

Proposed AST Changes

DE Reg page #	Part	Section	Change Required	Reasoning for Change
1			Deleted "Tank Management Section"	for consistency with current Division organization
1	A	1.1.2	deleted "preserving"; added "preserving,"	style guide adherence highlighted here, and throughout the entire regulation.
4	A	2	added "a single", "substance"; deleted "substances"	clarify an AST contains one regulated substance.
5	A	2	added "'Best Management Practices" means site specific systems of practices, schedules of activities, prohibitions, maintenance procedures, and management measures that prevent or minimize adverse impacts to the environment."	added definition for clarity purposes
6	A	2.0	add "DERBCAP means Delaware Risk Based Corrective Action Protocol"	defined acronym
7	A	2.0	added definition for "Fiduciary"	added from statute for ease of reference
8	A	2.0	added definition for "Forclosure"	added from statute for ease of reference
9	A	2.0	added definition for "Imminent threat of a release"	added from statute for ease of reference
10	A	2.0	added definition for "Lender"	added from statute for ease of reference
12	A	2.0	deleted "but not limited to"	deleted here and throughout the regulation as per style guide requirements
12	A	2.0	deleted "one-hundrd eighty (180)" added "180"	In Out of Service definition and throughout the regulation, amended numbering as per style guide requirements
14	A	2.0	added definition for "Repair" and "Responsible Party"	added from statute for ease of reference
15	A	2.0	added "Security interest" definition	added from statute for ease of reference
16	A	2.0	added "Tier 0, as described in DERBCAP, means the initial process of gathering and evaluating data at the time of a tank related activity to assess soil and confirm the presence or absence of a release of a regulated substance."	Defined term due to inclusion by reference of DERBCAP standard
20	A	3.4	added "Incorporation by Reference"	added new section to include three standards
20	A	3.4.1	added "The Delaware Risk-Based Corrective Action Protocol, Volume 1, dated January, 2023, published by the Department of Natural Resources and Environmental Control, for Petroleum Underground and Aboveground Storage Tank Sites is hereby adopted and incorporated by reference as the Delaware Risk-Based Corrective Action Protocol and is an enforceable part of these Regulations."	added one of three standards

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20	A	3.4.2	added "The Hydrogeologic Investigation Guidance, dated January, 2023, published by the Department of Natural Resources and Environmental Control, is hereby adopted and incorporated by reference for the purposes of compliance with Corrective Action requirements established in Part E and is an enforceable part of these Regulations."	added one of three standards
20	A	3.4.3	added "The Investigation, Risk Determination and Remediation Guidance for the Vapor Intrusion Pathway Guidance, dated January, 2023, published by the Department of Natural Resources and Environmental Control, is hereby adopted and incorporated by reference for the purposes of compliance with Corrective Action requirements established in Part E and is an enforceable part of these Regulations."	added one of three standards
24	A	5.3	added "Tier 0 Investigation Exemption"	provided clarity for process to request exemption from Tier 0 sampling
24	A	5.3.1	<p>added "For any activity that requires a Tier 0 investigation, an Owner or Operator may seek relief from the Tier 0 investigation requirements by providing the following information to the Department, as appropriate:</p> <p>5.3.1.1 Photographs, maps, or drawings of the AST and associated containment area, with written explanation as to how the containment area functions to ensure a Release will be contained, with no impacts to the subsurface of the soil or groundwater; and</p> <p>5.3.1.2 Cross sectional maps illustrating soil strata; and</p> <p>5.3.1.3 Documentation of historic release events illustrating effective containment design with the successful recovery of lost product where an impact to the environment was averted; and</p> <p>5.3.1.4 Existing on-site monitoring well data from other federal or state environmental investigations; and</p> <p>5.3.1.5 Any additional supplemental information that would be helpful to the Department in determining if a Tier 0 investigation is warranted."</p>	outlined process for requesting Tier 0 exemption
32	B	2.1.2	added "new"; deleted "installed after June 11, 2004"	amended this section and throughout the regulation as New AST was defined in Part A, Section 2.0

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40	B	6.7.2	added "At any time excavation of soil or removal of concrete, asphalt, or other cover is required during the course of a Repair, Owners and Operators shall perform soil sampling and analysis in accordance with those requirements identified in DERBCAP to measure for the presence of a Release where contamination is most likely to be present at the AST site."	Removed Section 14.0 and added language to individual Sections to clarify when sampling is required.
40	B	6.7.3	added "Within 90 days of completion of a Repair of underground piping Owners and Operators shall submit documentation to the Department including the following: 6.7.3.1Repair completion documentation; and 6.7.3.2Results of Tier 0 sampling requirements specified in DERBCAP; and 6.7.3.3Results of any piping tests required by the Department."	Removed Section 14.0 and added language to individual Sections to clarify what documentation must be submitted following sampling events.
45	B	10.1.1	added "At any time excavation of soil or removal of concrete, asphalt, or other cover is required during the course of Relocation, Repairs and Modifications Owners and Operators shall perform soil sampling and analysis in accordance with those requirements identified in DERBCAP and Part E of these Regulations, to measure for the presence of a Release where contamination is most likely to be present at the AST site. An Owner or Operator shall comply with the conditions specified in Part A, subsection 5.4 of these Regulations to request an exemption of the Tier 0 investigation requirements."	Removed Section 14.0 and added language to individual Sections to clarify when sampling is required.
45	B	10.1.2	added "Within 90 days of completion of a Relocation, Repair or Modification, Owners and Operators shall submit documentation to the Department including the following: 10.1.2.1AST Activity completion documentation; and 10.1.2.2Results of Tier 0 sampling requirements specified in DERBCAP; and 10.1.2.3Results of any tests required by the Department. "	Removed Section 14.0 and added language to individual Sections to clarify what documentation must be submitted following sampling events.
46	B	11.1.1	added "At any time excavation of soil or removal of concrete, asphalt, or other cover is required during the course of AST upgrades Owners and Operators shall perform soil sampling and analysis in accordance with those requirements identified in DERBCAP and Part E of these Regulations, to measure for the presence of a Release where contamination is most likely to be present at the AST site."	Removed Section 14.0 and added language to individual Sections to clarify when sampling is required.

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46	B	11.1.2	added "Within 60 days of completion of an AST upgrades Owners and Operators shall submit documentation to the Department including the following: 11.1.2.1AST Activity completion documentation; and 11.1.2.2Results of Tier 0 sampling requirements specified in DERBCAP; and 11.1.2.3Results of any tests required by the Department."	Removed Section 14.0 and added language to individual Sections to clarify what documentation must be submitted following sampling events.
51	B	13.1.4	deleted "as per the requirements of PART B, Section 14.0"; added "in accordance with the requirements specified in DERBCAP and Part E of these Regulations. Within 90 days of completion, the Owner or Operator shall submit the results of the site assessment to the Department. An Owner or Operator shall comply with the conditions specified in Part A, subsection 5.4 of these Regulations to request an exemption of the Tier 0 investigation requirements."	Removed Section 14.0 and added reference to DERBCAP.
51	B	13.1.7	deleted "a site assessment has been performed in accordance with these Regulations"; added "all requirements specified in DERBCAP have been satisfied,"	cited standards added to regulations
52	B	14.0	deleted section	relocated requirements throughout regulations
53	B	15.1.3	deleted "comply with the requirements of PART B, Section 14.0"; added "perform Tier 0 sampling and analysis in accordance with the requirements specified DERBCAP and Part E of these regulations. Within 90 days of completion, the Owner or Operator shall submit sampling results to the Department. An Owner or Operator shall comply with the conditions specified in Part A, subsection 5.4 of these Regulations to request an exemption of the Tier 0 investigation requirements."	Removed Section 14.0 and added reference to DERBCAP.
54	B	16.1.3	deleted "comply with the requirements of PART B, Section 14.0"; added "perform Tier 0 sampling and analysis in accordance with the requirements specified DERBCAP and Part E of these regulations. Within 90 days of completion, the Owner or Operator shall submit sampling results to the Department. An Owner or Operator shall comply with the conditions specified in Part A, subsection 5.4 of these Regulations to request an exemption of the Tier 0 investigation requirements."	Removed Section 14.0 and added reference to DERBCAP.

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55	B	17.1.3	deleted "comply with the requirements of PART B, Section 14.0"; added "perform Tier 0 sampling and analysis in accordance with the requirements specified DERBCAP and Part E of these regulations. Within 90 days of completion, the Owner or Operator shall submit sampling results to the Department. An Owner or Operator shall comply with the conditions specified in Part A, subsection 5.4 of these Regulations to request an exemption of the Tier 0 investigation requirements."	Removed Section 14.0 and added reference to DERBCAP.
63	C	6.4.8.1	delete "shall"; added "must"	comply with style guide manual
65	C	7.1.8	added "in accordance with the requirements specified in DERBCAP and", "of these Regulations,"	cited standards added to regulations
69	C	8.1.1.6	added "in accordance with the requirements specified in DERBCAP and", "of these Regulations,"	cited standards added to regulations
75	C	8.1.7.2.4	deleted "per TR 630 of ASME Section X,"; added "as approved by the Department,"	ASME standard not appropriate
78	C	9.2.1.3	deleted "requirements"; added "in accordance with the requirements specified in DERBCAP and", "of these Regulations"	cited standards added to regulations
149	E	1.1.8	added "the requirements specified in DERBCAP, the HIG, and", "of these Regulations"	cited standards added to regulations
154	E	3.2.1.4	added "the requirements specified in DERBCAP, the HIG, and", "of these Regulations"	cited standards added to regulations
155	E	4.2.1.2	added "the requirements specified in DERBCAP, the HIG, and", "of these Regulations"	cited standards added to regulations
158	E	5.1.2.4	deleted "Delaware Tisk Based Corrective Action Program (DERBCAP) or other Department approved procedure,"; added "requirements specified in DERBCAP and the HIG,"	cited standards added to regulations
160	E	7.1.1	added "in accordance with the requirements specified in DERBCAP and the HIG"	cited standards added to regulations
162	E	8	reworded and reorganized entire No Further Action Requirements Section	clarity