not to exceed five years.
- 4) Inspection shall include all tanks, piping fittings, valves and connections of the facility.
- 5) If for any reason an inspection to demonstrate compliance with the provisions of this Article and to determine the integrity of the tank(s) cannot be performed, the tanks(s) must be removed from service or brought up to the requirements for new tanks.
- 6) Inspections shall be done in accordance with the requirements adopted under this Article and shall be recorded on a Proof of Inspection form supplied by or acceptable to the Department.
- 7) Proof of Inspection shall be submitted to the Department within thirty (30) days after the inspection and before the tank is refilled.
- 8) Proof of Inspection shall be prepared and all inspections performed by a person or firm whose qualifications are acceptable to the Department. Acceptance of qualifications

will be based on submission of proof that the inspector has received training and/or certification from a recognized school or agency, or other proof of training, experience or expertise in inspecting tanks.

Section 12. - Transfer Operations

- a. In addition to the requirements of this section, all transfer facilities must conform to the requirements of Section 9.
- b. No person shall transfer, cause the transfer or permit the transfer of toxic or hazardous materials to or from a storage facility, part thereof or vehicle, where conditions at the transfer facility are inadequate in the judgment of the Department at the time of said transfer to ensure a safe transfer operation without the likelihood of occurrence of spills, leaks, or other accidents.
- c. All transfer facilities shall be constructed so that all possible points of overflow are visible from the loading and unloading locations, and the vehicle, or the portion thereof receiving the delivery shall have adequate capacity to contain the amount of toxic or hazardous material being transferred or to be transferred, and a person performing or causing said transfer shall insure by some reliable means that the vehicle, storage facility or part thereof has adequate capacity and capability to contain the amount of toxic or hazardous material being transferred or to be transferred.

- d. All transfer facilities shall be in full compliance with all provisions of the permit for the facility and all Regulations adopted under this Article.
- e. All transfer facilities shall be constructed with a level of spill protection equivalent to that provided by a fill stand area completely paved and curbed with an impervious material and drained to a holding tank of adequate size to contain any spill that could reasonably be expected to occur from the normal operation of the facility, and roofed so as to exclude precipitation which would otherwise tend to fill the holding tank.

Section 13. - Bulk Storage of Toxic or Hazardous Materials

- a. In addition to the requirements of this section, all bulk storage facilities must conform to the requirements of Section 9.
- b. No person shall fabricate, construct, install, modify, repair, use, maintain, or operate, any bulk storage facility or part thereof without doing so in a manner that will prevent the toxic or hazardous materials contained therein from coming into contact with precipitation or other sources of moisture and so as to prevent the development of an explosive, incendiary, or other hazardous or dangerous condition; and without:
 - 1) Providing for the segregation of potentially reactive chemicals which are toxic or hazardous materials or which may react so as to form toxic or hazardous materials, which reaction may present or cause a hazardous or dangerous condition; and without,

- 2) Providing for and storing bagged toxic or hazardous materials on pallets, and within a roofed structure that prevents precipitation from reaching the bags; and without,
 - 3) Providing an impervious floor without floor drains with a surrounding impervious dike so as to provide containment for hazardous or toxic materials generated from firefighting; and without,
 - 4) Providing for adequate security so as to protect the storage facility and toxic or hazardous contents therein from vandalism and accident; and without,
 - 5) Complying with any other requirements adopted under this Article.
- c. Road deicing salt and other deicing materials or mixtures containing salt or other deicing materials must be stored in an approved permanent, weathertight, enclosed structure on an impervious floor. Outside areas used for mixing of road deicing salts or other deicing materials with abrasives shall have an impervious pad designed to collect and store the brine runoff for proper disposal in accordance with federal, State and local requirements. Brine shall not be discharged onto the ground, into the groundwater, or into any body of fresh surface water. An approved structure may not be required for the storage of road deicing material when such storage is located on or near a body of marine surface water, and when all brine runoff can be discharged directly into the marine surface water in accordance

with Federal, State and local requirements. The deicing material must be stored on an impervious, diked pad and covered with a properly secured, waterproof material to minimize any discharge of brine runoff to the marine surface waters. The storage of road deicing salt, other deicing materials or mixtures shall also be in compliance with the provisions of the permit issued for each facility and all Regulations adopted under this Article.

Section 14. - Containers

- a. In addition to the requirements of this section, all container storage facilities must conform to the requirements of Section 9.
- b. No person shall fabricate, construct, install, operate, or otherwise create a container storage facility or part thereof containing toxic or hazardous materials, without doing so in a manner to prevent the discharge of any of the toxic or hazardous contents of the containers therein to the ground, groundwaters or surface waters of Nassau County, and without:
 - 1) First having submitted satisfactory plans and specifications therefore to the Department for approval; and without,
 - 2) Constructing, installing, fabricating, operating or otherwise creating said storage facility in accordance with the reports, specifications and plans submitted and approved by the Department; and without,
 - 3) Constructing, fabricating, installing, operating, or otherwise creating a storage facility or part thereof in accordance with the Regulations adopted under this Article.

- c. The owner or other person in possession or control of a container storage facility shall comply with all Regulations adopted under this Article.
- d. No person shall repair or modify or cause or permit said repairs or modifications of a container storage facility or part thereof for the storage of toxic or hazardous materials without performing said repairs or modifications or having them performed, pursuant to plans and specifications previously submitted to and approved by the Department.

Section 15. - Reporting, Records, Cleanup

- a. The owner or other person in possession or control of any storage or transfer facility or part thereof, or any person with knowledge of such events, shall report by the fastest means possible any unauthorized discharge, spill, leak, or recognizable loss of toxic or hazardous materials therefrom, or the failure of said storage facility, to the Department within two (2) hours of the time such owner or other person had sufficient evidence that he or she knew or should have known of said unauthorized discharge, spill, leak, loss, or failure. A report to the Department shall not be deemed to constitute compliance with any reporting requirement of any other federal, State, or local law.
- b. The owner or other person in possession or control of any storage or transfer facility or part thereof shall keep records in writing reflecting the types and amounts of toxic or hazardous materials stored in the said storage or transfer facility or part thereof at any given time. These records shall be stored in a manner to provide access to them during an emergency.

- 1) The owner or other person in possession or control of any storage or transfer facility or part thereof shall keep records of the disposal or other transfer in or out of the said storage or transfer facility or part thereof, such records reflecting the types and amounts of toxic and hazardous materials involved in the transfer.
 - 2) No person required to keep records by any provision of this Article shall fail to make said records available for inspection by the Commissioner or his representative, for at least five (5) years from the date of the event, occurrence, or transaction recorded. Copies of all records shall be provided to the Department when requested.
 - 3) No person required to keep records by any provision of this Article shall fail to keep, record, and maintain said records in accordance with Regulations adopted under this Article.
 - 4) No person shall fail to submit a report of the types and amounts of toxic or hazardous materials stored in a storage facility upon request of the Commissioner and to periodically update said report on a frequency to be determined by the Commissioner.
- c. It shall be the responsibility and obligation of any person or owner, in possession or control of any facility discharging toxic or hazardous materials who causes or permits the discharge of any toxic or hazardous material to the ground, groundwaters or surface waters of Nassau County to cease said discharge, to

reclaim, recover and/or properly dispose of the discharged toxic or hazardous material and any other substance contaminated therefrom, to restore the environment to a condition and quality acceptable to the Department, and to repair any damages caused thereby, all to the satisfaction of the Department. Cleanup shall be in accordance with a remedial plan previously submitted to and approved by the Department.

- 1) No person required by provisions of this Article, or by any order of the Commissioner, shall fail to reclaim, recover, or otherwise dispose of, discharged toxic or hazardous materials and other substances contaminated therefrom and/or to restore the environment to the condition that existed prior to the discharge of toxic or hazardous materials thereto, or to fail to perform said required acts pursuant to any Regulations adopted under this Article.
 - 2) No person shall store toxic or hazardous materials without first having a standard operating procedure (SOP) for handling of said materials acceptable to the Department and a copy of such SOP posted in all areas where hazardous materials are used and/or stored. All provisions of the SOP shall be followed.
- d. It shall be the responsibility of all Towns, Cities, and Villages in Nassau County to insure compliance with all requirements of the Article and all Regulations adopted thereunder by requiring applicants to obtain approvals from the Department on all matters covered by this Article prior to issuance of any permits or approvals by the local jurisdiction.

- e. All persons having information relating to tanks, including, but not limited to, sales, installation, leakage and testing of same, are required to report this information to the Department upon request of the Commissioner.

Section 16. - Confidentiality of Records

- a. If any information identified by the owner as confidential relating to secret processes, or methods of manufacture or production, is obtained in the course of an inspection or investigation, or submitted to the Department, it shall be kept confidential except for the use and purpose of the Department in the enforcement of the provisions of this Article.
- b. In the event that a person claims to be unable to file complete reports and/or plans and specifications on the grounds that it relates to and is part of a secret process or method of manufacture or production, an affidavit signed by an authorized person must be filed with the Department describing:
 - 1) Location of the process or equipment, identifying the building and the section or part of the building in which it is located;
 - 2) In general terms, the name of the process equipment;
 - 3) Means to be employed for the control of water contaminants;
 - 4) Nature and estimated rate of discharge of contaminants to the ground or surface waters;
 - 5) Authority of the person signing the affidavit;
 - 6) A sworn statement that the installation is related to a secret process or method of manufacture or production. In the event any such affidavit is filed, the Department shall

determine the extent to which an exemption should be granted. Any information relating to secret processes, methods of manufacture or production which may be required, ascertained or discovered by the Department shall not be disclosed, and shall be kept confidential.

Section 17. - Posting and Labeling

- a. The owner or other person in possession or control of any place, building, land, or thing shall not store toxic or hazardous materials therein or thereon without conspicuously posting a notice on the premises warning of the presence of such materials and providing any safety information necessary to protect the public and assist emergency response personnel in carrying out their responsibilities.
- b. No person shall use, maintain or operate any storage facility or part thereof without:
 - 1) Clearly labeling the specific contents of each portable container conspicuously on said container; and
 - 2) Clearly labeling the specific contents of each aboveground tank conspicuously thereon; and
 - 3) Clearly labeling the specific actual, intended and possible contents of piping associated with any storage facility or part thereof at or near the points of filling or drawing; and
 - 4) Conspicuously posting on the premises of the facility any permit issued pursuant to this Article; and
 - 5) Posting additional signs, upon request of the Commissioner, on the premises with sufficient information on the types and

quantities of toxic and hazardous materials stored to assist emergency response personnel. The number, location, size and wording of these signs shall be approved by the Department.

- c. No person shall falsely post or label any container or storage facility or post an invalid permit.
- d. All labels and posting of information and/or signs shall be in accordance with the Regulations adopted under this Article.

Section 18. - Waivers

- a. For those Facilities of over 1100 gallons storage capacity containing Petroleum products as defined in Section 3(q), a waiver may be granted by the Commissioner only for those provisions pertaining to new or substantially modified facilities.
- b. For those Facilities that have a total storage capacity for petroleum products of 1,100 gallons or less or those facilities or tanks that do not store petroleum products as defined in Section 3(q), the Commissioner may waive any requirement, mandate, prohibition or time limitation imposed by the provisions of this Article or any procedure, standard, requirement or order generated thereunder.
- c. Requests for waivers must be made in writing and include sufficient information so that a determination that the request for a waiver is in accordance with the intent of this Article may be made.

Section 19. - Effective Date

This Article shall become effective on February 1, 1986.

Amended July 25, 1986. Effective August 1, 1986.