

# NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

## DEFENSE-WITHIN-LIMITS FORM FILING COMPLIANCE QUESTIONNAIRE

PAGE 1 of

<b>COMPANY</b>	<b>Co. File No.</b>
<b>Company Contact:</b>	<b>Phone Number:</b>
<b>E-Mail Address:</b>	

### TYPE OF INSURANCE

(for Pollution Insurance for Owners/Operators of Underground Storage Tanks, complete page 2)

AMOUNT OF OFFSET	100% <input type="checkbox"/>	Offset Against	Limits only <input type="checkbox"/>	
	50% <input type="checkbox"/>		Deductible Only <input type="checkbox"/>	
	Other <input type="checkbox"/>	% _____	Both <input type="checkbox"/>	
		(Specify)		

**Instructions: All applicable items must be answered. Responses in the shaded area indicate non-compliance with Regulation No. 107. Failure to complete all items, or responses in the shaded area, will result in this filing being returned without further review.**

#### I. ALL POLICIES

- |                                                                                                                                                 |                              |  |  |                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|--|--|------------------------------|
| A. Minimum Limit of \$ _____ complies with [§71.3(d)]                                                                                           | YES <input type="checkbox"/> |  |  | NO <input type="checkbox"/>  |
| B. Face of policy contains a conspicuous notice that the policy is written on a "defense-within-limits" basis [§71.5(a)]                        | YES <input type="checkbox"/> |  |  | NO <input type="checkbox"/>  |
| C. Face of application contains a conspicuous notice that the policy is written on a "defense-within-limits" basis [§71.5(a)]                   | YES <input type="checkbox"/> |  |  | NO <input type="checkbox"/>  |
| D. 1. Policy contains insured's acknowledgement (check all that apply) [§71.5(b)(1) – (3)]                                                      |                              |  |  |                              |
| <input type="checkbox"/> the limits can be reduced by defense expenses                                                                          | YES <input type="checkbox"/> |  |  | NO <input type="checkbox"/>  |
| <input type="checkbox"/> the limits can be exhausted by defense expenses                                                                        | YES <input type="checkbox"/> |  |  | NO <input type="checkbox"/>  |
| <input type="checkbox"/> the deductible can be reduced or exhausted by defense expenses                                                         | YES <input type="checkbox"/> |  |  | NO <input type="checkbox"/>  |
| or                                                                                                                                              |                              |  |  |                              |
| D. 2. The notice on the face of the policy and application contains the information required by §71.5(d)                                        | YES <input type="checkbox"/> |  |  | NO <input type="checkbox"/>  |
| E. Unless this policy provides coverage for owners or operators of underground storage units, does the policy contain a separate defense limit? |                              |  |  | YES <input type="checkbox"/> |
|                                                                                                                                                 |                              |  |  | NO <input type="checkbox"/>  |

#### II. POLICIES CONTAINING 100% OFFSETS

Policy provides that insured can:

- |                                                                                          |                              |  |  |                             |
|------------------------------------------------------------------------------------------|------------------------------|--|--|-----------------------------|
| 1. Select defense attorney or consent to insurer's choice [§71.3(c)(1)]                  | YES <input type="checkbox"/> |  |  | NO <input type="checkbox"/> |
| 2. Participate in the defense [§71.3(c)(2)]                                              | YES <input type="checkbox"/> |  |  | NO <input type="checkbox"/> |
| 3. Consent to the settlement, such consent not to be unreasonably withheld [§71.3(c)(3)] | YES <input type="checkbox"/> |  |  | NO <input type="checkbox"/> |

#### III. POLICIES CONTAINING LEGAL SERVICES INSURANCE

No more than 25% of the policy's per claim or aggregate limit can be reduced by payment of legal services insurance [§71.3(f)]

	YES <input type="checkbox"/>			NO <input type="checkbox"/>
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**NOTE: All sections cited are to the applicable sections of Regulation No. 107**

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PAGE 2 OF 2

COMPANY

Co. File No.

**TYPE OF INSURANCE**

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**IV. POLICIES CONTAINING A SEPARATE DEFENSE LIMIT FOR POLLUTION LIABILITY FOR OWNERS/OPERATORS OF UNDERGROUND STORAGE TANKS (USTs)**

- |                                                                                                                                                                                                                                                                                                                                                                                                              |                              |                              |                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|------------------------------|-----------------------------|
| <p>A. Will policy be issued to an insured who is an owner or operator of USTs in order to satisfy EPA financial responsibility requirements? [§71.4(b)]</p>                                                                                                                                                                                                                                                  | YES <input type="checkbox"/> | NO <input type="checkbox"/>  |                             |
| <p>B. Does the per claim limit meet the minimum limit requirement? [§71.4(c)(1)]</p>                                                                                                                                                                                                                                                                                                                         | YES <input type="checkbox"/> | NO <input type="checkbox"/>  |                             |
| <p>C. Does the annual aggregate limit, if any, meet the minimum limit requirement? [§71.4(c)(1)]</p>                                                                                                                                                                                                                                                                                                         | YES <input type="checkbox"/> | NO <input type="checkbox"/>  |                             |
| <p>D. Do legal defense costs reduce the per claim or annual aggregate limit? [§71.4(c)(2)]</p>                                                                                                                                                                                                                                                                                                               |                              | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| <p>E. Does the separate defense limit comply with §71.4(c)(3)?</p>                                                                                                                                                                                                                                                                                                                                           | YES <input type="checkbox"/> | NO <input type="checkbox"/>  |                             |
| <p>F. Check the one that applies and answer accordingly:<br/>                 1. <input type="checkbox"/> Policy contains insured's acknowledgment that a separate defense limit applies to defense expenses? [§71.5(b)(4)]</p> <p style="text-align: center;">or</p> <p>2. <input type="checkbox"/> The notice on the face of the policy and application contains the information required by §71.5(d)?</p> | YES <input type="checkbox"/> | NO <input type="checkbox"/>  |                             |
| <p>G. If the policy provides Legal Services Insurance, no more than 25% of the defense limit can be reduced by payments for such coverage [§71.4(d)]</p>                                                                                                                                                                                                                                                     | YES <input type="checkbox"/> | NO <input type="checkbox"/>  |                             |

**NOTE: All sections cited are to the applicable sections of Regulation No. 107**