

ARTICLE 12

TOXIC AND HAZARDOUS MATERIALS STORAGE AND HANDLING CONTROLS

§760-1201 Declaration of Policy

The designated best use of all groundwaters of Suffolk County is for public and private water supply, and of most surface waters for food production, bathing and recreation. The federal government has officially designated the aquifer below Suffolk County as a sole-source for water supply. Therefore, it is hereby declared to be the policy of the County of Suffolk to maintain its water resources as near to their natural condition of purity as reasonably possible for the safeguarding of the public health and, to that end, to require the use of all available practical methods of preventing and controlling water pollution from toxic and hazardous materials.

§760-1202 Statement of Purpose

It is the intent and purpose of this Article to safeguard the water resources of the County of Suffolk from toxic or hazardous materials pollution by controlling or abating pollution from such sources in existence when this Article is enacted and also by preventing further pollution from new sources under a program which is consistent with the above-stated Declaration of Policy.

§760-1203 Definitions

Whenever used in the Article, unless otherwise expressly stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings set forth or indicated:

- A. **Aboveground**, when referring to tanks, means more than 90 percent exposed above the final ground elevation.
- B. **Bulk Storage** means the loose or bagged storage of dry or semi-dry materials.
- C. **Commissioner** means the Commissioner of the Suffolk County Department of Health Services.
- D. **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 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 or storage of soils, sand or debris containing toxic or hazardous materials;
 - 4. disposal to: storm drains, cooling water, roof drains, sanitary systems, or any other drainage system or leaching system of toxic or hazardous materials;
 - 5. burial, land-spreading or dumping anywhere of toxic or hazardous materials, including but not limited to landfill and scavenger facilities, notwithstanding that the material so buried, spread or dumped was containerized at the time of said burial, spreading or dumping;
 - 6. passing of toxic or hazardous waste materials to any person;

7. abandonment of containers, tanks, pipes, vehicles or premises containing toxic or hazardous materials or residues. For the purpose of this subdivision, abandonment shall mean:
 - a. substantially empty and unattended, or
 - b. the relinquishment or termination of possession, ownership or control without full disclosure to the new owner thereof of containers, tanks, pipes, vehicles or premises containing toxic or hazardous materials or residues, whether by vacating or by disposition thereof, and shall not depend on a mere lapse of time.
- E. **Double-Walled** means constructed with more than one containment layer with space between the layers sufficient to allow monitoring of any leakage into or out of the space.
- F. **Impervious** means a layer of natural and/or man-made material of sufficient thickness, density and composition as to prevent the discharge into the underlying groundwater or adjacent surface waters 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 the spilled product with minimum disturbance of the containment material.
- G. **New York State Discharge Standards** means standards of quality and purity and special standards, and groundwater quality standards and effluent standards, and/or limitations as found in Title 6, Parts 701-703 of the Official New York Compilation of Codes, Rules and Regulations.
- H. **Pollution** means the presence in the environment of conditions and/or contaminants in quantities or characteristics, which are or may be injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life and property throughout such areas of the County as shall be affected thereby.
- I. **Product-Tight** means impervious to the material which is or could be contained therein so as to prevent the detectable seepage of the product through the container. To be product-tight, the container shall be made of a material that is not subject to physical or chemical deterioration by the product being contained.
- J. **Properly Registered Industrial Waste Scavenger** means a person in the business of collecting industrial wastes who carries a current, valid industrial waste collector registration issued by the New York State Department of Environmental Conservation.
- K. **Substantial Modifications** shall mean the construction of any additions to an existing storage facility as defined under §760-1203.M, 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.
- L. **Single-Walled** means constructed with walls made of but one thickness of material. Laminated, coated, or clad materials shall be considered as single-walled.

M. **Storage Facility** means tanks, pipes, vaults, buildings, yards, pavements or fixed containers used or designed to be used, either singly or in any combination thereof, for the storage and/or transmission of toxic or hazardous materials or for the storage of portable containers containing toxic or hazardous materials. This shall include skid or wheel mounted tanks if they are used for storing toxic or hazardous materials in a manner that could be accomplished by use of fixed or permanently installed tanks, but shall not include the temporary use of wheeled or skid mounted tanks for the purpose of dispensing petroleum products into "off-road" vehicles and other equipment used for construction-related purposes at construction sites, or for temporary use at spill cleanup or groundwater remediation sites.

N. **Toxic or Hazardous Materials** means any substance, solution or mixture which, because of its quality, quantity, concentration, physical, chemical or infectious characteristics, or any combination of the foregoing, presents or may present an actual or potential hazard to human health or to the drinking water supply if such substance, solution, mixture or combination thereof is discharged to the land or waters of the County of Suffolk. Toxic or Hazardous Materials shall include:

1. each and every substance, material or waste identified or listed anywhere in Part 116, Part 261, or Part 302, Title 40 of the Code of Federal Regulations; or in either or both Part 371 and Part 597, of Title 6 of the New York State Codes, Rules and Regulations;
2. acids and alkalies beyond the pH range of 4 to 10;
3. heavy metal sludges, mixtures and solutions in excess of standards;
4. petroleum products, including fuels and waste oils, except heavy tars and asphalts;
5. organic solvents, including petroleum solvents, halogenated and non-halogenated hydrocarbons;
6. any material listed in Part 703.6 of the Official Compilation of New York Codes, Rules and Regulations, in excess of the concentration standards thereof, except for iron, manganese, foaming agents and pH unless otherwise provided elsewhere in this Article;
7. any substance not included within subdivisions one through six above subsequently declared to be a Toxic or Hazardous Material by the Commissioner;
8. any solid or semi-solid material which, if left to stand or if exposed to water will leach out or wholly or partially dissolve forming a Toxic or Hazardous Material as defined in subdivisions one through seven above.

All Toxic or Hazardous Materials are hereby declared to also be offensive materials for the purposes of Article 5.

O. **Toxic or Hazardous Wastes** mean:

1. Toxic or Hazardous Materials as defined in subdivision (N) above, generated by or as the result of operations in or the existence of any manufacturing or other industrial or commercial establishment, which toxic or hazardous materials are not actually used in a final product for sale, and shall include those toxic or hazardous materials retained as

byproducts of the operations within such manufacturing or other industrial or commercial establishment for the purpose of recouping salvage value; or

2. Toxic or Hazardous Materials generated by one in possession or control of any residential premises, for which materials disposal is intended, and which waste is not domestic wastewater without the admixture of non-sewage wastewater from any industrial process.
 3. All toxic or hazardous wastes are Toxic or Hazardous Materials.
- P. **Underground**, when referring to tanks, means 10 percent or more below the final ground elevation.
- Q. **Existing Storage Facility** means any one constructed before January 1, 1980. It also means any outdoor heating oil tank of 1,100 gallons or less and any indoor heating oil tank of any size constructed before November 1, 1982.
- R. **New Storage Facility** means any one constructed after January 1, 1980, except that for any outdoor heating oil tank of 1,100 gallons or less and for any indoor heating oil tank of any size, it shall mean one constructed after November 1, 1982.
- S. **Installation** shall mean the same as facility.

§760-1204 Powers of the Commissioner

- A. The Commissioner may make, or cause to be made, or order the owner or operator of any property or facility to make any investigation or study which, in his/her opinion, is desirable for enforcing this Article or controlling or reducing the potential for contamination of the waters of the County from toxic or hazardous materials. This may include the ordering of a groundwater investigation where information suggests that a discharge of toxic or hazardous materials may have occurred.
- B. 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 in the opinion of the Commissioner to bring said land, structure or equipment into compliance with the provisions of this Article and any standards or regulations promulgated thereunder. 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 or abandonment or reconstruction of any installation, tank, storage facility or any part thereof installed in contravention of any of the requirements of this Article or any standards or regulations promulgated thereunder;
 4. ordering that physical improvements be performed on any tank, storage facility or part thereof before permitting it to be returned to service including such improvements as tank lining removal and replacement, bottom and structural repairs;

5. ordering the drafting of and/or implementation of contingency plans 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 undertaking either prior to or subsequent to the construction or operation of a storage facility within Suffolk County on a case-by-case basis if evidence indicates such may be necessary to protect the public from the effects of operating or closing such a facility.
- C. The Commissioner may require the licensing, pursuant to standards adopted by the Department, of persons and/or companies installing, constructing, testing, inspecting or removing tanks, piping, pipelines, fittings, connections, alarms, and other related equipment required by this Article.
- D. Notwithstanding any other provision of this Article, if the Commissioner finds a condition which has the potential for contaminating the waters of the County with toxic or hazardous materials, or which otherwise constitutes an immediate danger to public health, and determines that it could appear prejudicial to the public interest to delay action, the Commissioner may serve an order upon the permit holder, or if there is no permit upon the person in charge of the facility or site, citing such conditions and specifying the corrective action to be taken and a time period of less than fifteen (15) days within which such action shall be taken.

Such order may state that a permit is immediately suspended and/or that all operations are to be discontinued forthwith.

Any order requiring certain action or the cessation of certain activities immediately or within a specified period of less than fifteen (15) days shall provide such person an opportunity to be heard, which hearing shall be scheduled for a time no more than fifteen (15) days after the date the order is served.

§760-1205 Prohibited Discharges, Transporting, Disposal, Improper Storage

- A. It shall be unlawful for any person to discharge toxic or hazardous materials in Suffolk County, unless such discharge is specifically in accordance with a State Pollutant Discharge Elimination System (SPDES) Permit or other permit issued by or acceptable to the Commissioner for that purpose.
- B. It shall be unlawful for any person to pick up, transport or dispose of toxic or hazardous waste materials in Suffolk County without having a valid and appropriate New York State industrial waste collector registration.
- C. It shall be unlawful for any industrial waste collector with a registration issued by the New York State Department of Environmental Conservation to fail to maintain a copy thereof on each vehicle operated by said collector at all times.
- D. It shall be unlawful for any person to store toxic or hazardous materials in a facility unless the materials of construction of the facility are compatible with the product being stored.
- E. No reactive toxic or hazardous materials shall be stored in close proximity to each other in a manner that could allow a reaction to occur in the case of leakage, spillage or fire.

§760-1206 Construction and Modification Permits

- A. It shall be unlawful for any person to construct, install or substantially repair or modify a storage facility, or part thereof, without a valid permit therefor issued by or acceptable to the Commissioner.
- B. It shall be unlawful for any person in possession of or acting pursuant to a permit issued under this section to act, allow or cause any act in contravention of any provision of the permit.
- C. Any permit issued pursuant to this section shall be effective for the specified duration of time indicated thereon, not to exceed one year from the effective date thereof.

§760-1207 Permits to Operate

- A. It shall be unlawful for any person to use, cause to be used, maintain, or fill or cause to be filled with toxic or hazardous materials any storage facility or part thereof without having registered all the tanks at the facility on forms provided by the Commissioner, and without having obtained a valid permit to operate such storage facility or part thereof issued by or acceptable to the Commissioner. Changes to registration information, such as owner name, facility operator, tank contents, use, etc., shall be submitted to the Department by the storage facility owner as they occur.
- B. It shall be unlawful for any person in possession of or acting pursuant to a permit issued pursuant to this section to act, permit or cause any act in contravention of any provision of the permit.
- C. (Deleted 12/16/92)
- D. Any permit issued pursuant to this section shall be effective only for the specified duration of time indicated thereon, not to exceed five (5) years from the effective date thereof. Such permit shall be permanently displayed in a front window of the facility or other equally prominent location clearly visible to any inspector positioned outside the facility.

§760-1208 Exemptions

- A. All storage facilities which meet **all** of the following criteria shall be exempt from all provisions of this Article except those contained in §760-1203 - Definitions; §760-1204 - Powers of the Commissioner; §760-1205 - Prohibited Discharges; §760-1208 - Exemptions; §760-1210.A - New Storage Facilities; §760-1210.F - General Provisions and Requirements; §760-1210.H - Overfill Protection; §760-1211.A.4 - Overfill Detection; §760- 1211.D.1 and 2 - Leaks; Repairs; §760-1213.B.1 and 4 - Transfer Operations; and §760-1220 - Variances and Waivers:
 - 1. the materials so stored are not toxic or hazardous wastes; and
 - 2. the volume of the storage facility is less than 1,100 gallons; and
 - 3. the facility is intended solely for the storage of kerosene, number 2 fuel oil, number 4 fuel oil, number 6 fuel oil, diesel oil or lubricating oil, gasoline in aboveground tanks; and
 - 4. the intended use of the product stored is solely for on-site heating, or intermittent stationary power production such as stand-by electricity generation or irrigation pump power; and
 - 5. the materials stored are not intended for resale.

- B. All storage facilities which meet the following criteria shall be exempt from the provisions of this Article contained in §760-1210.B, §760-1210.C, §760-1214, §760-1219, and any regulations or standards promulgated thereunder:
1. the materials so stored are not toxic or hazardous wastes; and
 2. the volume of the storage facility is greater than 1,100 gallons; and
 3. the facility is intended solely for the storage of kerosene, number 2 fuel oil, number 4 fuel oil, number 6 fuel oil, diesel oil, or lubricating oil; and
 4. the intended use of the product stored is solely for on-site heating, or intermittent stationary power production such as stand-by electricity generation or irrigation pump power; and
 5. the materials stored are not intended for resale.
- C. All storage facilities no longer receiving the benefit of any exemption but which were previously exempted from any or all provisions of this Article shall be required to appropriately conform to all of the provisions of this Article and all regulations and standards promulgated pursuant thereto by November 1, 1983.
- D. Tanks for the storage of number 6 fuel oil, or other petroleum products of equivalent viscosity, located outside of the deep recharge areas and water supply sensitive areas as defined in Article 7 of this Code, are exempt from the internal inspection and tank lining requirements.
- Diked areas surrounding such tanks, regardless of location, need not be lined with material more impervious than sand due to the viscose nature of the oil at ambient temperature.
- E. Existing aboveground tanks that are in contact with the ground, but which are, in the opinion of the Commissioner, too large to be moved, are exempt from the requirement for a secondary containment barrier beneath the tank bottom.
- F. All storage of toxic or 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 portions of this Article unless specifically ruled otherwise by the Commissioner on a case-by-case basis.

§760-1209 Transfer of Permits Prohibited

It shall be unlawful for any person to transfer a permit issued pursuant to §760-1206 and §760-1207 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 operation under the terms of the old permit until such time as the new permit is issued or denied.

§760-1210 Underground Storage Facilities

A. New Storage Facilities

1. All new storage facilities used or to be used for the underground storage of toxic or hazardous materials shall be designed and constructed in a manner which will, in the opinion of the Commissioner, provide the maximum reasonable protection available against leakage or spillage from the facility due to corrosion, breakage, structural failure, or other means. Double-walled or equivalent facilities are required for all toxic or hazardous materials, except for tanks for the storage of on-premises heating oil at residential homes. For these, single-walled, non-corrodible facilities may be used. Acceptable designs for tanks include cathodically protected steel; glass fiber reinforced plastic; cathodically protected steel clad with glass fiber reinforced plastic; or other equivalent design approved by the Commissioner.
2. Approval of design by the Commissioner is required before installation, and the determination of equivalency or adequacy lies with the Commissioner.
3. Design, construction, fabrication, and installation of new underground storage facilities shall be in accordance with regulations and standards as they may be adopted by the Commissioner under this Article from time to time.
4. (Deleted 12/16/92)
5. It shall be unlawful for any person to sell for use in Suffolk County, install, use, put into service or maintain the existence of any new underground storage facility or part thereof if said new storage facility or part thereof fails to conform to all of the provisions of subsections 1, 2, and 3 above, that were in effect at the time of construction and all regulations and standards promulgated thereunder; subject however to the exemptions contained in §760-1208.

B. Existing Storage Facilities

1. (Deleted 12/16/92)
2. It shall be unlawful for any person to substantially modify or cause the substantial modification of any existing underground storage facility or part thereof without complying with the provisions of subdivision A above and all regulations and standards promulgated thereunder.
3. It shall be unlawful to use, or maintain the existence of any existing underground storage facility beyond January 1, 1990, which is intended for use with toxic or hazardous materials with a specific gravity of less than one and which are only slightly soluble in water such as oils and gasoline, without modifying said storage facility so as to comply with all of the provisions of subdivision A above and all regulations and standards promulgated thereunder.
4. It shall be unlawful to use or maintain the existence of any existing underground storage facility beyond January 1, 1987, which is intended for use with any toxic or hazardous materials other than those with a specific gravity of less than one and which are only slightly soluble in water such as oils and gasoline, without modifying said storage facility so as to comply with all of the provisions of subdivision A above and all regulations and standards promulgated thereunder.

C. Single-walled Non-corrodible Facilities

1. Single-walled non-corrodible facilities with leak detection and overfill protection must be upgraded to meet the secondary containment requirements of new construction. It shall be unlawful to use or maintain the existence of any facility of this description beyond January 1, 2010 for the storage of any toxic or hazardous material which is not adequately protected with a secondary containment system.

D. Abandonment

1. It shall be unlawful for any person to use or maintain the existence of an abandoned underground storage facility or part thereof.
2. It shall be unlawful for anyone to sell or transfer to another an improperly abandoned underground storage facility or land containing an improperly abandoned underground storage facility if there exists any reasonable evidence of the existence of such a facility, unless the purchasing party has been made fully aware of the presence of such facility or evidence.
3. It shall be unlawful for any person to repair, alter or prepare for use any abandoned storage facility without first obtaining a permit to construct from the Commissioner.
4. It shall be unlawful for the owner or other person in possession or control of any real property, building or place or vehicle to fail to immediately empty of all toxic or hazardous materials and to completely fill with sand or concrete or permanently remove an abandoned storage facility or part thereof within ninety (90) days of the discovery thereof on or in said real property, building or place pursuant to the provisions of subdivision 1 below unless approval is granted by the Commissioner to do otherwise.
5. For the purposes of this section, an abandoned storage facility or part thereof means one which has remained out-of-service for two (2) years or more, or which has been declared by the owner to be abandoned.
6. For the purposes of this section, out of service means substantially empty, meaning five (5%) percent or less filled; or 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.
7. For the purposes of this section, discovery means either actual discovery or knowledge of the existence of the abandoned storage facility or part thereof or possession of sufficient knowledge of the facts and circumstances involved so that the existence of the abandoned storage facility or part thereof should have been discovered or known of.

E. Testing and Inspection

1. All existing underground storage facilities or parts thereof which do not meet the construction standards in subdivision A above must be tested and inspected in accordance with the schedule set forth below. It shall be unlawful for any existing underground storage facility owner, operator or lessee to fail to test his/her tanks, and he/she shall be responsible

for insuring that an acceptable certificate of test completion is filed with the Commissioner in accordance with the following schedule:

TESTING SCHEDULE FOR EXISTING UNDERGROUND TANKS AGE OF SYSTEM BY 1980 (in years)					
	1 - 4	5 - 9	10 - 14	15 - 19	20 or more
1980					
1981					X
1982				X	
1983			X		
1984		X			
1985	X			X	X
1986			X		
<p>ALL TANKS COVERED BY §760-1208.B BY VIRTUE OF THE 1986 AMENDMENT SHALL BE INITIALLY TESTED IN 1986 IF THE TANK IS TEN (10) YEARS OR OLDER, AND/OR ALL TANKS SHALL BE TESTED ON THEIR TENTH ANNIVERSARY AND EVERY FIVE (5) YEARS THEREAFTER UNTIL PERMANENTLY CLOSED.</p> <p>FULL COMPLIANCE FOR ALL FACILITIES EXCEPT THOSE DESCRIBED IN §760-1210.B.3</p>					
	1 - 4	5 - 9	10 - 14	15 - 19	20 or more
1987					
1988			X		X
1989		X			
1990	Full Compliance for All Facilities				

2. If for any reason testing satisfactory to the Commissioner cannot be performed, the tank must be removed from service or brought up to the standards of subsection A by the first scheduled test date.
3. The Final Test of the National Fire Protection Association (NFPA), Recommended Practice No. 329 or other test of equivalent or superior accuracy as approved by the Commissioner must be used to comply with the testing and inspection requirement of §760-1210.E.1.
4. Any test and inspection as required by this subdivision shall be performed by a person whose qualifications are acceptable to the Commissioner, pursuant to Department standards, for performing such tests. Certificates of test completion containing the results of such tests as performed shall be prepared by the tester and shall be filed by him/her with the Commissioner within thirty (30) days after completion of the testing of the storage facility. No certificate of test completion shall be acceptable to the Commissioner to indicate satisfactory compliance with the testing requirements of this subdivision if the qualifications of the tester have not been accepted by the Commissioner prior to the test. No certificate of

test completion shall be acceptable to the Commissioner, pursuant to Department standards, if the test and inspection were not performed in accordance with subsection 3 of this subdivision and in accordance with any regulations and standards which may be promulgated pursuant thereto.

5. The Certificate of Test Completion shall be filed on a form provided by the Commissioner and a copy of such form, completed, shall be kept by the storage facility owner, operator or lessee and by the tester for a period of not less than five (5) years from the date of its issuance. It shall be unlawful for the storage facility owner, operator or lessee and for the tester thereof to fail to keep a copy of the Certificate of Test Completion for the required five (5) year period.
6. Certificates of Test Completion shall contain a legally authorized form notice to the effect that false statements made knowingly therein are punishable pursuant to 210.45 of the Penal Law.
7. A Certificate of Test Completion not properly completed and/or not subscribed by the tester shall not be acceptable to the Commissioner.

F. General Provisions and Requirements

1. When an underground storage facility or part thereof is found to be leaking, the portion containing the leak must be immediately emptied of all contents therein and removed from service. It shall be unlawful to cause or permit a leaking underground storage facility or part thereof to remain in service or to continue to retain its toxic or hazardous contents after the owner, operator or lessee of said storage facility or part thereof knows or should have known of the existence of the leak therein.
2. It shall be unlawful for any person to repair or to permit the repair, in place, of any underground storage facility or part thereof which has leaked or has otherwise failed, for the purpose of reusing said storage facility, unless:
 - a. such repair will result in the storage facility or part thereof complying with the requirements of subdivision A above and all regulations and standards promulgated thereunder; and unless
 - b. such repair occurs pursuant to plans therefor previously submitted to and approved by the Commissioner.
3. It shall be unlawful for any person to replace or cause the replacement of any underground storage facility or part thereof for any reason if the replacement facility does not meet the requirements of subdivision A above and all regulations and standards promulgated thereunder.
4. It shall be unlawful for any person to use, maintain, or put into service any underground storage facility or part thereof without first complying with the testing and inspection requirements of subdivision E above and regulations and standards promulgated thereunder.
5. It shall be unlawful not to maintain any secondary containment system for underground storage in a dry condition except for tanks that utilize a fluid-filled space between the tank walls for leak detection. Any liquid which enters a secondary containment system shall be

removed within 24 hours, the source determined and corrected, and a permanent record of the event made and kept available for inspection by a Department representative.

G. Monitoring and Leak Detection

1. All underground storage facilities or parts thereof must be equipped with 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 unless a less frequent schedule is allowed by the Commissioner.
2. All underground storage facilities or parts thereof, except those for residential homes, must be provided with a means of monitoring frequently and accurately for any leakage and spillage that might occur. All leak detection systems and tanks shall be monitored by the facility operator at least on a weekly basis and the results recorded and kept with the product records. Leak detection and monitoring can be provided by an electrical continuous leak detection system; visually operated or float operated alarms for tanks in pits; pressure, vacuum or fluid level detectors for double-walled facilities; or other equivalent design approved by the Commissioner. Permanent records of all monitoring shall be kept for a period of five (5) years.
3. It shall be unlawful for the owner or other person in possession or control of a storage facility or part thereof to fail to comply with any of the requirements of this subdivision and of any regulations and standards promulgated pursuant thereto.

H. Overfill Protection

1. 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 prevention device or a product-tight containment capable of intercepting and preventing the release to the ground or groundwater of an overfill spill.
2. It shall be unlawful for the owner, operator or lessee to fail to provide satisfactory overfill protection for any new underground storage facility or part thereof in accordance with the provisions of this subdivision and any regulations and standards promulgated pursuant thereto.

I. Removal of Underground Storage Facilities From Service

1. It shall be unlawful for the owner or any other person in possession or control of an underground storage facility or part thereof, to remove it from service unless:
 - a. said storage facility or part thereof is declared abandoned, emptied immediately and removed within ninety (90) days of so declaring, and is disposed of as junk by first rendering it vapor-free and by sufficiently perforating it so as to render it unfit for further use; or
 - b. said storage facility or part thereof is declared abandoned, emptied immediately and removed within ninety (90) days for reuse for the storage of toxic or hazardous materials after having met all of the requirements of subdivision A and all regulations and standards promulgated pursuant thereto; or

- c. said storage facility or part thereof is declared abandoned, emptied immediately and removed within ninety (90) days for the storage of other than toxic and hazardous materials in which case the facility shall be emptied, cleaned of all residue, and made safe and vapor-free; or
 - d. said storage facility is declared temporarily out of service and maintained in accordance with subdivision 3 of this section; or
 - e. said storage facility or part thereof is declared abandoned, emptied immediately and made inert by completely filling with sand or concrete within ninety (90) days; however, this can only be done by special permission by the Department upon application demonstrating the absence of leaks and upon inspection by the Department or its representatives at the owner's expense, or for extraordinary circumstances where complete removal is unreasonable such as beneath a building foundation; or
 - f. said storage facility is declared to be suspected of leaking and maintained in accordance with §760-1210.F; and
 - g. proof is obtained and presented to the Department as to whether or not leakage has occurred from said storage facility. Such proof shall be to the satisfaction of the Commissioner.
2. Any declaration of facility abandonment or of taking a facility temporarily out of or returning a facility to service must be made to the Commissioner in writing.
 3. It shall be unlawful for the owner or any other person in possession or control of any underground storage facility or part thereof to render it temporarily out of service unless said storage facility or part thereof substantially meets the requirements of §760-1210.A, and it is emptied of its contents immediately, the fill line, gauge opening and pump line are capped and secured against tampering, the vent line is left open, and approval is granted by the Commissioner. No facility in a temporarily out of service condition shall be returned to use prior to approval by the Commissioner and prior to the successful completion of any tightness testing the Commissioner may require. The temporarily out-of-service designation may be extended in two-year increments by the Commissioner upon application. No tank in a temporarily out-of-service condition may be brought back into service after January 1, 1990 without first meeting the requirements of §760-1210.A.
 4. It shall be unlawful for anyone to place toxic or hazardous materials in a facility which is temporarily out of service.

§760-1211 Outdoor Aboveground Storage Facilities

A. New Storage Facilities

1. (Deleted 12/16/92)
2. It shall be unlawful to fabricate, construct, install, use or maintain any new aboveground storage facility or part thereof in a manner which will allow the discharge of a toxic or hazardous material to the ground, groundwaters, or surface waters of Suffolk County.
3. It shall be unlawful to 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 or part thereof, conforming to the following requirements:

- a. The volume of the diked area shall be at least 110% of the volume of the largest tank contained therein excluding the volume below the dike level occupied by other tanks. Additional volume up to 10% of the total volume of all other tanks or vessels contained in the diked area may be required if the configuration, arrangement and spacing of the tanks and dikes do not meet National Fire Protection Association standards.
 - b. The dikes and the entire area enclosed by the dikes including the area under the tanks shall be made permanently impervious to the types of products expected to be stored in the tanks. A tank cannot be switched from one product to another unless the barrier is impervious to the new material stored.
 - c. Drainage of precipitation from within the diked area shall be controlled in a manner that will prevent any toxic or hazardous material from entering the ground, groundwaters or surface waters of Suffolk County.
 - d. Alternate designs may be approved if, in the opinion of the Commissioner, they provide protection equivalent to that of a diked enclosure.
4. It shall be unlawful to 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 shall not necessarily be limited to, both visual and audible alarms at a point on the storage facility most frequently manned. The overflow point must be clearly visible to the operator filling the facility or the operator at the receiving facility where possible. If not possible, adequate means must be provided to immediately detect an overflow.
 5. It shall be unlawful to fabricate, construct, install, use or maintain any new aboveground storage facility or part thereof without conforming to all regulations and standards promulgated pursuant to this section relating to such new storage facilities.
 6. It shall be unlawful to 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 and making contact therewith, or part thereof, unless and until the exterior surface of the areas in contact with the ground are cathodically protected in conformance with a design approved by the Commissioner. The interior bottom of such facilities shall be coated with a properly bonded epoxy coating or other approved coating system to minimize interior corrosion. (See Exemptions Section 760-1208.)

B. Existing Storage Facilities

1. (Deleted 12/16/92)
2. Commencing January 1, 1990, it shall be unlawful for any person to use, maintain or fill with toxic or hazardous materials any existing aboveground storage facility or part thereof without conforming to all of the requirements of subdivision A above and all regulations and standards promulgated pursuant thereto, except as noted in the Exemptions Section 760-1208. In achieving the above compliance, the following schedule shall be adhered to:

- a. By January 1, 1985, all interior coating of facilities shall be completed.
 - b. By January 1, 1985, all facilities shall be protected against overflow.
 - c. By January 1, 1987, installation of cathodic protection shall be completed on all facilities in contact with the ground which were built prior to 1967.
 - d. By January 1, 1988, installation of cathodic protection shall be completed on all facilities in contact with the ground which were built between 1967 and 1972.
 - e. By January 1, 1989, installation of cathodic protection shall be completed on all facilities in contact with the ground which were built between 1972 and 1977.
 - f. By January 1, 1992, all inspections and interior coating of tanks containing No. 6 fuel oil shall be completed.
3. It shall be unlawful for any person to use, maintain or fill with toxic or hazardous materials an existing aboveground storage facility or part thereof without complying with the following inspection schedule and all regulations and standards promulgated pursuant thereto, and without submitting to the Commissioner a statement of Proof of Inspection.
- a. Any owner or other person in possession or control of an aboveground storage facility or part thereof shall have said tanks and vessels inspected and shall file a Proof of Inspection with the Commissioner by January 1, 1985. Where interior coating has not yet been applied, such inspection will be performed before coating.
 - b. For the purpose of this section, inspection means the inspection of all aboveground tanks and other vessels for the storage of toxic or hazardous materials constituting an aboveground storage facility or part thereof.
 - c. Any inspection of an existing aboveground storage facility of greater than 10,000 gallon capacity or part thereof as required by this subdivision shall be performed in accordance with a written protocol submitted to and approved by the Commissioner, pursuant to Department standards, by an authorized tank inspection firm or person or by a professional engineer licensed to practice professional engineering in the State of New York, and it shall be performed in compliance with any regulations and standards promulgated pursuant to this section relating to such inspections.
 - d. 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.
 - e. Proofs of Inspection must be filed with the Commissioner on a form provided by the Commissioner or one acceptably equivalent thereto within thirty (30) days of each inspection and before the tank is refilled, and a copy of such form shall be kept and maintained by both the owner or other person in possession or control of the aboveground storage facility or part thereof and the inspector for a period of not less than five (5) years from the date of the inspection. The Proof of Inspection form shall be subscribed by both the owner or other person in possession or control of the aboveground storage facility inspected and the inspector. This Proof of Inspection form

shall contain a legally authorized form notice to the effect that false statements made knowingly therein are punishable pursuant to 210.45 of the Penal Law.

4. It shall be unlawful for any person to substantially modify or cause the substantial modification of any aboveground storage facility or part thereof without complying with the provisions of subdivision A above and all regulations and standards promulgated pursuant thereto.

C. General Provisions

1. It shall be unlawful for any person to abandon an aboveground storage facility or part thereof. Aboveground tanks, if they are not in active service, must be either placed in a temporarily out of service condition or removed. A temporarily out-of-service tank need not meet all requirements of the Code for storage until it is ready to be brought back into service, however, it must be completely protected from deterioration during the time it is held in a temporarily out-of-service condition. This shall include at least the following:
 - a. sufficient exterior coating to prevent rusting;
 - b. cathodic protection continuously applied and maintained for all portions of the tank in contact with the soil.
 - c. maintenance of the interior in a dry condition to prevent rusting from moisture accumulation.

To place a tank in a temporarily out-of-service condition it must first be cleaned of all residue, vented until dry and safe and secured with hatches opened for ventilation but protected from precipitation. All connections shall be severed or blank-flanged to prevent filling.

Notice must be given to the Department and approval granted before a tank can be placed in a temporarily out of service condition. Approval will be granted for up to two years and can be renewed at two-year intervals upon satisfactory demonstration to the Department that the tank is being maintained sufficiently to prevent degradation.

For the purpose of this subdivision, an abandoned aboveground storage facility or part thereof means one that has remained substantially empty or unattended for one (1) year or more without being either declared temporarily out-of-service or maintained in all respects as an active tank as required by this Code.

2. It shall be unlawful for the owner or other person in possession or control of an aboveground storage facility or part thereof to remove it from service unless:
 - a. said storage facility or part thereof is disposed of as junk by first rendering it vapor-free and by sufficiently perforating it so as to render it unfit for further use, and demolishing it and removing it from the site; or
 - b. said storage facility or part thereof is demolished for sale or use elsewhere in which case it must be first cleaned and made vapor-free to be safe in transit, and such reuse shall be

in accordance with all pertinent portions of this Article if relocation is to be within Suffolk County; or

- c. said storage facility is declared temporarily out-of-service; and
 - d. the Commissioner has been notified of the intended status of removal from service.
3. It shall be unlawful for anyone to place toxic or hazardous materials in an abandoned or temporarily out-of-service aboveground storage facility.
 4. It shall be unlawful for any person to bring an abandoned aboveground storage facility back into service without meeting all of the requirements of subsections A or B above. No abandoned facility shall be brought back into service without a complete inspection acceptable to the Commissioner.
 5. It shall be unlawful for any person to bring a temporarily out-of-service facility back into use after January 1, 1990, without first meeting all the requirements of subsections A or B above.
 6. It shall be unlawful for the owner or other person in possession or control of an aboveground storage facility or part thereof to fail to empty, clean, and inspect pursuant to subsection B.3.c above, to file Proof of Inspection pursuant to subsection B.3.e above, to leak test, and/or to recoat if necessary every seven (7) years each tank or vessel for the storage of toxic or hazardous materials within the said storage facility or part thereof.
 7. It shall be unlawful for any person to replace or cause the replacement of any aboveground storage facility or part thereof for any reason without complying with the new storage requirements of subdivision A above and without complying with the inspection and Proof of Inspection requirements of subsections B.3.c and B.3.e, respectively.
 8. It shall be unlawful for any person to use, maintain, construct, fabricate, modify or install any aboveground storage facility or part thereof without conforming to all plans and specifications submitted to and approved by the Commissioner prior to such use, maintenance, construction, fabrication, modification or installation.
 9. It shall be unlawful after January 1, 1990 for any person to use, maintain, construct, fabricate, modify or install any aboveground storage facility or part thereof, which has tanks that rest on the ground or which has underground piping, unless permanent groundwater monitoring wells are installed to the satisfaction of the Department for the purpose of detecting any leakage that may have occurred from the facility into the ground. The wells shall be constructed and installed in accordance with standards established by the Department and shall number 4 (1 upstream and 3 downstream) unless directed otherwise by the Department.

D. Leaks; Repairs

1. When an aboveground storage facility or part thereof is found to be leaking, it must immediately be emptied of all contents therein contained and removed from service unless approval is specifically granted by the Commissioner to do otherwise.
2. It shall be unlawful for the owner or other person in possession or control of a leaking aboveground storage facility or part thereof to cause or permit it to remain in service or to

continue to retain its toxic or hazardous contents after said owner or other person knows or should have known of the existence of the leak.

3. It shall be unlawful for any person to reuse and repair or cause the reuse and repair of an aboveground storage facility or part thereof which is leaking or which has leaked without:
 - a. performing or having said repairs performed in accordance with a written protocol submitted to and approved by the Commissioner prior to said repairs; and
 - b. inspecting or having said leaking storage facility or part thereof inspected by a person whose qualifications are acceptable to the Commissioner, with such inspection in accordance with subsection B.3.c above and filing a Proof of Inspection in accordance with subsection B.3.e above, with such inspection performed and Proof of Inspection filed prior to reuse of the storage facility or part thereof or filling it with a toxic or hazardous material but after repairs have been effected.

§760-1212 Piping, Fittings, Connections

A. New Installations

1. (Deleted 12/16/92)
2. All new installations shall:
 - a. be fabricated, constructed and installed in a manner that will prevent the escape of the toxic or hazardous materials contained therein to the ground, groundwater or surface waters of Suffolk County; and
 - b. be protected against corrosion by the use of non-corrodible materials, cathodic protection with coatings approved by the Commissioner or the functional equivalent of the foregoing options approved by the Commissioner; and
 - c. be designed, constructed and installed with access points as required by the Commissioner to permit periodic pressure testing of all underground piping without the need of extensive excavation; and
 - d. be designed, constructed and installed with a simple, effective, reliable means of monitoring the new installation for leakage including a warning device to indicate the presence of a leak, spill or other failure or breach of integrity for piping installed underground or in areas where piping is not clearly visible; and
 - e. be constructed of double-walled pipe or be constructed in durable product-tight galleries or otherwise be protected by a secondary containment system approved by the Commissioner. This applies to aboveground as well as below ground piping, except that piping for No. 6 oil need not have secondary containment other than underground in the groundwater management zones and water supply sensitive areas and where a discharge from a pipe might threaten surface waters.
3. It shall be unlawful for any person to fabricate, construct, install, use or maintain or to cause the fabrication, construction, installation, use or maintenance of any new substantial installation or part thereof for use with toxic or hazardous materials:

- a. without previously having submitted plans therefor to the Commissioner, and without having received approval of said plans; and
- b. without complying with the plans submitted to and approved by the Commissioner as required in subsection A.3.a above; and
- c. without complying with the provisions of subsections A.1 and A.2 above and any regulations and standards promulgated thereunder.

B. Existing Installations

1. (Deleted 12/16/92)
2. Existing aboveground piping and underground piping not associated with underground tanks shall be brought into conformance with the provisions of subdivision A above by January 1, 1995.

Underground piping associated with underground tanks shall be brought into conformance with the provisions of subdivision A above at the time the tanks are upgraded.

3. (Deleted 12/16/92)
4. (Deleted 12/16/92)

C. General Provisions

1. Notwithstanding the requirements of subsection C.4, it shall be unlawful for the owner or other person in possession or control of a new or existing installation or part thereof not to test said installation or part in accordance with the procedures set forth in subsection C.4 and in all regulations and standards promulgated thereunder whenever the Commissioner has determined that such a test is necessary, or whenever the Commissioner has ordered that such a test be performed.
2. Whenever an existing or new installation or part thereof is found to be leaking, it must immediately be emptied of all contents therein contained and removed from service.
 - a. It shall be unlawful for the owner or other person in possession or control of said leaking installation or part thereof to cause or permit it to remain in service or to continue to retain its toxic or hazardous contents after said owner or other person knows or should have known of the existence of the leak.
 - b. It shall be unlawful for any person to repair or cause the repair of any new or existing installation or part thereof which has leaked or otherwise failed without performing said repairs or having said repairs performed in a manner approved by the Commissioner.
 - c. It shall be unlawful for any person to reuse or cause the reuse of any new or existing installation or part thereof which had leaked or otherwise failed without repairing said installation pursuant to the provisions of subsection C.2.b above and all regulations and standards promulgated thereunder.
 - d. It shall be unlawful for any person to reuse or to cause the reuse of any new or existing installation or part thereof which had leaked or otherwise failed without repairing said

installation or part so as to conform to the requirements of subdivision A above and all regulations and standards promulgated thereunder.

- e. It shall be unlawful for any person to reuse or cause the reuse of any new or existing installation or part thereof which had leaked or otherwise failed without inspecting or having said installation or part inspected subsequent to the completion of any repairs but prior to said reuse by a person whose qualifications are acceptable to the Commissioner in accordance with §760-1211.B.3.c and any regulations and standards promulgated thereunder and without filing with the Commissioner a Proof of Inspection prior to said reuse in accordance with §760-1211.B.3.e and any regulations and standards promulgated thereunder.
3. It shall be unlawful not to maintain a secondary containment piping system in a dry condition unless it is a system that depends on the space between primary and secondary pipes being filled with fluid for leak detection in which case it shall be unlawful not to maintain the leak detection fluid at the proper level. Any liquid which enters a secondary containment system shall be removed within 24 hours.
4. It shall be unlawful for the owner or other person in possession or control of any single-walled piping installation or part thereof to fail to pressure test said piping or part thereof by January 1, 1994 and every year thereafter.

Testing of all pressure piping shall be to at least 150% of maximum operating pressure, but not to exceed the manufacturer's maximum design specifications, and the pressure shall be held for at least one-half hour.

5. It shall be unlawful for the owner or other person in possession or control of an existing installation or part thereof when testing or contracting to test said installation or part pursuant to subsection C.4 above:
 - a. to fail to test or have said installation or part thereof tested by a person whose qualifications are acceptable to the Commissioner; and
 - b. to fail to test or have tested said installation in a manner acceptable to the Commissioner; and
 - c. to fail to test or have tested said installation in accordance with a written protocol submitted to and approved by the Commissioner prior to said test; and
 - d. to fail to test or have tested said installation in accordance with any regulations or standards which may be promulgated under this subdivision relating to said testing; and
 - e. to fail to submit to the Commissioner within thirty (30) days of said test a completed Certificate of Test Completion form, pursuant to §760-1210.E.3-6 and any regulations and standards promulgated thereunder.

§760-1213 Transfer of Toxic or Hazardous Materials

A. Transfer Facilities

1. Transfer facilities means truck fill stands and/or any other facility for the loading or unloading of toxic or hazardous materials.

2. It shall be unlawful for any person to fabricate, construct or install a transfer facility or part thereof:
 - a. without first submitting plans therefor to the Commissioner and without first obtaining the Commissioner's approval thereof; and
 - b. without fabricating, constructing and installing said transfer facility or part thereof in accordance with the plans submitted and approved pursuant to subsection A.2.a above; and
 - c. without providing a simple, effective, reliable means of monitoring the transfer facility or part thereof for leakage or spillage, including a warning device; and
 - d. without providing 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.
3. It shall be unlawful for any person to operate, maintain or use a transfer facility or part thereof so as to permit the escape therefrom of toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County. All holding tanks associated with spill control shall be maintained in an empty condition at all times to provide maximum storage capacity at the time of a spill.
4. It shall be unlawful for any person to fabricate, construct, install, use, operate or maintain any transfer facility or part thereof without doing so in accordance with all regulations and standards pertaining thereto which may be promulgated by the Commissioner.

B. Transfer Operations

1. It shall be unlawful for any person to 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 at the time of said transfer to ensure a safe transfer operation without the occurrence of spills, leaks or accidents.
2. Failure of a transfer facility to conform and comply with the provisions of subdivision A and all regulations and standards promulgated thereunder shall constitute a rebuttable presumption that conditions at said transfer facility are inadequate for the purposes of subsection B.1 above.
3. The transfer of toxic or hazardous materials to any storage facility or part thereof which does not comply with all provisions of this Article applicable thereto and any regulations and standards promulgated under this Article applicable thereto, shall constitute a rebuttable presumption that conditions at said transfer facility are inadequate for the purposes of subdivision B.1 above.
4. Conditions at the transfer facility shall be deemed to be inadequate at the time of a transfer if:

- a. the transfer facility is constructed so that all possible points of overflow are not visible from the loading and unloading locations; or
 - b. the truck, storage facility or part thereof being delivered to does not have adequate capacity to contain the amount of toxic or hazardous material being transferred or to be transferred, or if a person performing or causing said transfer does not insure by some reliable means that the truck, storage facility or part thereof has adequate capacity to contain the amount of toxic or hazardous material being transferred or to be transferred.
5. Vehicles shall not be used for transferring toxic or hazardous materials in situations where a permanently installed transfer facility is considered by the Commissioner to be more appropriate, such as multiple deliveries of fuel to small boats at a marina.

§760-1214 Indoor Storage Facilities

A. General

1. An indoor storage facility is specifically intended to include within its meaning all tanks, vessels and appurtenant plumbing which contain or are to contain or be used for the transmission of toxic or hazardous materials regardless of the volume of said tanks and vessels and regardless of the duration of time said tanks and vessels may contain the toxic or hazardous materials and regardless of their use. All processing baths and tanks including dip tanks and rinse tanks and tanks associated with wastewater treatment located indoors shall constitute an indoor storage facility or part thereof.
2. All portable containers and tanks with an individual volume of greater than 80 gallons, stored or located indoors and used to contain toxic or hazardous materials, shall be deemed to be an indoor storage facility or part thereof and shall be subject to all of the provisions of this section and any regulations and standards promulgated pursuant hereto, and not the provisions of §760-1215 and the regulations and standards created thereunder.

B. New Storage Facilities

1. (Deleted 12/16/92)
2. It shall be unlawful to fabricate, construct or install a new indoor storage facility or part thereof unless:
 - a. plans and specifications for said storage facility have been first submitted to and approved by the Commissioner; and unless
 - b. said fabrication, construction or installation is accomplished in accordance with the approved plans and specifications submitted pursuant to subsection B.2.a above; and unless
 - c. said fabrication, construction or installation is accomplished in accordance with all regulations and standards which may be promulgated under this subdivision; and unless
 - d. the fabrication, construction or installation provides for impervious secondary containment for the new storage facility or part thereof equal to or greater than 110% of the entire volume to be contained; and unless

- e. said storage facility or part thereof is fabricated, constructed or installed in a manner which will prevent the release into the ground, groundwaters or surface waters of Suffolk County of any toxic or hazardous materials; and unless
 - f. any open tanks or vessels containing or to contain toxic or hazardous materials within the storage facility or part thereof in a building equipped with a sprinkler system are provided with head deflectors or automatic covers or the equivalent thereof acceptable to the Commissioner to prevent the overflow of the tanks by reason of flow from the sprinkler system; and unless
 - g. high level alarms or other adequate means of detecting an impending overflow condition have been provided for all tanks not readily visible by the operator controlling filling.
3. It shall be unlawful to operate, maintain or use a new indoor storage facility or part thereof unless:
- a. said storage facility or part thereof has been fabricated, constructed and installed in accordance with all of the provisions of subdivision B above and any regulations and standards promulgated thereunder; and unless
 - b. said storage facility or part thereof has been inspected prior to said operation, maintenance or use pursuant to the provisions of §760-1211.B.3.c and any regulations and standards promulgated thereunder; and unless
 - c. Proof of Inspection is filed with the Commissioner within thirty (30) days of the inspection conducted pursuant to subsection B.3.b above and such filing occurs prior to said operation, maintenance or use, and said Proof of Inspection conforms to all of the provisions of §760-1211.B.3.e and any regulations and standards promulgated thereunder; and unless
 - d. said storage facility or part thereof is operated, used or maintained in a manner which will prevent the discharge of toxic or hazardous materials therefrom into the ground, groundwaters or surface waters of Suffolk County.
4. It shall be unlawful to repair and reuse a new indoor storage facility or part thereof without complying with all of the provisions of subsection B.2 above and all regulations and standards promulgated pursuant thereto.

C. Existing Storage Facilities

1. (Deleted 12/16/92)
2. Commencing November 1, 1982, it shall be unlawful to fabricate, construct, install, modify, operate, maintain or use any indoor storage facility or part thereof which does not conform to all of the provisions of subdivision B above and all regulations and standards promulgated thereunder.
3. It shall be unlawful for any person to operate, maintain or use an existing indoor storage facility or part thereof in a manner which will allow the discharge of toxic or hazardous materials therefrom into the ground, groundwaters or surface waters of Suffolk County.

§760-1215 Portable Containers and Tanks

A. Storage Facilities

1. It shall be unlawful to fabricate, construct, install or otherwise create a storage facility or part thereof for portable containers and tanks in excess of 250 gallons total capacity containing toxic or hazardous materials if the facility has to be used for more than thirty (30) days without:
 - a. first having submitted satisfactory plans and specifications therefor to the Commissioner; and without
 - b. constructing, installing, fabricating or otherwise creating said storage facility in accordance with the reports and plans submitted pursuant to subsection A.1.a above; and without
 - c. constructing, installing, fabricating or otherwise creating said storage facility so as to prevent the discharge of any of the toxic or hazardous contents of the portable containers therein to the ground, groundwaters or surface waters of Suffolk County; and without
 - d. providing a chemically resistant pad on which to place the portable containers or tanks, impervious to the toxic or hazardous materials being stored in said containers and tanks; and without
 - e. providing a complete impervious containment of the storage facility or part thereof sufficient to contain at least thirty (30%) percent of the volume to be stored; and without
 - f. constructing, fabricating, installing or otherwise creating a storage facility or part thereof in accordance with all regulations and standards promulgated under this subdivision.
2. It shall be unlawful for any person to use, maintain or operate a storage facility containing portable containers or tanks for the storage of toxic or hazardous materials without:
 - a. preventing the discharge of any of the toxic or hazardous contents of the portable containers or tanks to the ground, groundwaters or surface waters of Suffolk County; and without
 - b. properly securing the portable containers or tanks containing toxic or hazardous materials so as to protect them from vandalism, unauthorized access and damage by traffic, machinery or falling objects; and without
 - c. storing the portable containers and tanks containing toxic or hazardous materials indoors except where such storage is prevented by fire regulations, or where sufficient evidence is presented that physical or financial constraints of the facility make indoor storage impractical.

Waiver of the indoor storage requirements shall be only by permission of the Commissioner; and without
 - d. protecting any outdoor storage of portable containers or tanks containing toxic or hazardous materials from damage from heat, cold, rust and other weather-related conditions; and without

- e. complying with all regulations and standards promulgated relating to the maintenance, use or operation of a storage facility containing portable containers containing toxic or hazardous materials; and without
- f. complying with all of the provisions of subdivision B below and any regulations and standards promulgated thereunder.

B. Handling of Portable Containers or Tanks

- 1. It shall be unlawful for the owner or other person in possession or control of a storage facility containing portable containers or tanks which contain toxic or hazardous materials:
 - a. to stack said portable containers or tanks more than two (2) high without using a properly designed storage rack for that purpose, or to attempt any stacking without adequate equipment; and
 - b. to store said portable containers or tanks in a manner so as to prevent all sides thereof from being available for inspection; and
 - c. to fail to maintain current inventory records indicating deliveries, consumption, sale and final disposal of all toxic or hazardous materials stored in portable containers or tanks and to maintain said records for five (5) years from the occurrence recorded; and
 - d. to fail to handle the said portable containers or tanks in accordance with any regulations and standards promulgated pursuant to this subdivision; and
 - e. to store said portable containers in numbers in excess of the maximum allowed by the approved design of the storage facility.

C. Inspections

- 1. It shall be unlawful for the owner or other person in possession or control of a storage facility containing portable containers or tanks for the storage of toxic or hazardous materials to fail to have said facility or part thereof containing said portable containers or tanks inspected:
 - a. prior to application for the renewal of a permit to operate a storage facility issued pursuant to §760-1207; and
 - b. subsequent to any substantial modification of the storage facility or part thereof containing said portable containers or tanks, and prior to the using or putting into service of a storage facility or part thereof; and
 - c. prior to the using or putting into service of said storage facility or part thereof after repairs had been performed on it.
- 2. It shall be unlawful to fail to have the inspections required by subsection C.1 above performed in accordance with the provisions of §760-1211.B.3.c and all regulations and standards promulgated pursuant thereto and those promulgated under this subdivision.

3. It shall be unlawful to fail to file a Proof of Inspection with the Commissioner within thirty (30) days of the performance of an inspection required by subsection C.1 above complying with the provisions of §760-1211.B.3.e and any regulations and standards promulgated pursuant thereto.
- D. It shall be unlawful for any person to repair or modify or to cause or permit said repairs or modifications of a storage facility or part thereof containing portable containers or tanks for the storage of toxic or hazardous materials without performing said repairs or modifications or to have them performed pursuant to a written protocol previously submitted to and approved by the Commissioner.
- E. At the discretion of the Commissioner, §760-1215.A.1.d, e, f, and §760-1215.C, may be waived for temporary facilities such as spill cleanup operations.
- F. Empty Containers
 1. Once toxic or hazardous materials containers are empty and no longer in use, they must be labeled as such, and not reused unless they are properly relabeled with their contents. Unless containers are labeled empty, they must be treated as active containers.
 2. Empty containers must be stored in a way that will prevent precipitation from entering the containers. Water accumulated in this manner will be presumed to be contaminated with the previous contents of the containers.

§760-1216 Bulk Storage of Toxic or Hazardous Materials

- A. It shall be unlawful for any person to fabricate, construct, install, repair or modify any bulk storage facility or part thereof without doing so in accordance with a written protocol previously submitted to and approved by the Commissioner.
- B. It shall be unlawful for any person to fabricate, construct, install, modify, repair, use, maintain or operate any bulk storage facility or part thereof without:
 1. 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 unless there is provision made for collecting and treating the leachate and runoff generated so as to prevent a discharge of toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County and so as to prevent the development of an explosive, incendiary or other hazardous or dangerous condition; and without
 2. providing for the segregation of and without segregating 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
 3. providing for and storing bagged toxic or hazardous materials on pallets, and within a roofed structure which prevents precipitation from reaching the bags; and
 4. in the case of an indoor bulk storage facility, without providing for and 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 within the building; and without

5. providing for and providing adequate security so as to protect the storage facility and toxic or hazardous contents therein from vandalism and accident; and without
 6. complying with any regulations and standards which may be promulgated pursuant to this section.
- C. Road deicing salt and other deicing materials are toxic or hazardous materials. In addition to the foregoing provisions of this section, road deicing salt may be stored near the shore or other areas where no adverse environmental impact will occur without brine control so long as the Commissioner's approval for such a storage facility has been applied for and received in advance.

§760-1217 Reporting; Records; Clean-up; Maintenance

- A. It shall be unlawful for the owner or other person in possession or control of any storage facility or part thereof to fail to report any unauthorized discharge, spill, leak or recognizable loss of toxic or hazardous materials therefrom or the failure of said storage facility to the Commissioner within two (2) hours of the time such owner or other person had sufficient evidence that he knew or should have known of said unauthorized discharge, spill, leak, loss or failure.
1. A report to the Commissioner shall not be deemed compliance with any reporting requirement of any other federal, state or local law.
- B. It shall be unlawful for the owner or other person in possession or control of any storage facility or part thereof to fail to keep records in writing reflecting the types and amounts of toxic or hazardous materials stored in the said storage facility or part thereof at any given time.
1. It shall be unlawful for the owner or other person in possession or control of any storage facility or part thereof to fail to keep records of the disposal or other transfer in or out of the said storage facility or part thereof, such records reflecting the types and amounts of toxic or hazardous materials involved in the transfer. The name and vehicle license and registration numbers of the transporter, and the intended destination must also be included if the material is waste.
 2. It shall be unlawful for any person required to keep records by any provision of this Article to fail to maintain said records available for inspection by the Commissioner for at least five (5) years from the date of the event, occurrence or transaction recorded. Copies shall be provided by the owner or operator for the Commissioner if requested.
 3. It shall be unlawful for any person required to keep records by any provision of this Article to fail to keep, record and maintain said records in accordance with any regulations and standards promulgated pursuant to this section.
- C. It shall be the responsibility and obligation of any person who discharges, or causes or permits the discharge of any toxic or hazardous material to the ground, groundwaters or surface waters of Suffolk 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 Commissioner, and to repair any damages caused thereby, all to the satisfaction of the Commissioner.

1. It shall be unlawful for the owner or any other person in possession or control of any source discharging toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County to fail to cease said discharge immediately upon obtaining knowledge or notice of its existence.
 2. It shall be unlawful for the owner or any other person in possession or control of any source discharging or which has discharged toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County to fail to reclaim, recover and/or dispose of the discharged toxic or hazardous materials. Where time permits, cleanup shall be in accordance with a written protocol previously submitted to and approved by the Commissioner.
 3. It shall be unlawful for the owner or other person in possession or control of any premises or place to fail to reclaim, recover and/or otherwise dispose of any toxic or hazardous materials discharged thereto, in accordance with a written protocol previously submitted to and approved by the Commissioner, in the event the persons described in subsection C.2 above are not ascertainable or otherwise fail to comply with the provisions of subsection C.2. This provision shall not abridge any existing right of action in any person, nor shall it create any new right of action in any person.
 4. It shall be unlawful for the owner or any person in possession or control of any source which has discharged toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County to fail to restore the environment contaminated or damaged by the said discharge to its condition prior to the discharge, repairing any damages caused thereby in accordance with a written protocol previously submitted to and approved by the Commissioner.
 5. It shall be unlawful for any person required by this Article or by any order of the Commissioner 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, to fail to perform said required acts pursuant to any regulations and standards promulgated pursuant to this subdivision.
- D. All storage facility appurtenances, such as level monitors, leak detection systems, cathodic protection systems, etc., shall be kept in proper operating conditions at all times. All systems shall be inspected and tested at least monthly and records kept on each inspection.

§760-1218 Confidentiality of Records

- A. Any information relating to secret processes, or methods of manufacture or production, obtained in the course of an inspection or investigation, or submitted to the Department, shall be kept confidential except for the use and purpose of the Department in the enforcement of this Article and the rules and regulations promulgated thereunder.
- 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 Commissioner, stipulating:

1. location of process or equipment, specifying 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 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 Commissioner 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 Commissioner shall not be disclosed and shall be kept confidential.

§760-1219 Posting and Labeling

- A. It shall be unlawful for the owner or other person in possession or control of any place, building, land, vehicle or thing to store toxic or hazardous materials therein without conspicuously posting a notice thereat or thereon 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. It shall be unlawful for any person to use, maintain or operate any storage facility or part thereof:
 1. without clearly labeling the specific contents of each portable container conspicuously on said container; and
 2. without clearly labeling the specific contents of each indoor and aboveground tank or vessel conspicuously thereon; and
 3. without 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. without conspicuously posting any permit issued pursuant to this Article.
- C. It shall be unlawful for any person to falsely post or label any container or storage facility or to post an invalid permit.
- D. It shall be unlawful for any person to use, maintain or operate any storage facility or part thereof without complying with all regulations and standards promulgated pursuant to this section.

§760-1220 Variances and Waivers

In any case where an applicant for a permit or approval is dissatisfied with a determination of the authorized agent to act for the Commissioner, or seeks a variance or waiver from the strict application of the letter of the requirements of this Article, or standards promulgated pursuant to this Article, he may appeal from the determination of the deputy or for consideration of his application to the Board of Review in accordance with the provisions of §760-609 of the Suffolk County Sanitary Code.

(Adopted 9/12/1979; Effective 1/1/1980; Amended 7/28/1982, 8/29/1984, 4/9/1986, 1/14/1987, 10/5/1988, 4/12/1989, 11/8/1989, 1/24/1990, 5/15/1991, 12/16/1992)