

Secretary of the State File Number

6349

Regulation of the
Department of Energy and Environmental Protection
Concerning

Underground Storage Tanks

Regulations adopted after July 1, 2013, become effective upon posting to the Connecticut eRegulations System, or at a later date if specified within the regulation.

Posted to the Connecticut eRegulations System on **November 30, 2021**

EFFECTIVE DATE

November 30, 2021

Approved by the Attorney General on

October 4, 2021

Approved by the Legislation Regulation Review Committee on

October 26, 2021

Electronic copy with agency head certification statement electronically submitted to and received by the Office of the Secretary of the State on

November 8, 2021

Form ICM-ECOPY (NEW 6/2015)
State of Connecticut
Secretary of the State



IMPORTANT NOTICE FOR CONNECTICUT STATE AGENCIES
This form should be used only for regulations first noticed *on and after March 23, 2015*.

Electronic Copy Certification Statement

(Submitted in accordance with the provisions of section 4-172 of the Connecticut General Statutes)

Regulation of the
Department of Energy and Environmental Protection
Concerning
Underground Storage Tanks

Approved by the Legislative Regulation Review Committee: **October 26, 2021**

eRegulations System Tracking Number: **PR-2020-027**

I hereby certify that the electronic copy of the above-referenced regulation submitted herewith to the Secretary of the State is a true and accurate copy of the regulation approved in accordance with sections 4-169 and 4-170 of the *Connecticut General Statutes*.

And I further certify that in accordance with the approval of Legislative Regulation Review Committee, all required technical corrections, page substitutions and deletions, if any, have been incorporated into said regulation.

In testimony whereof, I have hereunto
set my hand on **November 8, 2021**.

Katherine S. Dykes

Katherine S. Dykes

Comissioner

Department of Energy and Environmental
Protection

State of Connecticut
Regulation of
Department of Energy and Environmental Protection
Concerning
Underground Storage Tanks

Section 1. Subsections (a) and (b) of section 22a-449(d)-101 of the Regulations of Connecticut State Agencies are amended to read as follows:

(a) Applicability and purpose of sections 22a-449(d)-101 through 22a-449(d)-113.

(1) The requirements of sections 22a-449(d)-101 to [through] 22a-449(d)-113, inclusive of the Regulations of Connecticut State Agencies shall apply to all owners and operators of an UST system, [as defined in section 22a-449 (d)-101 (d),] except as otherwise provided in subdivisions [(a) (2)[,] and [(a) (3) [, and (a) (4)] of this subsection. [section 22a-449 (d)-101. Any UST system listed in subdivision (a) (3) of section 22a-449 (d)-101 shall meet the requirements in subsection (b) of section 22a-449 (d)-101. Any UST system listed in subparagraphs(a) (2) (C), (a) (2) (D), (a) (2) (E), and (a) (2) (F) and in subparagraphs (a) (3) (C), (a) (3) (D), and (a) (3) (E) of section 22a-449 (d)-101 which is used for the storage, transmission or dispensing of oil or petroleum liquids, as defined in section 22a-449 (d)-1 (a) of the Regulations of Connecticut State Agencies ("RCSA"), shall meet the requirements of section 22a-449 (d)-1.]

(2) Exemptions. The following UST systems are excluded from the requirements of section 22a-449(d)-101 to [through] section 22a-449(d)-113, inclusive of [these regulations] the Regulations of Connecticut State Agencies:

(A) Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;

(B) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 402 or 307 (b) of the Clean Water Act;

(C) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

(D) Any UST system whose capacity is 110 gallons or less;

(E) Any UST system that contains a de minimis concentration of regulated substances; and

(F) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

(3) [Deferrals. Sections 22a-449 (d)-102, 103, 104, 105, and 107 do not apply to any of the following types of UST systems:] Partial Exemptions. Owners and operators of the following UST systems shall comply with subparagraph (B) of this subdivision:

(A) (i) Wastewater treatment tank systems, not excluded by subdivision (2)(B) of this subsection;

[B] (ii) Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following); and

[C] (iii) Any UST system that is part of an emergency generator system at nuclear power generation facilities [regulated] licensed by the Nuclear Regulatory Commission [under] and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including, but not limited to, those facilities licensed pursuant to 10 CFR [part] 50. [, appendix A;]

[(D) Airport hydrant fuel distribution systems; and

(E) UST systems with field-constructed tanks.]

(B) The owner or operator of an UST system specified in subparagraph (A) of this subdivision shall comply with sections 22a-449(d)-106 and 22a-449d-109 to 22a-449(d)-113, inclusive, of the Regulations of Connecticut State Agencies and shall:

(i) Ensure that there are no releases from such UST system due to corrosion or structural failure for the operational life of such system;

(ii) Ensure that the UST system is constructed of material that is compatible with the stored regulated substance and that such system satisfies at least one of the following requirements:

(I) Is cathodically protected against corrosion;

(II) Is constructed of non-corrodible material;

(III) Is constructed of steel clad with a non-corrodible material; or

(IV) Is designed in a manner to prevent the release or threatened release of any stored substance.

(C) The owner or operator of an UST system specified in subparagraph (A) of this subdivision is not required to comply with sections 22a-449(d)-102 to 22a-449(d)-105, inclusive, 22a-449(d)-107, and 22a-449(d)-108 of the Regulations of Connecticut State Agencies, provided any such owner or operator complies with subparagraph (B) of this subdivision.

[(4) Deferrals. Section 22a-449 (d)-104 does not apply to any UST system that stores fuel solely for use by emergency power generators, provided however that the owner and operator of any such UST system shall comply with the requirements of subsection 22a-449 (d)-1 (i) if the nominal capacity of such system, exclusive of piping, is greater than or equal to two thousand one hundred (2,100) gallons.]

[(5)] (4) Purpose. The purpose of sections 22a-449(d)-101 to 22a-449(d)-113 of the Regulations of Connecticut State Agencies is to establish a comprehensive regulatory program for underground storage tanks containing regulated substances subject to Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, and the regulations adopted thereunder at 40 CFR 280 and 40 CFR 281.

[(b) Interim prohibition for deferred UST systems.]

(1) No person may install an UST system listed in subparagraph (a) (3) of section 22a-449 (d)-101 for the purpose of storing regulated substances unless the UST system (whether of single- or double-wall construction):

(A) Shall prevent releases due to corrosion or structural failure for the operational life of the UST System;

(B) Is cathodically protected against corrosion, constructed of non-corrodible material; steel clad with a non-corrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and

(C) Is constructed or lined with material that is compatible with the stored substance.

(2) Notwithstanding subdivision (b) (1) of section 22a-449 (d)-101, an UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators shall maintain records that demonstrate compliance with the requirements of this paragraph for the remaining life of the tank.

(3) The National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," may be used as guidance for complying with subdivision (b) (2) of section 22a-449 (d)-101.]

(b) **Prohibitions.** No person may own or operate an airport hydrant fuel distribution system or an UST system with a field-constructed tank. The owner or operator of any airport hydrant fuel distribution system or an UST system with a field-constructed tank shall permanently close such system in accordance with section 22a-449(d)-107 of the Regulations of Connecticut State Agencies. For purposes of this subsection, "airport hydrant fuel distribution system" means an UST system which fuels aircraft and operates under high pressure with large diameter piping, that begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier and typically terminates into one or more hydrants (fill stands); and "field-constructed tank" means a tank constructed at the underground storage facility that is not pre-fabricated and includes, but is not limited to, a tank constructed of concrete that is poured at such facility, or a steel or fiberglass tank primarily fabricated at such facility.

Sec. 2. Subdivision (5) of section 22a-449(d)-102(a) of the Regulations of Connecticut State Agencies is amended to read as follows:

(5) Spill and overfill prevention equipment.

(A) Except as provided in subparagraph [22a-449 (d)-102 (a) (5)] (B) of [these regulations] this subdivision, to prevent spilling and overfilling associated with product transfer to [the] an UST system, owners and operators shall use the following [spill and overfill prevention equipment]:

[(D)](i) Spill prevention equipment that [shall prevent] prevents the release of [product] regulated substances to the environment when the transfer hose is detached from the fill pipe [(for example, a spill catchment basin)]; and

(ii) Overfill prevention equipment that [shall]:

[(a)] (I) Automatically [shut] shuts off flow into the tank when the tank is no more than 95 percent full[,]; or

[(b)] (II) [Alert] Alerts the transfer operator when the tank is no more than 90 percent full by triggering a high-level alarm or restricting the flow into the tank, provided that on or after {insert date 180 days after the effective date of this subdivision}, flow restrictors in vent lines shall not be used to comply with this subclause [or triggering a high-level alarm].

(B) Owners and operators are not required to use the spill and overfill prevention equipment specified in subparagraph [22a-449 (d)-102 (a) (5)] (A) of [these regulations] this subdivision if:

[(I)] (i) [Alternative] Upon written request by the owner or operator prior to installation, the commissioner determines, in writing, that alternative equipment is [used that is determined by the implementing agency to be] no less protective of human health and the environment than the equipment specified in [subparagraphs 22a-449 (d)-102 (a) (5) (A) (i) and (ii) of these regulations and such equipment has been approved in writing by the implementing agency prior to installation of the UST system] subparagraph (A) of this subdivision; or

(ii) The UST system is filled by transfers of no more than 25 gallons at one time.

Sec. 3. Subdivision (15) of section 22a-449(d)-102(a) of the Regulations of Connecticut State Agencies is amended to read as follows:

(15) Testing requirements for [double-walled] underground storage tank systems [installed on or after August 8, 2012].

(A) (i) [Before using or operating an underground storage tank system] An UST system installed on or after [August 8, 2012] {insert the effective date of this subdivision}, shall not be used or operated until the owner or operator of [any] such [underground storage tank] system [shall conduct tests which demonstrate] conducts testing, in accordance with subparagraph (F) of this subdivision, to demonstrate that there is no release or loss of any liquids from any part of [the double-walled underground storage tank] such system. [Such tests shall include a demonstration that, should any liquid accumulate in a new piping containment sump and in a new under-dispenser containment sump, it will not leave such sump or be released into the environment. The owner or operator shall perform such test upon installation and every 5 years thereafter. Secondary containment systems where the continuous monitoring automatically monitors both primary and secondary containment, such as systems that are hydrostatically monitored or under constant vacuum, are exempt from the testing every 5 years required by this subparagraph.]

(ii) The owner or operator of an UST system installed on or after August 8, 2012, but before {insert effective date of this subdivision}, shall conduct testing, in accordance with subparagraph (F) of this subdivision, to demonstrate that there is no release or loss of any liquids from any part of such system. The testing required by this clause shall be conducted no later than 3 years after

the date the last test was, or should have been conducted, or {insert date that is 1 year after the effective date of this clause}, whichever is later.

(iii) The owner or operator of an UST system installed before August 8, 2012, shall conduct testing, in accordance with subparagraph (F) of this subdivision, to demonstrate that there is no release or loss of any liquids from any part of such system, provided such testing does not need to include a piping containment sump or under dispenser containment sump unless such sumps meet the requirements of a new piping containment sump or a new under-dispenser containment sump. The testing required by this clause shall be conducted no later than {insert date that is 1 year after the effective date of this subdivision}.

(B) [The owner or operator of any underground storage tank system repairing a piping containment sump or under-dispenser containment sump installed on or after August 8, 2012, shall conduct a test that demonstrates that the repaired piping containment sump or under-dispenser containment sump meets the requirements of a new piping containment sump or new under-dispenser containment sump. The test and demonstration required for new under-dispenser containment sumps by this subparagraph shall be performed before the owner or operator begins to use or operate the dispenser associated with the new under-dispenser containment sump.] No later than 3 years after the date for conducting testing required by subparagraph (A) of this subdivision, and at least once every 3 years thereafter, the owner or operator of an UST system shall conduct testing, in accordance with subparagraph (F) of this subdivision, to demonstrate that there is no release or loss of any liquids from any part of such system. The testing required by this subparagraph, for UST systems installed before August 8, 2012, does not need to include a piping containment sump or under dispenser containment sump unless such sumps meet the requirements of a new piping containment sump or a new under-dispenser containment sump.

(C) Any such owner or operator shall cease using or operating an UST system if any test conducted pursuant to subparagraphs (A) or (B) of this subdivision fails to demonstrate that there is no release or loss of any liquids from any part of such system. Such owner or operator shall not resume using or operating such UST system until subsequent testing, in accordance with subparagraph (F) of this subdivision, demonstrates that there is no release or loss of any liquids from any part of such system.

(D) Any such owner or operator of an UST system equipped with secondary containment systems with continuous monitoring that automatically monitors the integrity of both primary and secondary containment, such as systems that are hydrostatically monitored or under constant vacuum, is exempt from the testing required by subparagraphs (A) and (B) of this subdivision.

[(C)] (E) The owner or operator of [an underground storage tank system] an UST system shall maintain the results of all testing to demonstrate compliance with this subdivision in accordance with the requirements of section 22a-449(d)-103(e)(4) of the Regulations of Connecticut State Agencies. The owner or operator [of an underground storage tank system] may store and retrieve electronically the results of all such testing. The owner or operator shall provide such results to the [Commissioner] commissioner upon request. The results shall be provided to the commissioner

within the time frame specified in any such request, but if no time frame is specified, no later than 30 days after any such request. [The owner or operator shall use a qualified individual or company who has the expertise to perform and document the results of the testing required by this subdivision.]

[(D)] (F) [Any] Except as is specified in this subdivision for UST systems installed before August 8, 2012, any test conducted to satisfy the requirements of this subdivision shall be capable of determining if there is a release or any loss of liquids from any part of the [double-walled underground storage tank] UST system, including, but not limited to, any part of a new piping containment sump and a new under-dispenser containment sump. [The owner or operator of an underground storage tank system] The owner or operator shall use a qualified individual or company who has the expertise to perform and document the results of the testing required by this subdivision and shall [perform] ensure that the tests required by this subdivision [using] use the best available technology or that such tests are conducted in accordance with the manufacturer's guidelines and standards. If there are no manufacturer's guidelines or standards, the owner or operator shall [perform] ensure that such tests are conducted in accordance with an applicable method specified in an industry code or engineering standard. If there are no applicable manufacturer's guidelines or standards, industry codes, or engineering standards, the owner or operator shall [perform] ensure that such tests using a test method that, before use, is approved by a registered professional engineer licensed in the state of Connecticut. If the commissioner deems any of the foregoing test methods to be unacceptable, the commissioner [will] shall post on the department's internet website a list of such unacceptable test methods.

Sec. 4. Subsection (a) of Section 22a-449(d)-103 of the Regulations of Connecticut State Agencies is amended to read as follows:

(a) Spill and overfill control.

(1) Owners and operators shall ensure that releases due to spilling or overfilling do not occur.

The owner and operator shall ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

(2) The owner and operator shall report, investigate, and clean up any spills and overfills in accordance with subsection 22a-449 (d)-105 (d) of [these regulations] the Regulations of Connecticut State Agencies.

(3) The transfer procedures described in National Fire Protection Association Publication 385 may be used to comply with subdivision [22a-449 (d)-103 (a) (1) of these regulations] (1) of this subsection. Further guidance on spill and overfill prevention appears in American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code."

(4) Owners and operators of UST systems shall ensure that spill prevention equipment satisfies either the requirements of subparagraph (A) or (B) of this subdivision.

(A) Such system is double walled and uses continuous monitoring that automatically monitors the integrity of both walls, such as systems that are hydrostatically monitored or under constant vacuum. If an owner or operator discontinues such monitoring:

(i) No later than 30 days after such discontinuance, the owner or operator shall conduct a test specified in subparagraph (B) of this subdivision; and

(ii) During any period when such monitoring is discontinued, the owner or operator shall comply with subparagraph (B) of this subdivision; or

(B) Such system is tested using vacuum, pressure, or liquid testing, at least once every 3 years with subsequent testing no later than 3 years after the most recent previous test, to ensure the equipment is liquid tight. If this testing has not been conducted previously, the initial test required by this subparagraph shall be conducted no later than {insert date that is 1 year after the effective date of this subsection}. Testing required by this subparagraph shall be conducted in accordance with:

(i) Requirements developed by the manufacturer, provided the manufacturer has developed such requirements; or

(ii) A code of practice developed by a nationally recognized association or independent testing laboratory.

Sec. 5. Subsection (c) of section 22a-449(d)-103 of the Regulations of Connecticut State Agencies is amended to read as follows:

(c) **Compatibility.** [Owners and operators shall use an UST system made of or lined with materials that are compatible with the substance stored in the UST system.]

(1) [Owners and operators storing alcohol blends may use the following codes to comply with the requirements of this section:

(A) American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations"; and

(B) American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."]

Owners and operators shall use an UST system made of materials that are compatible with any regulated substance stored in such system. This requirement shall apply to the entirety of an UST system.

(2) (A) The owner or operator of an UST system storing greater than ten (10) percent ethanol or greater than twenty (20) percent biodiesel shall demonstrate that such regulated substances are compatible with the tank, piping, new piping containment sumps, new under-dispenser containment sumps, pumping equipment, release detection equipment, and spill and overfill equipment parts of an UST system using one of the following options:

(i) Certification or listing of UST system equipment or components by a nationally recognized independent testing laboratory for use with such regulated substances; or

(ii) An affirmative statement of compatibility in writing from the equipment or component manufacturer that specifies the range of biofuel blends with which the equipment or component is compatible.

(B) Documentation demonstrating compliance with the requirements of subparagraph (A) of this subdivision shall be maintained in accordance with subsection (e)(4) of this section.

Sec. 6. Subsection (d) of section 22a-449(d)-103 of the Regulations of Connecticut State Agencies is amended to read follows:

(d) Repairs allowed.

Owners and operators of UST systems shall ensure that repairs shall prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs shall meet the following requirements:

(1) Repairs to UST systems shall be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory provided that such codes and standards are no less stringent and protective than the requirement in NFPA 30.

(2) Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

(3) Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications.

(4) Repaired tanks and piping shall be tightness tested in accordance with sections 22a-449(d)-104(e)(3) and [subdivision] 22a-449(d)-104(f)(2) of [these regulations] the Regulations of Connecticut State Agencies within thirty days following the date of the completion of the repair except as provided in [subparagraphs 22a-449(d)-103 (d)] subdivisions (1), (2), and (3) of [these regulations] this subsection:

(A) The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; or

(B) The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in sections 22a-449 (d)-104 (e) (4), (5), (6), and (7) of [these regulations] the Regulations of Connecticut State Agencies; or

(C) Another test method is used that is determined by prior written approval of the implementing agency to be no less protective of human health and the environment than those listed [above] in this subdivision.

(5) Within six months following the repair of any cathodically protected UST system, the cathodic protection system shall be tested in accordance with [subdivisions 22a-449 (d)-103] subsections (b)(2) and (b)(3) of [these regulations] this section to ensure that it is operating properly.

(6) [UST system owners and operators shall maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of subsection 22a-449 (d)-103 (d) of these regulations.] No later than 30 days following any repair to spill prevention equipment, the repaired equipment shall be tested to ensure that the equipment is liquid tight. The testing shall be done using vacuum, pressure, or liquid in accordance with:

(A) Requirements developed by the manufacturer of the spill prevention equipment, provided the manufacturer has developed such requirements; or

(B) A code of practice developed by a nationally recognized association or independent testing laboratory.

(7) No later than 30 days following any repair to overfill prevention equipment, the repaired equipment shall be inspected to ensure that the equipment is set to activate at the correct level specified in section 22a-449(d)-102(a)(5)(A)(ii) of the Regulations of Connecticut State Agencies and will activate when regulated substances reach such level. Any such inspection shall be conducted in accordance with:

(A) Requirements developed by the manufacturer of such equipment, provided the manufacturer has developed such requirements; or

(B) A code of practice developed by a nationally recognized association or independent testing laboratory.

(8)(A) If a new under-dispenser containment sump is repaired, the repaired sump and the dispenser associated with such sump shall not be returned to service until the owner or operator conducts a test, in accordance with section 22a-449(d)-102(a)(15)(F) of the Regulations of Connecticut State Agencies, that demonstrates that the repaired sump meets the requirements of a new under-dispenser containment sump. Any such test shall be conducted no later than 30 days following the date the repairs were completed.

(B) If a new piping containment sump is repaired, the repaired sump and the piping associated with such sump shall not be returned to service until the owner or operator conducts a test, in accordance with section 22a-449(d)-102(a)(15)(F) of the Regulations of Connecticut State Agencies, that demonstrates that the repaired sump meets the requirements of a new piping containment sump. Any such test shall be conducted no later than 30 days following the date the repairs were completed.

(9) UST system owners and operators shall maintain records that demonstrate compliance with the requirement of this subsection of each repair to an UST system. Such records shall be maintained for at least five years beyond the operational life of such system.

[(7)] (10) Repairs to UST systems shall be properly conducted in accordance with [NFPA 30] National Fire Protection Association Standard 30 and the performance standards in subsection [22a-449(d)-102 (a)] 22a-449(d)-102(a) of [these regulations] the Regulations of Connecticut State Agencies.

[(8)] (11) The following codes and standards may be used to comply with [subdivision 22a-449(d)-103 (d) (1) of these regulations] subdivision (1) of this subsection[:.] National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; American Petroleum Institute Publication 2200, "Repairing Crude Oil, [Liquified] Liquefied Petroleum Gas, and Product Pipelines"; American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks"; and National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection."

Sec. 7. Subdivision (2) of section 22a-449(d)-103(e) of the Regulations of Connecticut State Agencies is amended to read as follows:

(2) Record keeping. Owners and operators shall maintain the following [information] records:

(A) Documentation of operation of corrosion protection equipment (subsection [22a-449 (d)-103] (b) of [these regulations] this section)[:.];

(B) Documentation of UST system repairs ([subdivision 22a-449 (d)-103 (d) (6)] subsection (d)(9) of [these regulations] this section);

(C) [Recent] Documentation of compliance with release detection requirements [(subsection 22a-449 (d)-104 (g) of these regulations] (section 22a-449(d)-104(g) of the Regulations of Connecticut State Agencies);

(D) Results of the site investigation conducted at permanent closure [(subsection [22a-449 (d)-107 (e) of these regulations] (section 22a-449(d)-107(e) of the Regulations of Connecticut State Agencies);

(E) Documentation of compliance with the requirements in [subdivision 22a-449 (d)-102 (a) (9) of these regulations.] section 22a-449(d)-102(a)(9) of the Regulations of Connecticut State Agencies; and

(F) Documentation of compliance with the requirements of subsection (a)(4) of this section regarding spill prevention equipment.

Regulations Revising the State's Underground Storage Tank Regulations

Statement of Purpose:

The Department of Energy and Environmental Protection ("DEEP") is proposing certain revisions to Connecticut's Underground Storage Tank ("UST") regulations section 22a-449(d)-101 to 113, inclusive of the Regulations of Connecticut State Agencies.

The revisions being proposed by DEEP originate in changes enacted by Congress in the UST Compliance Act ("the Act"), an Act amending certain sections of 42 USC § 6901 et seq. (see sections 1521 to 1533 of the Energy Policy Act of 2005). This Act changed requirements regarding inspections, operator training, delivery prohibition, secondary containment, financial responsibility and cleanup of certain releases. While in August 2012, DEEP completed a number of regulatory revisions in response to the Act, on July 15, 2015 (80 Fed. Reg. 41566), U.S.

Environmental Protection Agency (“USEPA”) published a final rule making further revisions to the federal underground storage tank regulations. These July 2015 revisions made changes similar to key portions of the Act as well as other updates to the federal UST regulations.

The federal underground storage tank requirements include provisions that allow USEPA to approve state programs. If DEEP did not seek approval of its UST Program, there could be dual federal and state regulation and DEEP would jeopardize federal grant funding to continue to implement Connecticut’s UST inspection and enforcement program. Connecticut received approval of its UST Program from USEPA effective August 4, 1995.

While DEEP has already made a number of changes in response to the Energy Policy Act, as a result of USEPA’s July 2015 rulemaking, additional changes are needed to ensure that DEEP’s UST program is no less stringent than the federal program. These revisions now being proposed by DEEP are being proposed in response to USEPA’s July 2015 rulemaking, and to ensure that Connecticut’s UST Program can maintain program approval from USEPA. In addition, DEEP is proposing to eliminate an outdated reference to USTs subject to section 22a-449 (d)-1 of the Regulations of Connecticut State Agencies, clarify that partial exemption from full regulation for certain USTs includes an exemption from section 108 of the UST Regulations and make certain editorial revisions to the regulations.

Summary of the Main Provisions:

In addition to editorial revisions, the proposed regulations:

- Eliminate an outdated reference to USTs subject to section 22a-449 (d)-1 of the Regulations of Connecticut State Agencies.
- Clarify that the partial exemption from full regulation for certain USTs includes an exemption from section 108 of the UST Regulations.
- Update references to the federal regulations for certain USTs that are not regulated under the UST Program but are subject to licensure by the Nuclear Regulatory Commission.
- Remove the partial exemption for USTs storing fuel for use by emergency power generators. Also, remove the partial exemption for airport fuel hydrant systems and field constructed USTs and prohibit the use of such USTs.
- Prohibit use of a flow restrictor in vent lines as a means to restrict flow into a UST to prevent over-filling.
- Transition from testing every five (5) years to every three (3) years, the testing of double-walled USTs to ensure that there is no release for loss of liquids from such tanks. The proposed rules also ensure that the testing of all USTs is required, not just those USTs installed after August 8, 2012.

- Require that spill prevention equipment satisfy certain requirements, ensure that such equipment is tested at least once every three (3) years and ensure that records of compliance with these requirements is maintained.
- Require a demonstration of compatibility for USTs storing greater than ten (10) percent ethanol or greater than twenty (20) percent biodiesel.
- Require testing of repaired spill prevention and overfill prevention equipment.
- Move a provision regarding the repair under-dispenser-containment sumps and piping containment sumps from the performance standard section (section 22a-449(d)-102(a)(15) of the Regulation of Connecticut State Agencies) to the section regarding the repair of USTs (section 22a-449(d)-103(d) of the Regulation of Connecticut State Agencies).

Legal Effects:

As discussed above, the primary reason for the proposed regulations is to allow Connecticut's UST Program to maintain approval from the USEPA. Once promulgated, any owner or operator of a UST that does not comply with the proposed regulations may be subject to the penalties provided for by law.

IMPORTANT NOTICE FOR CONNECTICUT STATE AGENCIES

This form is to be used for proposed permanent and technical amendment regulations only and must be completed in full.

AGENCY CERTIFICATION**Department of Energy and Environmental Protection**

Proposed Regulation Concerning

Underground Storage TankseRegulations System Tracking Number **PR 2020-027****I hereby certify the following:**

(1) The above-referenced **regulation** is proposed pursuant to the following statutory authority or authorities: **§ 22a-449**

For technical amendment regulations proposed without a comment period, complete #2 below, then skip to #8.

(2) As permitted by Section 4-168(h) of the *Connecticut General Statutes*, the agency elected to proceed without prior notice or hearing and posted the text of the proposed technical amendment regulation on eRegulations System website on **<<select and enter the date of posting>>**.

For all other non-emergency proposed regulations, complete #3 - #7 below, then complete #8)

(3) The agency posted notice of intent with a specified comment period of not less than 30 days to the eRegulations System website on **May 5, 2021**.

(4) *(Complete one)* No public hearing held or was required to be held. **OR** One or more public hearings were held on: **June 3, 2021**.

(5) The agency posted notice of decision to move forward with the proposed regulation to the eRegulations System website on **July 9, 2021**.

(6) *(Complete one)* No comments were received. **OR** Comments were received and the agency posted the statements specified in subdivisions (1) and (2) of CGS Section 4-168(e) to the eRegulations System website on **July 9, 2021**.

(7) The final wording of the proposed regulation was posted to the eRegulations System website on **July 9, 2021 and the updated final version for resbmittal to the Legislative Regulation Review Committee was posted on October 1, 2021**.

(8) Subsequent to approval for legal sufficiency by the Attorney General and approval by the Legislative Regulation Review Committee, **the final regulation shall be effective**

(Check one and complete as applicable)

When posted to the eRegulations System website by the Secretary of the State.

OR On _____

(Date must be a specific calendar date not less than 11 days after submission to the Secretary of the State)

Katherine S. Dykes

SIGNED
*(Head of Board, Agency or Commission,
or duly authorized deputy)*

Commissioner

OFFICIAL TITLE

October 1, 2021

DATE

OFFICE OF THE ATTORNEY GENERAL REGULATION CERTIFICATION

Agency: Connecticut Department of Energy and Environmental Protection

REGULATION NUMBER PR2020-027

This Regulation is hereby APPROVED by the Attorney General as to legal sufficiency in accordance with Connecticut General Statutes § 4-169.

DATE: October 4, 2021

Signed:

Joseph Rubin, Digitally signed by Joseph Rubin,
Asst. Dep. A.G.
Date: 2021.10.04 09:40:42 -0400

Joseph Rubin
Assistant Deputy Attorney General
Duly Authorized

The Connecticut General Assembly

Legislative Regulation Review Committee

Senator James Maroney
Senate Chair



Representative Nicole Klarides-Ditria
House Chair

Official Record of Committee Action

October 26, 2021

Agency: Department of Energy and Environmental Protection
Description: Underground Storage Tanks
LRRC Regulation Number: 2021-013A
eRegulation Tracking Number: PR2020-027

The above-referenced regulation has been

Approved with Technical Corrections

by the Legislative Regulation Review Committee in accordance
with CGS Section 4-170.

Kirstin L. Breiner
Committee Administrator



State of Connecticut
Office of the Secretary of the State

Confirmation of Electronic Submission

Re: Regulation of the Department of Energy and Environmental Protection
concerning Underground Storage Tanks
eRegulations System Tracking Number PR2020-027
Legislative Regulation Review Committee Docket Number 2021-013A

The above-referenced regulation was electronically submitted to the Office of the Secretary of the State in accordance with Connecticut General Statutes Section 4-172 on November 8, 2021.

Said regulation is assigned Secretary of the State File Number 6349.

The effective date of this regulation is November 30, 2021.

A handwritten signature in black ink that reads "Denise W. Merrill".

Denise W. Merrill
Secretary of the State
November 30, 2021

By:

/s/ Christopher R. Drake
Christopher R. Drake
Director, Business Services
Division