

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 245]

#### Administration of the Storage Tank and Spill Prevention Program

The Environmental Quality Board (Board) by this order amends Chapter 245 (relating to administration of the storage tank and spill prevention program). The amendments alter several definitions, add several definitions and alter portions of the certification program established for installers and inspectors of aboveground and underground storage tanks as required by the Storage Tank and Spill Prevention Act (act) (35 P. S. §§ 6021.101—6021.2104).

This order was adopted by the Board at its meeting of July 16, 1996.

#### A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

#### B. Contact Persons

For further information, contact Karl K. Sheaffer, Chief, Division of Storage Tanks, P.O. Box 8762, Rachel Carson State Office Building, Harrisburg, PA 17105-8762, telephone: (717) 772-5800; or Kurt E. Klapkowski, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, telephone: (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This rulemaking is available electronically through the Department of Environmental Protection (Department) Web site (<http://www.dep.state.pa.us>).

#### C. Statutory Authority

This final rulemaking is being made under the authority of section 106 of the act (35 P. S. § 6021.106), which authorizes the Board to adopt rules and regulations of the Department governing aboveground and underground storage tanks to accomplish the purposes and carry out the provisions of the act; section 107(d) of the act (35 P. S. § 6021.107(d)), which authorizes the Department to establish a certification program for installers and inspectors of storage tanks and storage tank facilities; section 5(b)(1) of The Clean Streams Law (35 P. S. § 691.5(b)(1)), which authorizes the Department to formulate, adopt and promulgate rules and regulations that are necessary to implement The Clean Streams Law; and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes the Board to formulate, adopt and promulgate rules and regulations as may be determined by the Board to be for the proper performance of the work of the Department.

#### D. Background and Summary

Section 107(d) of the act specifically authorizes the Department to establish regulations governing certification and licensing programs for installers and inspectors of storage tanks and storage tank facilities. The Board established regulations in Chapter 245, Subchapters A and B (relating to general provisions; and certification

program for installers and inspectors of storage tanks and storage tank facilities), concerning certification and licensing of installers and inspectors. These existing regulations were published as final at 21 Pa.B. 4345 (September 21, 1991).

A wide range of issues and concerns have developed since Chapter 245 was originally adopted in 1991. Many of these issues and concerns have been technically complex and relate to the specific work performed by certified storage tank installers and inspectors.

To assist the Department in considering the comments received on the proposed rulemaking and developing this final rulemaking, an informal technical advisory committee (TAC) was formed. This TAC was made up of storage tank industry experts, several of whom participated in the initial development of Chapter 245. TAC assisted the Department in resolving a number of issues raised during the public comment period.

The Department worked closely with the Storage Tank Advisory Committee (STAC) during development of both the proposed and final rulemakings. STAC, which was established by section 105 of the act (35 P. S. § 6021.105), consists of persons representing a cross section of organizations having a direct interest in the regulation of storage tanks in this Commonwealth. Under section 105 of the act, STAC has been given the opportunity to review and comment on this final rulemaking. At its May 8-9, 1996, meeting, STAC reviewed and discussed these amendments. At that meeting, STAC prepared a written report approving the proposed amendments which were presented to the Board. A listing of members of STAC can be obtained from Karl Sheaffer, whose address appears in Section B of this Preamble.

In addition, the Agricultural Advisory Board submitted a letter to the Department on May 16, 1996, requesting that Chapter 245 be amended to place a 1-year moratorium on the requirement that a certified installer be used to remove regulated underground storage tanks located on farms. Because the requirement to employ a certified installer to remove regulated underground storage tanks is a mandatory command of section 501(c)(2) of the act (35 P. S. § 6021.502(c)(2)), the Department cannot completely remove this requirement through an amendment to Chapter 245.

This final rulemaking will amend the current regulations in Chapter 245, Subchapter A, dealing with general provisions and Subchapter B, dealing with the certification program for installers and inspectors of storage tanks and storage tank facilities. The changes represent corrections and additions that are necessary to improve the existing regulations.

The amendments to Subchapter A include the addition of tank tightness testing requirements, a clarification that identifies what Federal underground storage tank regulations have been adopted by reference and changes to definitions.

The amendments to Subchapter B include consolidation of several certification categories, elimination of certification categories that are not needed and changes to the requirements for certification approval. In addition, changes are made to provisions relating to the suspension and revocation of certification, the renewal and amendment of certification, the examination requirements and standards of performance. A brief description of this rulemaking follows:

*Subchapter A. General Provisions*

1. *Section 245.1. Definitions.*

This rulemaking amends § 245.1 by adding definitions, and by modifying or clarifying certain definitions that apply to terms used in Subchapters A and B; and by deleting five definitions that are no longer needed. The terms added are: "actively involved," "Clean Streams Law," "motor oil," "Solid Waste Management Act" and "tightness testing activities." The modified or clarified definitions are: "aboveground nonmetallic storage tank," "aboveground storage tank," "actively involved," "certified company," "certified inspector," "environmental audit," "inspection activities," "removal," "removal from service," "storage tank facility," "underground field constructed storage tank," "underground manufactured storage tank" and "underground storage tank."

The definition for the term "heating oil for consumptive use" is deleted so that the Commonwealth's regulation of these storage tanks will exactly match that of the Federal government. The definition for the term "commercial heating oil tank" is deleted to match the change made to the act by the act of June 26, 1995 (P. L. 79, No. 16) (Act 16). The definitions for the terms "aboveground field constructed nonmetallic storage tank," "underground field constructed nonmetallic storage tank" and "underground manufactured nonmetallic storage tank" are deleted because they were only used in certification categories that are being deleted by this rulemaking.

2. *Section 245.2. General.*

This section incorporates by reference the Federal regulations contained in 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)) governing technical standards and corrective action requirements for underground storage tank systems. The Board now believes the Federally excluded and deferred storage tanks pose very minimal potential risks to the environment or this Commonwealth and that these tanks should be excluded from Commonwealth's storage tank regulations. The amendments adopt the Federal position excluding and deferring these classes of tanks from regulation. Additionally, the amendments clarify that Subparts E and F are no longer adopted subparts of 40 CFR Part 280. These subparts deal with release reporting, release responses and corrective actions. These topics are now covered by Chapter 245, Subchapter D, which was adopted by the Board at 23 Pa.B. 4033 (August 21, 1993).

3. *Section 245.21. Tank handling and inspection requirements*

Subsection (a) clarifies the requirement that storage tank owners and operators shall use Department certified installers to conduct tank handling activities, and deletes any mention of certified inspectors. In addition, for aboveground nonmetallic storage tanks, the tank manufacturer may perform modifications to the tank without Department certification.

Requirements for the use of a certified inspector to inspect tank handling activities are moved to subsection (b). Subsection (b) recognizes that UL labeled manufactured storage tanks are inspected and tested at the factory when they are produced and that these tanks need not be inspected again when they are installed by a certified installer. Therefore, subsection (b) requires only that those tank handling activities which are conducted on field constructed storage tanks or large aboveground storage tanks shall be inspected by a certified inspector.

Finally, the amendment to subsection (d) clarifies when an owner or operator shall have a storage tank facility inspection done.

4. *Section 245.31. Underground storage tank tightness testing requirements.*

Section 245.31 establishes when tightness testing shall be conducted, when a certified installer is required to perform tightness testing on underground storage tank systems and what conditions shall be met. The Department and regulated storage tank owners have experienced many problems associated with obtaining valid and accurate tightness testing results required to comply with the Federal standards adopted by § 245.2 (relating to general).

The Board believes this section is necessary to assist owners in obtaining valid tightness testing results and to detect leaks or releases in underground storage tank systems.

*Subchapter B. Certification Program for Installers and Inspectors of Storage Tanks and Storage Tank Facilities.*

1. *Section 245.102. Requirement for certification.*

Subsection (a) provides requirements for certification when conducting tightness testing. The Board believes that tightness testing should be conducted by a certified installer who can be held accountable for established standards of performance.

Subsection (c) removes the specific passing grade requirements for periodic training. The regulations now provide that the standards for successful completion of each training course will be determined by the Department through review and approval of each individual course under § 245.141 (relating to training approval), rather than measuring successful completion of all training by requiring a specific passing grade. This change should allow installers and inspectors to obtain training through a number of industry sources that provide excellent training and use training measurement methods other than a specific 90% passing score. It is anticipated that more professional trainers will apply for training course approval when this proposal becomes effective, thus increasing the available training base.

2. *Section 245.103. Phase-in from interim certification.*

Subsection (c) formerly provided that failure to pass certification examinations by September 21, 1994, resulted in revocation of temporary certification. The amendment corrects the improper use of the term "revocation" and provides that expiration of temporary certification is the result of failure to pass the examinations by the established date.

Subsection (d) allows an installer or inspector to continue working until the date of expiration of the individual's permanent certification when the Board amends or deletes the categories in which the individual is certified.

3. *Section 245.105. Certification examinations.*

The amendments revise the certification minimum passing score to 80% for the administrative portion of the certification examination and eliminate a specific passing score for training programs. The Board believes that administrative procedures are less critical than technical requirements and, therefore, the certification examinations should require a lower minimum passing score for the administrative section of the examination.

The Board further believes that the standards for successful completion of a training program should be evaluated and approved based on individual course con-

tent and exams that accurately measure the training, rather than requiring a specific passing grade by which all training must be measured. This issue is addressed in more detail in the comments provided concerning § 245.102 (relating to requirement for certification). Therefore, subsection (e) changes the passing grade requirement for successful completion of training to coincide with the changes to § 245.102(c), for the reasons set out in the discussion of that subsection.

#### 4. *Section 245.108. Suspension of certification.*

This section currently provides for suspension of certification for a violation of the act, for incompetency, for failure to successfully complete required training and for failure to comply with several other requirements in Chapter 245.

This section will now require compliance with other key laws that have provisions that frequently affect the storage tank industry and tank handling practices. The Board has determined that The Clean Streams Law (35 P. S. §§ 691.1—691.1101) and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) are two key laws that do affect the storage tank industry and that are sometimes violated by installers when working with and on storage tank systems. These laws have provisions for enforcement that have been applied against installers.

Subsection (a)(9) provides for suspension of certification for violation of The Clean Streams Law and for violation of the Solid Waste Management Act. Suspension is limited to those instances when the certified individual is conducting activities related to storage tank system installation, modification, removal or inspection. The violation must additionally be one that causes pollution, a threat of pollution or harm to the public health, safety or welfare.

The amendment to subsection (c) changes the passing grade requirement for successful completion of training to coincide with the proposal at § 245.102(c), for the reasons set out in the discussion of that section.

Subsection (d) requires that an installer or inspector surrender his certification certificate and identification card to the Department when notified that his certification is suspended.

#### 5. *Section 245.109. Revocation of certification.*

Subsection (c) requires that an installer or inspector surrender his certification certificate and identification card to the Department when notified that his certification is revoked.

#### 6. *Section 245.110. Certification of installers.*

This section currently provides for specialization in 24 individual certification categories for installation, modification, removal and tightness testing for various aboveground and underground storage tanks and associated systems. Several of the underground categories are for obsolete field constructed storage tank systems and, with the exception of a few individuals certified to remove these systems, most of these categories remain vacant.

The number of categories was adequate to provide for specialization and flexibility when the certification program was initially developed. Since that time, the number of categories has proven to be excessive, complex and unnecessarily burdensome for both the Department and the regulated community. The Department looked at the work being done by the certified installers in detail and met with industry experts and TACs to consolidate

categories where practicable and to eliminate categories that are not needed.

The final rulemaking consolidates the number of installer certifications to 11 categories. Underground storage tank installation and modification provides for a single master installer category (UMX). Due to the specific knowledge required for different aboveground systems, the aboveground storage tank certification categories retain more of their previous specialization with the following categories: aboveground manufactured metallic storage tank installation and modification (AMMX); aboveground nonmetallic storage tank installation and modification (AMNX); aboveground field constructed metallic storage tank installation, modification and removal (AFMX); aboveground mechanical installation, modification and removal (AMEX); and aboveground civil installation and modification (ACVL).

Three storage tank removal categories are retained as follows: underground removal (UMR), aboveground manufactured removal (AMR) and aboveground field constructed removal (AFR). Tank lining (TL) remains a specialization category and tightness testing (UTT) is retained for underground storage tank systems.

#### 7. *Section 245.111. Certified installer experience and qualifications.*

This rulemaking removes the requirements for the 13 categories proposed to be deleted. These amendments also establish a requirement for manufacturer's equipment specific training for tightness testing qualification and provide that Department UTT certification is only valid for the specific method of testing for which equipment manufacturer's certification is maintained.

For the remaining categories, this rulemaking reduces the total experience time necessary to qualify for certification by 1 year. The Department has found that the more crucial element in demonstrating qualifying experience is the number of activities completed and not the total time spent working in this area. In addition, subsection (g) will credit 6 months of experience to an applicant who successfully completes a Department-approved training course covering the category that the individual wishes to become certified for.

The amendments also provide that an AMNX aboveground nonmetallic storage tank installer and an AFMX aboveground field constructed metallic storage tank installer may qualify by having completed installation or major modification activities. The Board believes that adding the stipulation that the modifications be only major modifications, coupled with the certification examination requirement, will ensure that applicants for these categories will be well qualified. This change was recommended by TAC to compensate for the increase in modification and decline in new construction in the aboveground field constructed storage tanks and to aid in qualifying nonmetallic technicians who specialize in nonmetallic tank modification procedures.

The amendments also contain provisions that will enable certified individuals in the aboveground field constructed storage tank installer and remover categories to qualify for the aboveground manufactured storage tank installer and remover categories as recommended by TAC.

Subsection (d) is amended in the same manner as § 245.102 with regards to standards for successful completion of the training course, for the reasons set out in the discussion of that section.

8. *Sections 245.112 and 245.113. Certification of inspectors; certified installer experience and qualification.*

This rulemaking reduces the number of inspector categories to three by eliminating the underground field constructed (IUF) category, which is not needed.

This rulemaking deletes the IUF category, and provides the aboveground manufactured storage tank inspector (IAM) a means to qualify for the underground inspector (IUM) category. They also provide that service inspections of aboveground storage tank systems can qualify an individual for both aboveground manufactured storage tank (IAM) or aboveground field constructed storage tank (IAF) inspector certification with any combination of 20 installations, major modifications or service inspections. The Board believes these changes will help to qualify additional inspectors while maintaining highly competent inspectors in this Commonwealth.

Finally, the Board believes that certain industry certifications should be required when individuals are conducting integrity inspections on aboveground storage tanks. This rulemaking adds subsection (f) which requires that inspectors conducting integrity inspections on aboveground field constructed metallic storage tanks possess API Standard 653 certification in addition to Department certification.

9. *Section 245.114. Renewal and amendment of certification.*

The amendments provide that expiration of amended permanent certification will correlate with the dates that certification exams were administered. Because passing a single technical examination module might qualify an individual for several different installation categories, in subsection (a) the amendments provide for issuance of amended certification for a period that coincides with the date of other certification categories for which the same exam was taken.

Under subsection (a)(2), the Department will have the option to establish and require completion of training programs; however, the training programs will not be mandatory for renewal of certification at this time. Additionally, subsection (a)(2) is amended in the same manner as § 245.102(c) with regards to standards for successful completion of the training course, for the reasons set out in the discussion of that section.

Subsection (a)(3) of this section provides that an individual must remain active in each certification category or the individual must retake the certification examination for categories in which active involvement is not maintained. Subsection (b)(4) requires a certified installer or certified inspector to notify the Department and seek amendment of the certification from the Department whenever the Board amends certification categories or qualification requirements and establishes a phase-in period for the new requirements.

10. *245.123. Suspension of company certification.*

As discussed in this Preamble in relation to § 245.108 (relating to suspension of certification), certain violations of The Clean Streams Law or violations of the Solid Waste Management Act should also be cause for suspension of certification. Additionally, the Board is concerned that some companies have withheld certification documents and failed to forward Department correspondence to certified employes.

Subsection (a)(4) of this section provides for suspension of company certification for violation of The Clean Streams Law or for violation of the Solid Waste Manage-

ment Act. Suspension is limited to those instances when the certified company or a certified individual employed by that company is conducting activities related to storage tank system installation, modification, removal or inspection. The violation must additionally be one that causes pollution, a threat of pollution or harm to the public health, safety or welfare. Finally, under subsection (a)(5), company certification may be suspended for withholding individual correspondence or certification documents issued by the Department.

11. *Section 245.132. Standards of performance.*

This section provides for several standards of performance that installers, inspectors and certified companies shall adhere to. The amendments add several new requirements or clarify several existing requirements.

Subsection (a)(3) of this section provides for maintaining tank handling and inspection activities records for a minimum of 10 years. Time frames and clarification of when and how installers and inspectors shall report confirmed or suspected releases and contamination are contained in subsection (a)(4), along with clarification of which Department office the report shall be given. Finally, requirements to adhere to equipment manufacturer's instructions, industry standards and codes of practice when performing certified activities are added in subsection (a)(8).

E. *Summary of Comments and Responses on the Proposed Rulemaking*

The Department received comments from 20 individuals during the 60-day public comment period that followed publication of the proposed rulemaking at 25 Pa.B. 5053 (November 18, 1995). The Independent Regulatory Review Commission (IRRC) submitted written comments to the Department on February 16, 1996. Additionally, STAC reviewed the proposed rulemaking and submitted a written report to the Board. As noted in Section D of this Preamble, the Agricultural Advisory Board submitted a letter to the Department on May 16, 1996, requesting further changes to Chapter 245. A copy of that letter was submitted to the Board.

Several sections of the proposed rulemaking are modified in the final rulemaking based upon these comments. A list of commentators, a detailed summary of their comments and the Department's responses are available from the contact persons listed in Section B of this Preamble. In addition, between the time the Board approved the proposed amendments and their publication, Act 16 became effective. A number of modifications to Chapter 245 and the proposed amendments have been made based upon Act 16. A list of the modified sections and a summary of the significant comments are provided as follows:

1. *Section 245.1.*

Several commentators noted that some of the terms defined in the current Chapter 245, Subchapter A and in the proposed rulemaking conflicted with the terms in the act as amended by Act 16. The Department agrees with the commentators and has changed definitions in the final rulemaking to correlate with recent amendments to the act. Definitions changed are "aboveground storage tank," "storage tank facility" and "underground storage tank."

One commentator expressed concerns with terms excluding aboveground storage tanks and underground storage tanks containing radioactive materials and coolants that are regulated under the Atomic Energy Act of 1954

(42 U.S.C.A. §§ 2011—2297). The commentator stated that some of these tanks also contain hazardous substances and water treatment chemicals and therefore may not be covered in the exclusion. The Department recognizes that many of these tanks may contain other substances in addition to radioactive materials and coolants. For example, water treatment chemicals are routinely added to coolants to minimize corrosion of nuclear plant systems. The Department contends that these tanks do fall under the terms excluding tanks regulated under the Atomic Energy Act of 1954 and no changes to the definitions are necessary.

Several commentators recommended minor changes to the terms “actively involved” and “tightness testing activities” and further clarification and changes to the term “removal.” These terms are modified in the final rulemaking.

Several commentators supported deleting the term “heating oil for consumptive use,” but questioned what was meant by the reference to more closely mirror the Federal position on regulation of heating oil tanks in the Preamble to the proposed rulemaking. The Department responded that, by deleting this term from the definitions in Subchapter A, the Commonwealth will have the same exclusion for underground tanks storing heating oil as the Federal requirements in 40 CFR 280. The Federal definitions for “consumptive use” and “on the premises where stored” were adopted by reference at § 245.2. With this final rulemaking, requirements for underground tanks storing heating oil in this Commonwealth correlate with the Federal requirements.

#### 2. Section 245.2.

Several commentators questioned why the proposed rulemaking would adopt the Federal tank exclusions by reference to 40 CFR 280, but would still not adopt the Federal tank deferrals that are contained at 40 CFR 280. Another commentator opposed deleting the adoption by reference of 40 CFR 280, Subpart E—Release Reporting, Investigation and Confirmation.

The adoption by reference has been modified. The final rulemaking includes the Federal tank deferrals along with the Federal tank exclusions. The proposal to delete adoption by reference to Subpart E is not changed. The adoption by reference to Subparts E and F have not applied in this Commonwealth since the Board adopted Chapter 245, Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage facilities and other responsible parties) by rulemaking at 23 Pa. B. 4033 (August 21, 1993).

#### 3. Section 245.21.

Several individuals commented on the need to establish and enforce inspection programs for regulated storage tanks and the need to ensure that quality control is maintained. During review of comments with industry experts and TAC, it was determined that an option is needed for aboveground nonmetallic tank manufacturers to perform modifications to the tanks they manufacture.

Changes are included in the final rulemaking to allow aboveground nonmetallic tank manufacturers to perform tank handling activities to modify aboveground nonmetallic storage tanks. Changes have also been included to ensure that activities to install or modify aboveground storage tanks in excess of 21,000 gallons capacity are inspected. Development of the inspection program will continue. Additional inspection requirements and schedules for inspections are included in proposed technical

standards regulations approved for publication as proposed rulemaking by the Board at its April 16, 1996, meeting.

#### 4. Section 245.31.

One commentator recommended including specific technical information and requirements for a written report for tightness testing activities. Written test report requirements are included in the final rulemaking. References to piping tightness testing have been removed. Specific technical information and piping testing requirements are included in proposed technical standards regulations approved for publication as proposed rulemaking by the Board at its April 16, 1996, meeting.

#### 5. Section 245.105.

Several comments were received on the proposals to change the minimum passing grade requirements for certification examinations. Commentators supported lowering the passing grade requirement for the administrative section of the examinations, but three commentators strongly opposed lowering the passing grade requirement for the technical section of the certification examinations.

The Department agrees that the technical section of the certification examinations should not be lowered. The final rulemaking retains the current 90% minimum passing grade requirement on each technical section.

#### 6. Section 245.108.

Several commentators expressed concerns that reducing the time required for submission of inspection reports to 30 days would not allow inspectors sufficient time to work with owners to resolve facility deficiencies and obtain a compliant inspection report when practicable. The Department agrees with the commentators. The final rulemaking retains the current requirement to submit inspection reports within 60 days.

One commentator also expressed concern that suspension of certification for a violation of § 245.108(a)(9)(i) for causing a threat of pollution is too restrictive. Owning a gasoline station or changing a gas pump filter causes a threat of pollution. The Department does not agree. This subsection limits the Department's discretion to suspend a person's certification for The Clean Streams Law or Solid Waste Management Act violations. Certified activities properly performed should never cause a threat of pollution. If improprieties are evident, however, the Department believes it may be appropriate to suspend certification and so will retain this subsection in the final rulemaking.

#### 7. Sections 245.110 and 245.111.

The Department received several comments supporting consolidation of the certification categories. Three commentators recommended further consolidation of the storage tank remover categories. Commentators recommended modifications to the UMX and UTT categories. One commentator believes that consolidating the AMMX and the AMNX categories is inappropriate. Finally, several commentators recommended reducing or eliminating the total years of experience requirements for installer applicants.

The Department reviewed these comments and recommendations with industry experts and TACs. Based on discussions, several changes to the certified installer categories are included in the final rulemaking.

The three storage tank remover categories are retained as shown in the proposed rulemaking. The final rulemaking allows aboveground field constructed metallic

tank installers in the AFMX category to conduct removal activities as this work requires the AFMX installer skills when preparing a tank for reconstruction. Also provisions are added to allow the aboveground field storage tank remover in the AFR category to qualify for the aboveground manufactured storage tank remover AMR category.

Modifications that further clarify air pressure testing for the UMX installer category and deletion of line testing for the UTT tightness tester category are contained in the final rulemaking.

The final rulemaking also retains separate certification requirements and categories for aboveground manufactured metallic storage tanks and aboveground nonmetallic storage tanks.

Finally, the final rulemaking reduces the number of qualifying years of experience for all installer categories and contains provisions that credit an installer applicant with 6 months of qualifying experience for successful completion of a Department approved training program applicable to the certification category being requested.

#### 8. *Section 245.113.*

Three commentators recommended including an option to qualify underground storage tank inspectors in the IUM category through recognition of activities performed during operations inspections at underground storage tank facilities. Several individuals commented on the use of industry standards, such as ASME, ASNT and API standards, for qualifying aboveground storage tank inspectors. Two commentators suggested that only the API standards should be referenced. Three commentators expressed concerns that the standards proposed are either too restrictive or additional standards should be recognized.

The Department reviewed these comments and recommendations with industry experts and the TACs. Based on these discussions, several changes to the certified inspector categories and requirements are included in the final rulemaking.

Provisions are added to the final rulemaking to recognize operations inspection performance for IUM inspector certification renewal. Aboveground manufactured storage tank inspector qualifications are modified to recognize inspector training and service inspection performance which may be conducted under tank manufacturers or industry standards other than those established at API 653 standards. Finally, aboveground structural integrity inspection restrictions are modified to only include tanks specifically covered under the API 653 standards.

#### 9. *Section 245.114.*

Several commentators generally agreed with or strongly supported the certification renewal proposals. One commentator expressed concern about retaining records to support renewal applications and three commentators expressed concerns about proposals that make completion of training an option the Department may require rather than a mandatory requirement for all certification renewal applicants.

The Department believes that tank handling activity reports and inspection reports currently maintained under existing regulatory requirements should be adequate to support certification renewal applications, and certified individuals or certified companies should not experience any significant additional recordkeeping requirements. The Department also believes that requiring all certification renewal applicants to complete mandatory training is

an excessive and unnecessary burden. Therefore, the proposed language is retained in the final rulemaking.

#### 10. *Section 245.123.*

One commentator expressed concern with the proposed provision to suspend company certification for withholding individual correspondence or certification documents. The Department is not proposing to suspend company certification for those companies who make a good faith effort to pass Department correspondence on to their employees. Rather, the Department is concerned with the few companies who may deliberately withhold important correspondence. The Department believes this is an important safeguard for installers and inspectors and will retain the proposed language in the final rulemaking.

#### 11. *Section 245.132.*

One commentator believes that maintaining records of tank handling and inspection activities for 10 years is excessive. IRRC suggested that standards of performance requirements for reporting releases to the Department should specify that the report be submitted in writing. Finally, three commentators expressed concerns that the Department should recognize requirements to adhere to certain National industry codes when performing work on tank systems, and two of these commentators suggest that qualified welders should be able to perform repairs on piping lines without installer certification.

The Department believes that maintaining records for 10 years is prudent and consistent with standard industry practices. The requirement to submit notices of release reports to the Department is modified in the final rulemaking to specify that the report shall be in writing. Both the proposed and the final rulemaking require that certified installers, certified inspectors and certified companies adhere to manufacturer's instructions, accepted industry standards and applicable industry codes of practice. Additionally, the Department does allow maintenance repairs by noncertified workers. Welding of regulated piping inside the emergency containment area may effect the storage tank system integrity and therefore must be performed by a certified installer.

#### F. *Benefits, Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the final regulations.

##### *Benefits*

The amendments will correct deficiencies observed in the operation of the original regulations and should result in a more efficient program. The clarifications and reductions in the number of certification categories will make the regulations less complex and easier to understand. Owners and operators of regulated storage tank facilities will not be hindered by over-specialization when determining which categories of certification are needed to perform certified activities at their facilities. Changes in installer and inspector requirements should increase the numbers of installers and inspectors able to qualify and receive certification while maintaining competency and proficiency. This should increase competition among the private sector contractors and reduce costs to tank owners, with no adverse impact on the environment.

Tank tightness testing will be performed by certified installers adhering to the approved testing method protocol or by tank owners using automatic tank gauging and monitoring equipment. This will help to identify leaking underground storage tank systems and to initiate corrective actions earlier than currently occurs, helping to prevent further groundwater contamination in this Commonwealth.

*Compliance Costs*

These amendments will reduce costs to the regulated community by reducing the number of required inspections while qualifying additional inspectors to perform the work that is required. These changes will also eliminate most heating oil tanks from regulation, thus reducing costs to owners of those tanks. Additionally, by consolidating several of the certified installer categories and reducing specialization categories, owners and operators of storage tank facilities will in many cases be able to employ only one installer to perform necessary tank handling activities and this should also help to reduce costs. None of the changes contained in this final rulemaking will lead to increased costs for any person regulated under the act.

The Department will not incur additional costs as a result of the recommended changes. The Department's administration of the storage tank program will remain basically as it currently exists.

*Compliance Assistance Plan*

The Department's storage tank program is currently performing outreach and education efforts for the regulated community on a wide range of fronts. Through regional seminars and training sessions, fact sheets and the quarterly Storage Tank Monitor, the Department is attempting to ensure that all persons regulated by the act understand the act's provisions and have the knowledge to comply with those provisions. Because these amendments will probably have the greatest impact on the certified installers and inspectors working with storage tanks, the Department will make special efforts to ensure that those individuals are informed of and understand the changes made by this final rulemaking. Informational seminars will be provided for installers and inspectors.

*Paperwork*

This final rulemaking adds minor reporting requirements for the regulated community. By consolidating certification categories and reducing the time (but not activities) required to qualify for certification, the paperwork involved in applying for certification will be reduced. Reducing inspection requirements will also reduce inspection reporting requirements. The final rulemaking does, however, require certified companies, installers and inspectors to maintain records of tank handling and inspection activities for a minimum of 10 years. While the requirement to maintain these records existed in the original regulations, no minimum time limit for records retention had been established.

*G. Sunset Review*

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which it was intended.

*H. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking, published at 25 Pa.B. 5053 (November 6, 1995), to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for their review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC and the public. The Committees did not submit comments on the proposed rulemaking.

These final-form regulations were deemed approved by the House Environmental Resources and Energy Committee on August 13, 1996, and were deemed approved by the Senate Environmental Resources and Energy Committee on August 13, 1996. IRRC met on August 22, 1996, and approved the regulation in accordance with section 5 of the Regulatory Review Act.

*I. Findings*

The Board finds that:

(1) Public notice of the proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) These amendments do not enlarge the purpose of the proposal published at 25 Pa.B. 5053.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of the Preamble.

*J. Order*

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 245, are amended by amending §§ 245.1, 245.2, 245.21, 245.102, 245.103, 245.105, 245.108—245.114, 245.123 and 245.132; and by adding § 245.31 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations. (*Editor's Note:* Proposed amendments to §§ 245.1 and 245.2, amended in this order, remain outstanding at 26 Pa.B. 3073 (June 29, 1996).)

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval and review as to legality and form as required by law.

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

JAMES M. SEIF,  
*Chairperson*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 4371 (September 7, 1996).)

**Fiscal Note:** Fiscal Note 7-286 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VI. GENERAL HEALTH AND SAFETY

CHAPTER 245. ADMINISTRATION OF THE STORAGE TANK AND SPILL PREVENTION PROGRAM

Subchapter A. GENERAL PROVISIONS

GENERAL

§ 245.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the content clearly indicates otherwise:

\* \* \* \* \*

*Aboveground field constructed metallic storage tank*—An aboveground storage tank that is manufactured from either ferrous or nonferrous metals and has final assembly completed at the job site. The term does not include associated piping.

*Aboveground manufactured metallic storage tank*—An aboveground storage tank that is manufactured from either ferrous or nonferrous metals and is completely fabricated and assembled in the shop prior to shipping. The term does not include piping.

*Aboveground nonmetallic storage tank*—An aboveground storage tank that is manufactured from nonmetallic materials; for example, fiberglass reinforced plastic, composites, plastics, and the like, and is completely fabricated and primarily assembled in the shop prior to shipping. The tank may require some additional final assembly at the job site. The term does not include associated piping.

*Aboveground storage tank*—One or a combination of stationary tanks with a capacity in excess of 250 gallons, including underground pipes and dispensing systems connected thereto within the emergency containment area, which is or was used to contain an accumulation of regulated substances, and the volume of which, including the volume of piping within the storage tank facility, is greater than 90% above the surface of the ground. The term includes tanks which can be visually inspected, from the exterior, in an underground area. The term does not include the following, or pipes connected thereto:

(i) A tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes or motor oil.

\* \* \* \* \*

(xi) Tanks regulated under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), including, but not limited to, piping, tanks, collection and treatment systems used for leachate, methane gas and methane gas condensate management.

\* \* \* \* \*

(xiv) Tanks containing radioactive materials or coolants that are regulated under the Atomic Energy Act of 1954 (42 U.S.C.A. §§ 2011—2297).

(xv) Tanks regulated under the act of May 2, 1929 (P. L. 1513, No. 451), known as the Boiler Regulation Law (35 P. S. §§ 1301—1500).

(xvi) Other tanks excluded by regulations promulgated under the act.

\* \* \* \* \*

*Actively involved*—To perform or to conduct direct onsite supervision or oversight of the minimum number of qualifying activities in § 245.111 or § 245.113 (relating to certified installer experience and qualifications; and certified inspector experience and qualifications) for renewal of installer or inspector certification in each applicable category, within the period in § 245.114(a)(3) (relating to renewal and amendment of certification).

*Adjacent*—Next to or contiguous with.

\* \* \* \* \*

*Aquifer*—A geologic formation, group of formations or part of a formation capable of yielding sufficient groundwater for monitoring purposes.

*Cathodic protection*—A technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell.

*Certified company*—An entity, including, but not limited to, a sole proprietorship, a partnership or a corporation, which is authorized by this title to conduct tank handling activities, tightness testing activities or inspection activities using certified installers or certified inspectors, or both.

*Certified inspector*—A person certified by the Department to conduct inspections of tanks or storage tank facilities and who may conduct environmental audits. A certified inspector may not be an employe of a tank owner.

*Certified installer*—A person certified by the Department to install, modify or remove storage tanks. A certified installer may be an employe of a tank owner.

*Clean Streams Law*—The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

*Containment structure or facility*—Anything built, installed or established which comes in contact with regulated substances that are spilled, leaked, emitted, discharged, escaped, leached or disposed from a storage tank or storage tank system. The term includes, but is not limited to, a vault, dike, wall, building or secondary containment structure around an underground or aboveground storage tank, or any rock or other fill material placed around an underground storage tank.

\* \* \* \* \*

*Environmental audit*—Activities which may be conducted by a certified inspector to evaluate the storage tank system or storage tank facility site, equipment and records to determine evidence of an actual or possible release of regulated substance.

\* \* \* \* \*

*Groundwater degradation*—A measurable increase in the concentration of one or more contaminants in groundwater above background levels for those contaminants.

*Inspection activities*—Activities to inspect all or a part of a storage tank system or storage tank facility. These activities include, but are not limited to, evaluation of:

- (i) Storage tank system structural integrity.
- (ii) Construction and major modification.
- (iii) Facility operation.

\* \* \* \* \*



*Motor oil*—A petroleum product used to lubricate the internal parts of an engine. The term includes lubricating and operational fluids for the mechanical components associated with the engine, including any hydraulic, transmission, gear or braking systems.

\* \* \* \* \*

*Removal*—Activities involving removal of storage tank system components, ancillary equipment and appurtenances. The term includes removal from service activities when a storage tank or storage tank system is removed, but excludes site assessment activities.

*Removal from service*—The term includes the following:

(i) Activities related to rendering a storage tank system permanently unserviceable. Activities include the oversight of the proper draining and cleaning of the storage tank system of product liquids, vapors, accumulated sludges or solids, and completing one of the following:

\* \* \* \* \*

(ii) Discontinued use, abandonment, closure in place and permanent closure but does not include temporary closure as those terms are used in the act and the Federal regulations promulgated under the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. §§ 6901—6987).

(iii) Site assessment activities required under 40 CFR Part 280, Subpart G (relating to out-of-service underground storage tank systems and closure) and applicable State law, which are the responsibility of owners and operators, but are not conducted by certified installers and inspectors.

\* \* \* \* \*

*Solid Waste Management Act*—The Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

\* \* \* \* \*

*Storage tank facility*—One or more stationary tanks, including associated intrafacility pipelines, fixtures, monitoring devices and other equipment. A facility may include aboveground tanks, underground tanks or a combination of both. For the purposes of the act and this part, the associated intrafacility pipelines, fixtures, monitoring devices and other equipment for an aboveground storage tank shall be that which lies within the emergency containment area. The term storage tank facility does not encompass portions of a facility that do not contain storage tank systems.

\* \* \* \* \*

*Tightness testing activities*—Testing activities which are designed and intended to detect leaks when performing precision tests, volumetric and nonvolumetric tests on underground storage tanks.

\* \* \* \* \*

*USTIF deductible*—The portion of liability incurred by an owner or operator of an underground storage tank for corrective action or for third party liability, within the limits of liability for USTIF coverage, which is the responsibility of the owner or operator and which is not indemnified by USTIF coverage. The USTIF deductible amount is established or revised by USTIB in accordance with section 705(c) of the act.

*Underground field constructed storage tank*—An underground storage tank that is manufactured from metallic

or nonmetallic materials and has final assembly completed at the job site. The term does not include associated piping.

*Underground manufactured storage tank*—An underground storage tank that is manufactured from metallic or nonmetallic materials and is completely fabricated and assembled in the shop prior to shipping. The term does not include associated piping.

*Underground storage tank*—One or a combination of tanks (including underground pipes connected thereto) which are used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. The term does not include:

\* \* \* \* \*

(ii) Tanks used for storing heating oil for consumptive use on the premises where stored unless they are specifically required to be regulated by Federal law.

\* \* \* \* \*

(xi) Tanks regulated under the Solid Waste Management Act, including, but not limited to, piping, tanks, collection and treatment systems used for leachate, methane gas and methane gas condensate management, except for tanks subject to 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)).

(xii) An underground storage tank system whose capacity is 110 gallons or less.

(xiii) Tanks containing radioactive materials or coolants that are regulated under the Atomic Energy Act of 1954.

(xiv) Other tanks excluded by policy or regulations promulgated under the act.

*Unregistered storage tank*—A storage tank, regulated under the act, which does not hold a current, valid registration.

*Water supply*—Existing, designated or planned sources of water or facilities or systems for the supply of water for human consumption or for agricultural, commercial, industrial or other legitimate use, protected by the applicable water supply provisions of § 93.3 (relating to protected water uses).

**§ 245.2. General.**

A person may not install, construct, erect, modify, operate or remove from service all or part of a storage tank system or storage tank facility in a manner that violates the act, this part or applicable Federal regulations adopted under the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. §§ 6901—6987). This chapter incorporates by reference the Federal regulations governing underground storage tank systems contained in 40 CFR Part 280, Subparts A—D and G.

**TANK HANDLING AND INSPECTION ACTIVITIES**

**§ 245.21. Tank handling and inspection requirements.**

(a) Tank handling activities shall be conducted by a certified installer except in the case of modification to an aboveground nonmetallic storage tank, which may be modified by the tank manufacturer. Storage tank facility owners and operators may not use persons who are not

Department certified to conduct tank handling activities except as noted in this subsection.

(b) Tank handling activities conducted on all field constructed storage tanks and tank handling activities conducted on all aboveground storage tanks having a capacity greater than 21,000 gallons shall be inspected by a certified inspector, except in the case of a minor modification or removal from service.

(c) The operation of storage tank facilities shall be inspected by a certified inspector. The frequency of inspection shall be based on:

(1) The age of the storage tank systems located at the storage tank facility.

(2) The type of regulated substances contained in the storage tank systems located at the storage tank facility.

(3) The distance of the storage tank facility from public and private surface water and groundwater supplies.

(4) The total capacity of the storage tank systems located at the storage tank facility.

(5) The geologic conditions at the storage tank facility.

(6) Whether the storage tank facility, owner or operator has violated the act or the regulations promulgated thereunder.

(7) Whether the storage tank facility has storage tank systems which are periodically taken out of service.

(8) Whether there is suspected contamination at the storage tank facility.

(9) The level of quality control maintained at the storage tank facility.

(d) Storage tank facilities shall also be inspected upon written notification from the Department or as required by permit.

#### **TIGHTNESS TESTING ACTIVITIES**

##### **§ 245.31. Underground storage tank tightness testing requirements.**

(a) Tightness testing activities shall be conducted by a Department certified underground tightness testing (UTT) installer, except when performed by an owner or operator using installed automatic tank gauging or monitoring equipment.

(b) Tightness testing is required to be conducted when it is:

(1) Used as a method of release (leak) detection as prescribed in § 245.2 (relating to general).

(2) Used to complete the installation of a new single wall constructed underground storage tank. The testing is an integral part of the installation process.

(3) Otherwise required by the Department.

(c) Tightness testing shall be conducted in accordance with equipment manufacturer's written instructions and using the recommended written practices, procedures and established test method protocols developed by the sources in § 245.132(a)(1) (relating to standards of performance).

(d) A failed valid tightness test will, regardless of the test method, constitute a suspected release, except as provided in § 245.304(b) (relating to investigation of suspected releases). A failed valid tightness test conducted as part of an investigation of a suspected release constitutes a confirmed release.

(e) A written test report shall be provided to the tank owner as documentation of test results. The test methodology and sufficient test data, which were used to conclude that the tank passed or failed the tightness test, shall be included in the test report.

#### **Subchapter B. CERTIFICATION PROGRAM FOR INSTALLERS AND INSPECTORS OF STORAGE TANKS AND STORAGE TANK FACILITIES**

##### **GENERAL CERTIFICATION REQUIREMENTS**

##### **§ 245.102. Requirement for certification.**

(a) A person may not conduct tank handling or tightness testing activities unless that person holds a current installer certification issued by the Department for the applicable certification category as indicated in § 245.110 (relating to certification of installers), except as provided in § 245.31 (relating to underground storage tank tightness testing requirements). Except as provided in § 245.103 (relating to phase-in from interim certification), installer certification will only be issued by the Department to a person who:

(1) Possesses minimum experience and qualifications as provided under § 245.111 (relating to certified installer experience and qualifications).

(2) Achieves a passing grade on a certification examination administered or approved by the Department for one or more of the certified installer categories described in § 245.110 for which the person is requesting certification.

(3) Submits an accurate and complete application.

(4) Is not found to be in violation of the act or this chapter and has not had a certification revoked by the Department under § 245.109 (relating to revocation of certification).

(b) A person may not conduct inspection activities at a storage tank system or storage tank facility required by the Department under the act and this part unless that person holds a current inspector certification issued by the Department for the applicable inspector certification category. Except as provided in § 245.103, inspector certification will only be issued by the Department to a person who:

(1) Possesses minimum experience and qualifications as provided under § 245.113 (relating to certified inspector experience and qualifications).

(2) Achieves a passing grade on a certification examination administered or approved by the Department for one or more of the certified inspector categories described in § 245.112 (relating to certification of inspectors) for which the person is requesting certification.

(3) Submits an accurate and complete application.

(4) Is not found to be in violation of the act or this chapter and has not had a certification revoked by the Department under § 245.109.

(c) Certified installers and certified inspectors shall successfully complete additional periodic training and testing administered or approved by the Department to maintain their certification. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the Department in the approval of the training course under § 245.141 (relating to training approval), for all sections of all qualifying tests given as part of the training program.

(d) After March 23, 1992, a certified installer or certified inspector may not perform tank handling or inspection activities as an employe of a company unless the company holds a valid certification issued by the Department under this chapter.

**§ 245.103. Phase-in from interim certification.**

(a) The Department may issue an installer certification or inspector certification on a temporary basis for the applicable certification category to any person who meets the minimum experience requirements under § 245.111 or § 245.113 (relating to certified installer experience and qualifications; and certified inspector experience and qualifications).

(b) A person certified as an installer or inspector on an interim basis under section 108 of the act (35 P. S. § 6021.108) who meets the minimum experience and qualification requirements under § 245.111 or § 245.113 may request temporary installer certification or temporary inspector certification on or before January 21, 1992. Failure to be granted temporary installer certification or temporary inspector certification on or before March 23, 1992, will result in revocation of interim certification.

(c) To be granted permanent installer certification or permanent inspector certification, a person who obtains temporary installer certification or temporary inspector certification under this section, shall, on or before September 21, 1994, achieve a passing grade on a certification examination administered or approved by the Department for one or more of the certified installer or inspector categories described in § 245.110 or § 245.112 (relating to certification of installers; and certification of inspectors). Failure to achieve a passing grade within this time will result in expiration of the temporary installer certification or temporary inspector certification.

(d) If the EQB deletes or consolidates certification categories or amends qualifications for certification prior to the expiration date of an installer or inspector's permanent certification, the permanent certification may still be used until the expiration date of the certification.

**§ 245.105. Certification examinations.**

(a) The Department will establish separate administrative and technical content for the examinations and the standards and criteria against which they will be evaluated to be used in determining the fitness of candidates for certification as certified installers or certified inspectors under the categories established by this chapter.

(b) The Department will schedule a date and location for the examinations for certified installer and certified inspector at least once in each calendar year.

(c) Only applicants who have been authorized by the Department, in accordance with this chapter, to take an examination will be admitted to an examination or issued a certification as a result of passing an examination. Authorization to take an examination will be based on compliance with the requirements of this chapter.

(d) To receive a passing grade on the examinations, the applicant for certification shall achieve a minimum score of 90% on each technical section and a minimum score of 80% on the administrative section of the examination.

(e) An applicant who fails two examinations for the same certification may not retake the examination until the applicant has successfully completed a training program that is administered or approved by the Department and focuses on those areas of the examination in which the applicant is deficient. Successful completion

means attendance at all sessions of training and attainment of the minimum passing grade established by the Department in the approval of the training course under § 245.141 (relating to training approval), for all sections of all qualifying tests given as part of the training program.

**§ 245.108. Suspension of certification.**

(a) The Department may suspend the certification of a certified installer or certified inspector for good cause which includes, but is not limited to:

- (1) A violation of the act or this part.
- (2) Incompetency on the part of the certified installer or certified inspector as evidenced by errors in conducting duties and activities for which the certification in question was issued.
- (3) Failure to successfully complete a training program required by the Department.
- (4) In the case of a certified inspector's failure to:
  - (i) Inform the owner or operator and the Department of conditions or procedures that are not in accordance with the manufacturer's technical and procedural specifications for installation, construction, modification or operation of the storage tank system or storage tank facility.
  - (ii) Conduct, review or observe a test or inspection activity required by the act or this part.
  - (iii) Submit reports of inspection activities to the Department within 60 days of conducting the inspection activities.

- (5) In the case of a certified installer's failure to:
  - (i) Be present during tank handling activities at the storage tank system or storage tank facility as required by the act and this part.
  - (ii) Conduct tank handling activities in accordance with the requirements of the act and this part.
  - (iii) Submit tank handling reports and activities to the Department within 60 days of conducting the tank handling activities.

- (6) Working as a certified installer or certified inspector in a certification category for which the person has failed to obtain certification.
- (7) Failure to meet one or more of the standards for performance in § 245.132 (relating to standards of performance).
- (8) Submission of false information to the Department.
- (9) A violation of The Clean Streams Law or the Solid Waste Management Act or regulations promulgated under those statutes by the certified individual which results in the following:
  - (i) Causes pollution, causes a threat of pollution or causes harm to the public health, safety or welfare.
  - (ii) Occurs as a result of the certified individual conducting activities related to the installation, modification, removal or inspection of storage tank systems.

- (b) The suspension of a certification in a single category shall prevent the person from engaging in activities in all categories of certification.
- (c) The Department may require that the person successfully complete a special training program sponsored or approved by the Department designed to strengthen the specific weakness in the certified installer's or certified inspector's duties, as required under the act or this

part identified in the suspension order. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the Department in the approval of the training course under § 245.141 (relating to training approval), for all sections of all qualifying tests given as part of the training program.

(d) A certified installer or certified inspector shall surrender certification documents to the Department upon notification of suspension.

(e) The Department may reinstate the certification if:

- (1) The cause for the suspension has been removed.
- (2) The person is competent to execute duties and responsibilities for which certification was issued.

**§ 245.109. Revocation of certification.**

(a) The Department may revoke the certification of a certified installer or certified inspector if the certified installer or certified inspector has done one or more of the following:

- (1) Demonstrated a willful disregard of, or willful or repeated violations of the act or regulations promulgated thereunder or this part.
- (2) Willfully submitted false information to the Department.
- (3) Committed an act requiring suspension under § 245.108 (relating to suspension of certification) after having certification suspended previously.
- (b) The revocation of a certification in a single category shall prevent the person from engaging in activities in all categories of certification.

(c) A certified installer or certified inspector shall surrender certification documents to the Department upon notification of revocation.

**§ 245.110. Certification of installers.**

(a) An installer certification authorizes the person to whom it is issued to conduct tank handling activities or tightness testing activities pertaining to storage tank systems or storage tank facilities in one or more of the categories in subsection (b).

(b) Installer certifications may be issued for the following categories:

(1) *Underground storage tank system-installation and modification {UMX}*. Installation and modification of underground storage tanks and storage tank systems including, but not limited to, the tank and all associated ancillary equipment, appurtenances, corrosion protection systems, structural components and foundations. This category also includes conducting preinstallation air pressure tests for underground storage tank systems.

(2) *Underground storage tank-removal {UMR}*. Removal from service of underground [manufactured] storage tank systems or storage tank facilities.

(3) *Underground storage tank-tightness tester {UTT}*. Tightness testing activities involved in conducting and interpreting results of volumetric and nonvolumetric tests on underground storage tank systems or storage tank facilities.

(4) *Aboveground manufactured metallic storage tank-installation and modification {AMMX}*. Installation and modification of aboveground manufactured metallic storage tanks or storage tank systems, including, but not limited to, the tank and all associated ancillary equip-

ment, appurtenances and corrosion protection systems. This category also covers foundations and structural components when they are designed by an engineer qualified in civil construction or when installing small aboveground UL-labeled tanks with manufacturer's installed self-containment or diking systems.

(5) *Aboveground nonmetallic storage tank-installation and modification {AMNX}*. Installation and modification of aboveground nonmetallic storage tanks or storage tank systems, including, but not limited to, the tank and all associated ancillary equipment and appurtenances. This category also covers foundations and structural components when they are designed by an engineer qualified in civil construction or as specified by the tank manufacturer.

(6) *Aboveground manufactured storage tank-removal {AMR}*. Removal from service of aboveground manufactured storage tank systems or storage tank facilities.

(7) *Aboveground field constructed metallic storage tank-installation, modification and removal {AFMX}*. Installation, modification and removal of aboveground field constructed metallic storage tanks and corrosion protection systems.

(8) *Aboveground field constructed storage tank-removal {AFR}*. Removal from service of aboveground field constructed storage tank systems or storage tank facilities.

(9) *Aboveground storage tank mechanical-installation, modification and removal {AMEX}*. Installation, modification and removal of tank related mechanical appurtenances, including, but not limited to, valves, fill piping, suction piping, foam system piping, pumps, corrosion protection systems, release detection systems, and spill and overfill prevention systems that are components of an aboveground storage tank system or storage tank facility.

(10) *Aboveground storage tank-civil {ACVL}*. Installation and modification of tank related structural components, including, but not limited to, foundations, dike walls, field grading, above and below grade vaults, pump supports, pipe supports, corrosion protection systems and drainage systems associated with an aboveground storage tank system or storage tank facility.

(11) *Storage tank-liner {TL}*. Activities involved in installing internal linings for underground and aboveground storage tank systems or storage tank facilities.

**§ 245.111. Certified installer experience and qualifications.**

(a) An applicant shall meet the following minimum experience or education requirements, or both, and have completed the required number of activities in the appropriate category for an installer certification:

Category	Total Experience or Education plus Experience	Total Number of Activities Completed
UMX	2 years, or college degree and 1 year	15 installations
UMR	2 years, or college degree and 1 year	15 removals
UTT	Department approved training with testing equipment manufacturer's certification	

<i>Category</i>	<i>Total Experience or Education plus Experience</i>	<i>Total Number of Activities Completed</i>
AMMX	2 years, or college degree and 1 year or UMX Certification	15 installations None
AMNX	or AFMX Certification	None
	2 years, or college degree and 1 year	15 which may be installations or major modifications
AMR	2 years, or college degree and 1 year or UMR Certification	15 removals None
	or AFR Certification	None
AFMX	3 years, or college degree and 2 years	20 which may be installations or major modifications
AFR	2 years, or college degree and 1 year	15 removals
AMEX	3 years, or college degree and 2 years	20 (10 installations and 10 modifications)
ACVL	3 years, or college degree and 2 years	20 (10 installations and 10 modifications)
TL	2 years	15 tank linings
	* * * * *	

(d) The total experience requirement for underground storage tank-tightness tester {UTT} shall be demonstrated through the submission of proof of successful completion of a training program sponsored or approved by the Department and possession of a current equipment manufacturer's certification for a specific method of testing. The Department's UTT certification is limited to the specific method of testing included in the equipment manufacturer's certification. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the Department in the approval of the training course under § 245.141 (relating to training approval), for all sections of all qualifying tests given as part of the training course.

\* \* \* \* \*

(f) In the category for aboveground field constructed metallic storage tank {AFMX}, for installation or reconstruction activities involving tanks greater than 90 feet in diameter, each activity shall count as two installations for purposes of meeting the total number of activities requirement.

(g) Six months experience may be accredited to an installer applicant who successfully completes a Department approved training program applicable to the certification category being requested. The 6 months experience shall be accredited to the total years of experience required by subsection (a), except for applicants who are substituting a college degree for experience.

**§ 245.112. Certification of inspectors.**

(a) An inspector certification authorizes the person to whom it is issued to conduct inspection activities for storage tank systems and storage tank facilities in one or more of the categories in subsection (b).

(b) Inspector certifications may be issued for the following categories:

(1) IUM underground storage tank systems and storage tank facilities.

(2) IAM aboveground manufactured storage tank systems and storage tank facilities.

(3) IAF aboveground field constructed storage tank systems and storage tank facilities.

**§ 245.113. Certified inspector experience and qualifications.**

(a) An applicant shall meet the following minimum experience or education requirements, or both, and have completed the required number of activities in the appropriate category of an inspector certification:

<i>Category</i>	<i>Total Experience and Qualification or Education plus Experience</i>	<i>Total Number of Activities Completed</i>
IUM	1. 4 years, or college degree and 2 years 2. Department approved tank tightness testing familiarization course or UTT certification	20 (10 installations and 10 major modifications) or (20 operations inspections for certification renewal applicants)
	or	
	IAM certification and Department approved tank tightness testing familiarization course or UTT certification	None
IAM	1. 4 years, or college degree and 2 years 2. Nondestructive testing level 2 certification using current ASNT recommended practice (SNT-TC-1A) or Department approved aboveground tank inspector training course or API 653 Certification	20 (which may be any combination of installations, major modifications or service inspections)
	or	
	IAF Certification	None

<i>Category</i>	<i>Total Experience and Qualification or Education plus Experience</i>	<i>Total Number of Activities Completed</i>
IAF	1. 4 years, or college degree and 2 years 2. Nondestructive testing level 2 certification using current ASNT recommended practice (SNT-TC-1A) or Department approved API 653 training course or API 653 certification. * * * * *	20 (which may be any combination of installations, major modifications or inspections under API 653 standards)

(b) The total number of activities completed required by subsection (a) shall have been completed within the 7-year period immediately prior to submitting the application for certification. The activities shall have been completed in compliance with Federal and State requirements and the applicant shall have had substantial personal involvement at the storage tank site in the activities.

(c) A college degree being substituted for experience shall be in civil engineering, mechanical engineering, environmental engineering, petroleum engineering, chemical engineering, structural engineering, geotechnical engineering, hydrology, geology or environmental studies.

(d) The total number of activities completed required by subsection (a) may be met through the conducting of tank handling or inspection activities. Noncertified individuals may work at the site but the certified inspector is directly responsible to assure that the activities are conducted properly. This work qualifies toward the total number of activities completed requirements.

(e) The total experience requirement is experience gained working at a storage tank site while working towards the total number of activities completed requirement.

(f) When conducting an aboveground storage tank structural integrity inspection on an aboveground field constructed metallic storage tank, the Department certified inspector shall also possess API Standard 653 (Tank Inspection, Repair, Alteration and Reconstruction Certification).

**§ 245.114. Renewal and amendment of certification.**

(a) Except as provided in § 245.103 (relating to phase-in from interim certification), certification shall be for 3 years from the date of issuance unless suspended or revoked. The date of certification expiration for amended certification applications shall coincide with the expiration dates of other certification categories for which the same certification examination modules were administered and passing grades were received. An applicant for renewal shall:

- (1) Submit a completed application for renewal to the Department at least 120 days prior to the renewal date.
- (2) Successfully complete training programs which may be required by the Department. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the Department in the approval of the training course under

§ 245.141 (relating to training approval) for all sections of all qualifying tests given as part of the training course.

(3) Have been actively involved in tank handling or inspection activities in each individually certified category during the previous 3-year period immediately prior to submitting the renewal application for certification or take the technical module examinations again for all inactive certification categories and achieve a passing grade as described in § 245.105(d) (relating to certification examinations).

(b) A certified installer or certified inspector shall notify the Department and seek amendment of the certification from the Department whenever:

(1) There is a change in the information provided in the application for the certification. This request shall be made within 14 days from the date of a change in information.

(2) The certified installer or certified inspector wishes to conduct tank handling or inspection activities in installer or inspector certification categories other than those approved by the Department as set forth on the certification.

(3) The certified installer or certified inspector wishes to eliminate installer or inspector certification categories from the certification.

(4) The EQB amends certification categories or qualification requirements and establishes a phase-in period for the new requirements.

(c) Certified installers or certified inspectors required to amend their certifications in accordance with subsection (b)(1) or (3) shall apply for amendment on a form provided by the Department.

(d) Certified installers or certified inspectors required to amend their certifications in accordance with subsection (b)(2) shall comply with the applicable requirements of this chapter related to application, experience, qualifications and examination.

**§ 245.123. Suspension of company certification.**

(a) The Department may suspend the certification of a certified company for good cause, which includes, but is not limited to:

(1) A violation of the act or this chapter by the company or a certified installer or certified inspector employed by the company.

(2) Incompetency on the part of the company as evidenced by errors in executing duties and responsibilities for which the certification was issued.

(3) Failure to meet one or more of the standards of performance in § 245.132 (relating to standards of performance).

(4) A violation of The Clean Streams Law or the Solid Waste Management Act or regulations promulgated thereunder by the company or a certified installer or a certified inspector employed by the company which results in the following:

(i) Causes pollution, causes a threat of pollution or causes harm to the public health, safety or welfare.

(ii) Occurs while conducting activities related to the installation, modification, removal from service or inspection of storage tank systems.

(5) Withholding from a certified installer or certified inspector, individual correspondence or certification documents issued by the Department.

(b) The Department may reinstate the certification if the following apply:

(1) The certified company and certified installers and certified inspectors employed by the certified company are competent to execute the duties and responsibilities for which certification was issued.

(2) The cause for the suspension has been removed.

(c) Suspension of a certification by the Department shall prevent a company from conducting tank handling or inspection activities during the suspension.

**§ 245.132. Standards of performance.**

(a) Certified companies, certified installers and certified inspectors shall:

(1) Maintain manufacturers, American Society of Non-destructive Testing (ASNT), American Petroleum Institute (API), American Society of Mechanical Engineers (ASME), Underwriters Laboratory (UL), Petroleum Equipment Institute (PEI), EPA and Department technical and administrative specifications and manuals which pertain to the categories for which certification was issued. This material is available from the following sources:

(i) American Society of Nondestructive Testing, 1711 Arlingate Lane, Post Office Box 28518, Columbus, Ohio 43228-0518.

(ii) American Petroleum Institute, 2535 One Main Place, Dallas, TX 75202-3904.

(iii) American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017.

(iv) Underwriters Laboratory, Suite 400, 818 Eighteenth Street, N.W., Washington D.C. 20006.

(v) Petroleum Equipment Institute, Post Office Box 2380, Tulsa, Oklahoma 74101.

(vi) Environmental Protection Agency, Region III, UST/LUST Section (3HW63), 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

(vii) Department of Environmental Protection, Division of Storage Tanks, 400 Market Street, Post Office Box 8762, Harrisburg, Pennsylvania 17105-8762.

(2) Complete and file with the Department on a form provided by the Department a certification that the tank handling activity or inspection activity conducted by the certified installer or certified inspector meets the requirements of the act and this part.

(3) Maintain complete records of tank handling and inspection activities for a minimum of 10 years.

(4) Report to the Department a release of a regulated substance or confirmed or suspected contamination of soil, surface or groundwater from regulated substances observed while performing services as a certified installer or certified inspector. This notification shall be submitted to the Department in writing within 48 hours of observing suspected or confirmed contamination on a form provided by the Department. If the notification is being submitted because of a failed valid tightness test, a copy of the test results shall also be provided to the Department with the notification report. When there is a reportable release, the notification may be submitted jointly by the owner, operator, certified installer and certified inspector. In this instance, the written notification report shall be submitted to the Department, at the appropriate regional office, in accordance with § 245.305 (relating to reporting releases).

(5) Perform certified installer or certified inspector activities so that there is no release of regulated substances or contamination of soil, surface or groundwater caused by regulated substances from a storage tank system or storage tank facility.

(6) Not affix the certified installer's or certified inspector's signature or certification number to documentation concerning the installation or inspection of a component of a storage tank system project or to documentation concerning tank handling or inspection activity, unless:

(i) The storage tank system project was accomplished by the certified installer or under the installer's direct, onsite supervision and control.

(ii) Inspection activities were conducted on the storage tank system project by the certified inspector, or under the inspector's direct, onsite supervision and control and as required by the act and this chapter and the certified inspector was present at the site during the conducting of inspection activities on the storage tank system project and as required by the act and this chapter.

(7) Not certify to an owner or operator that a storage tank system project or component thereof is complete unless it complies with the act or this chapter.

(8) Adhere to equipment manufacturer's instructions, accepted industry standards and applicable industry codes of practice when performing tank handling, tightness testing or inspection activities.

(b) A certified installer or certified inspector shall display his certificate upon request.

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