

The Connecticut General Assembly

Legislative Commissioners' Office

Edwin J. Maley, Jr.
Commissioner
Leonard A. Fasano
Commissioner

Nicholas F. Bombace
Director



Legislative Office Building
Suite 5500
Hartford, Connecticut
06106-1591
(860) 240-8410
fax (860) 240-8414
e-mail: lco@cga.ct.gov

Memorandum

To: Legislative Regulation Review Committee
From: Legislative Commissioners' Office
Committee Meeting Date: December 21, 2021

Regulation No:	2021-19
Agency:	Department of Energy and Environmental Protection
Subject Matter:	Release Reporting Regulations
Statutory Authority: (copy attached)	22a-450

	Yes or No
Mandatory	Y
Federal Requirement	Y
Permissive	N

For the Committee's Information:

Substantive Concerns:

1. On page 2, in section 22a-450-1(c)(27)(D), the proposed regulation designates "any person who...indirectly caused a release or an imminent release" as a person required to report a release. It is unclear who may constitute a person who indirectly causes a release or an imminent release. Moreover, it is unclear how someone who indirectly causes such a release or imminent release would necessarily know that they indirectly caused such release or imminent release in

order to be able to effectively report it in accordance with the proposed regulations. Accordingly, the inclusion of "indirect causation" should be clarified.

2. On page 5, in section 22a-450-2(a)(1)(D), the proposed regulation excepts from reporting requirements "minor incidental drips from a dispenser nozzle during fuel dispensing". This exception is subjective by its terms. Accordingly, reasonable persons may differ as to what constitutes "minor incidental drips from a dispenser nozzle during fuel dispensing". The purpose of the proposed regulations is to establish the threshold for the reporting of certain releases. Any such threshold should be made clear so that there is a uniform understanding of when a release is required to be reported. Therefore, the term "minor incidental drips from a dispenser nozzle during fuel dispensing" should be clarified, defined or not utilized.
3. On page 5, in section 22a-450-2(b)(1)(A), the proposed regulation excepts from reporting requirements a "release that is of an inconsequential amount that occurs beneath a laboratory fume hood". This exception is subjective by its terms. Accordingly, reasonable persons may differ as to what constitutes an "inconsequential amount". The purpose of the proposed regulations is to establish the threshold for the reporting of certain releases. Any such threshold should be made clear so that there is a uniform understanding of when a release is required to be reported. Therefore, the term "inconsequential amount" should be clarified, defined or not utilized.
4. On page 6, in section 22a-450-3(a)(2)(A), the proposed regulation excepts from reporting requirements a "release of small inconsequential quantities" that occur under a laboratory fume hood while performing laboratory functions. This exception is subjective by its terms. Accordingly, reasonable persons may differ as to what constitutes "small inconsequential quantities". Moreover, this standard appears to be slightly different from the wording of the standard described in section 22a-450-2(b)(1)(A). The purpose of the proposed regulations is to establish the threshold for the reporting of certain releases. Any such threshold should be made clear so that there is a uniform understanding of when a release is required to be reported. Therefore, the term "small inconsequential quantities" should be clarified, defined or not utilized.
5. On page 7, in section 22a-450-3(a)(4)(A), the proposed regulation excepts from reporting requirements "a release that consists wholly of a small or inconsequential petroleum sheen from roadways, driveways or parking lots due to vehicular use". This exception is subjective by its terms. Accordingly, reasonable persons may differ as to what constitutes a "small or inconsequential petroleum sheen". The purpose of the proposed regulations is to establish the threshold for the reporting of certain releases. Any such threshold should be made clear so that there is a uniform understanding of when a release is required to be reported. Therefore, the term "small or inconsequential petroleum sheen" should be clarified, defined or not utilized.

Technical Corrections:

1. Throughout the proposed regulations, subsection catchlines should be bolded and followed by a period. For example, in section 22a-450-1(a), "(a) Applicability" should be "(a) **Applicability.**", for consistency and proper form.
2. On pages 1 to 3, inclusive, in section 22a-450-1(c), in subdivisions (5), (6), (12), (19), (23), (24), (27), (31), (41) and (44), only the first word in each defined term should be capitalized. For example, in section 22a-450-1(c)(44) "Waters of the State" should be "Waters of the state", for proper form.
3. On page 1, in section 22a-450-1(c)(7), "indoors or" should be "indoors and", for proper form.
4. On pages 1 and 2, in section 22a-450-1(c), the definitions of "Explosives", "Explosion" and "PCBs" should be moved to alphabetize the terms defined in this subsection, for consistency.
5. On page 2, in section 22a-450-1(c)(25), "transformers," should be "transformers and", for proper form.
6. On page 3, in section 22a-450-1(c)(34), "The term Reportable Material" should be ' "Reportable material" ', for proper form.
7. On page 3, in section 22a-450-1(c)(35), "must" should be "shall", in accordance with the committee's directive concerning mandates.
8. On page 3, in section 22a-450-1(c)(36), ' "The Release Reporting Regulations" ' should be ' "Release reporting regulations" ', "through" should be "to" and the definition should be moved to alphabetize the terms defined in this subsection, for proper form.
9. On page 3, in section 22a-450-1(c)(39), "Section" should be "section" and "pollution" should be "Pollution", for proper form.
10. On page 3, in section 22a-450-1(c)(41), "any" should be inserted before "motor" and "cars" should be "car", for clarity.
11. On page 4, in section 22a-450-1(d)(1), in the fourth line, "by posting such practices" should be "and posted", for clarity.
12. On page 5, in section 22a-450-2(a)(1)(E), the comma after "unknown" should be a colon, for proper form.
13. On page 5, in sections 22a-450-2(a)(2) and 22a-450-2(b)(2)(A), "twenty four" should be "twenty-four", for proper form.

14. On page 5, in sections 22a-450-2(b)(2)(A) and (B), "one and a half" should be "one-and-a-half", for proper form.
15. On page 6, in section 22a-450-2(d), "subsection" should be "section", for accuracy.
16. On page 7, in section 22a-450-3(a)(3), "NaturalResources" should be "Natural Resources", for proper form, and "1993 Revised 1996" should be inserted after "Services", for clarity.
17. On page 7, in section 22a-450-3(b)(2), "22a-250-2(c)" should be "22a-450-2(c)", for accuracy.
18. On page 8, in section 22a-450-4(a)(2), "by posting such method" should be "and posted" and "and by preparing and disseminating" should be "or prepared and disseminated by the department in", for clarity.
19. On page 8, in section 22a-450-4(a)(2)(C)(ii), in the first line, "area" should be "areas", for clarity, and in the fourth line, ", or an aquifer protection area" should be "and any aquifer protection area," for proper form.
20. On page 8, in section 22a-450-4(b), the subdivision designator "(1)" should be deleted as unnecessary and subsequent designators throughout said subsection should be altered to reflect such deletion. Similarly, on page 9 in said subsection, clause designator (i) in subparagraph (B) should be deleted as unnecessary.
21. On page 9, in section 22a-450-4(b)(1)(A), in the third line, the term "Initial Report" should not be capitalized, for proper form.
22. On page 9, in section 22a-450-4(b)(1)(D)(i)(II), in the first line, a comma should be inserted after "to", for proper form, and, in the third and fourth lines, ", or an aquifer protection area" should be "and aquifer protection areas,", for proper form.
23. On page 9, in sections 22a-450-4(b)(1)(E)(iii) and (iv) a space should be inserted before "Any", for proper form.
24. On page 9, in section 22a-450-4(c), in the fifth line, "within thirty (30) days of" should be "not later than thirty (30) days after", for proper form.
25. On page 10, in section 22a-450-4(d), in the first line, "section 22a-450-4 of the Regulations of Connecticut State Agencies" should be "this section", for proper form.

Recommendation:

<p>Approval in whole with technical corrections with deletions with substitute pages Disapproval in whole or in part <input checked="" type="checkbox"/> Rejection without prejudice</p>

Reviewed by: Bradford M. Towson / Chris Reinhart

Date: December 16, 2021

Sec. 22a-450. (Formerly Sec. 25-54dd). Report of discharge, spill, loss, seepage or filtration. Regulations. (a) The master of any ship, boat, barge or other vessel, or the person in charge of any terminal for the loading or unloading of any oil or petroleum or chemical liquids or solid, liquid or gaseous products, or hazardous wastes, or the person in charge of any establishment, or the operator of any vehicle, trailer or other machine which by accident, negligence or otherwise causes the discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products, or hazardous wastes which poses a potential threat to human health or the environment, shall immediately report to the commissioner such facts as the commissioner by regulation may require. Any such report shall include, but not be limited to, the location, the quantity and the type of substance, material or waste, the date and the cause of the discharge, spillage, uncontrolled loss, seepage or filtration, the name and address of the owner of the ship, boat, barge or other vessel, terminal, establishment, vehicle, trailer or machine, and the name and address of the person making the report and his or her relationship to the owner. Any person who fails to make a report required by this section may be fined not more than one thousand dollars and the employer of such person may be fined not more than five thousand dollars, except that any person who fails to make a report relating to the discharge, spillage, uncontrolled loss, seepage or filtration of gasoline shall be fined not more than five thousand dollars and the employer of such person may be fined not more than ten thousand dollars.

(b) On and after the effective date of the regulations adopted pursuant to subsection (c) of this section, the report described in subsection (a) of this section shall be required whenever the discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products, or hazardous wastes occurring on or after such date exceeds the applicable threshold adopted by the commissioner pursuant to subsection (c) of this section. The reporting requirements set forth in subsection (a) of this section shall apply until the effective date of such regulations.

(c) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to define the threshold amounts for discharges, spillages, uncontrolled losses, seepages or filtrations that shall be reported to the commissioner pursuant to this section. Such regulations may include the specification of any facts, in addition to those specified in subsection (a) of this section, that shall be included in any report submitted under this section.