State of Connecticut
Department of Energy and Environmental Protection

Hearing Officer's Report
Statement of Reasons Pursuant to
Connecticut General Statutes Section 4-168(e)

COMMENT AND RESPONSE DOCUMENT

December 12, 2024

Amendments to Underground Storage Tank Regulations
Proposed Adoption of the Regulations of Connecticut State Agencies,
Section 22a-6b-8(c), Section 22a-449(d)-1, and
Sections 22a-449(d)-101 through 22a-449(d)-114, inclusive
PR2023-056

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Introduction and Statement of Support

This Hearing Officer's Report concerns the proposed adoption of Amendments to the Underground Storage Tank (UST) Regulations, sections 22a-449(d)-1, 22a-449(d)-101 to 22a-449(d)-113, inclusive of the Regulations of Connecticut State Agencies (RCSA) and addition of a new section 22a-449(d)-114 as well as an amendment to section 22a-6b-8(c) (collectively, Regulations). The Commissioner of Energy and Environmental Protection (Commissioner) is proposing such Regulations pursuant to Connecticut General Statutes (CGS) sections 22a-6(a), 22a-6b and 22a-449(d).

The existing UST regulations identify the performance standards for owners and operators of state regulated and federally regulated UST systems. The proposed amendments seek to modernize and update the UST regulations by adding clarity, consistency, and flexibility for certain existing requirements. These updates are consistent with current technologies and will eliminate outdated standards.

This proposal amends definitions, clarifies statutory requirements about tank construction, requires owners and operators to conduct an annual inspection to ensure UST system components are in good operating condition, and requires certain UST system components to be upgraded within specific timeframes in order to prevent spills and releases, among other amendments. Of particular benefit to owners and operators of UST systems is the extension of life expectancy for certain tanks from 30 years to 45 years. Additionally, a new section is being proposed to serve as a centralized location for notification and recordkeeping requirements and a new administrative civil penalties schedule is being added to RCSA section 22a-6b-8.

Rulemaking Process

On June 28, 2024, pursuant to CGS section 4-168(a), the Commissioner provided Notice of Intent to adopt the Regulations. The public had an opportunity to submit comments on the Regulations from June 28, 2024 until August 12, 2024. In addition, a public hearing was held virtually on July 30, 2024. At that hearing, the Hearing Officer advised that a second public hearing would be held, and the comment period would be extended, with a notice thereof provided on August 2, 2024. A second public hearing was held virtually on August 19, 2024. The extended public comment period closed on August 26, 2024, at 5:00 p.m. In accordance with CGS section 4-186(e), this report contains the principal reasons in support of and principal reasons in opposition to the Regulations and where considerations have been rejected, the reasons for such rejection.

Opposition to the Proposal

No comments that expressed opposition to the proposal were received although several of the submitted comments suggested changes to certain provisions or requested clarification concerning certain provisions. All submitted comments are identified below, followed by the Department's responses.

PUBLIC COMMENTS

This section contains the Department's response to comments or groups of comments. Comments are grouped together by subject matter and then summarized for brevity, where appropriate. Below each comment is the Department's response in italicized text. A table, containing a list of commenters, comment details, and their assigned comment numbers, can be found in the eRegulation System, which can be located at the following internet link: eRegulations - View Comments For Regulation Making Records (ct.gov)

1. **Comments regarding applicability of the proposed regulations.**

Heating oil is commonly used for co-generation and other consumptive uses; commenter requests that this be included as a heating oil use. Should this provision (section 22a-449(d)-1(e)) be written the same way as proposed section 22a-449(d)-102(a)(5)(B)?

No, the provision at section 22a-449(d)-1 should not be the same as section 22a-449(d)-102(a)(5)(B) because the requirement in section 22a-449(d)-1only applies to tanks installed prior to October 1, 2003 that do not already have sumps. Categorization of tanks is determined by the Environmental Protection Agency (EPA) through its federal program and is outside the Department's control. Although the language has changed from "consumptive use" to "for heating," the intent of this provision has not changed. No revisions have been made in response to this comment.

DEEP is proposing to change the applicability of section 22a-449(d)-1(a)(1)(A) to "UST systems used solely for storage heating on the premises where stored." If a UST is used for both the storage of heating on the premises and for emergency backup engine use, I interpret the new language to mean that section 22a-449(d)-1 does not apply to the UST. If this is not the case, then this should be addressed in the response to comments.

Emergency generator tanks are federally regulated and subject to the provisions of RCSA §§ 22a-449(d)-101 through 22a-449(d)-114, inclusive. If a tank is used for both purposes, the more protective regulations apply.

Are heating oil tanks exempt from the annual fee and notification requirements under RCSA section 22a-449(d)-(1)(d) and CGS section 22a-449(e)?

Heating oil tanks are exempt from the annual fee but are not exempt from the installation fee or from notification, and never have been.

RCSA section 22a-449(d)-1 includes Partial Exemptions, but it is not clear if a double-walled consumptive use heating oil tank installed prior to 10/1/2003 is exempt from any requirements. The

Partial Exemptions seem to exclude such tanks. Commenter requests that CT DEEP clarify any exemptions for such tanks.

Subsection (e), Design and construction, is not covered by the partial exemption, which expressly apply only to subsections (d), (h), and (g)(2).

Some of the technical updates under RCSA section 22a-449(d)-1 could create a significant challenge for some owners/operators of USTs subject to these requirements and these requirements are excessive for tanks that are not federally regulated. This includes phasing-in interstitial monitoring for double walled systems >2100 gallons, and 22a-449(d)-1(d)(5) includes a requirement to retrofit existing UST systems with liquid tight and monitored containment sumps within 2 years from effective date of the new regulations.

The state regulated tanks are not required to be inspected every three years like the federally regulated tanks and the Department has limited resources to conduct inspections more regularly for the d-1 tanks, therefore it is very important that these tanks have appropriate technology in place to detect releases to the environment. As an alternative to upgrading release detection, USTs can be removed and replaced with aboveground storage tanks which provide even greater environmental protection by being above the ground. In response to comments, the Department has added a two-year grace period for the containment sump requirements at section 22a-449(d)-1(e)(5).

RCSA section 22a-449(d)-1(g) Operation and maintenance requirements (6) covers requirements associated with cathodic protection testing failure and allowed repairs. Please confirm that the UST system only needs to have achieved at least one passing test within the previous 5 years to be eligible for repair.

The commenter is correct that the UST system only needs to have achieved at least one passing test within the previous 5 years to be eligible for repair under RCSA section 22a-449(d)-1(g).

Section 22a-449(d)-107(d) in the existing regulations empower DEEP to judge whether a UST system closed before December 22, 1988 poses a current or potential threat to human health and the environment and to require an owner/operator to re-assess and perform actions in accordance with the current closure regulations. The proposed regulations replace the aforementioned section with new section 22a-449(d)-107(e) that extends the “lookback window” to July 31, 1994. Expanding the period of time during which tanks had been closed that DEEP could now direct the owner/operator to comply with new regulations and standards could cost the regulated community a substantial amount to re-assess and re-close tank systems. Recommend retaining the existing regulation’s look-back date of December 22, 1988 (22a-449(d)-107(d)) to prevent adding to the regulated community’s exposure to unfunded potential liabilities for compliance matters understood to have been closed.

The Department’s authority with respect to previously closed tanks does not change with the proposed changes to the regulations. In 1994, the Department adopted the federal requirements for the closure of UST systems; prior to that year, the UST closure requirements were only what was required by the fire code. This change is long overdue to align the lookback date with the 1994 changes thereby capturing tanks that were still being closed under the less protective procedures. This proposed amendment aims to be more protective of human health and the environment.

The proposed regulations indicate, "If a release or potential release from an UST system closed before July 31, 1994 may, in the judgment of the commissioner, pose a current or potential threat to human health or the environment, when directed by the commissioner, the owner or operator shall comply with the closure procedures in this section and comply with section 22a-449(d)-105 of the UST regulations or section 22a- 449(d)-106 of the UST regulations, as applicable." However, on page 71, section 22a-449(d)-106(a) of the proposed regulations, it indicates release responses and corrective action for UST systems containing petroleum or hazardous substances are applicable for releases discovered on or after the effective date of the regulations. Clarification on the applicable date range for which these Proposed UST Regs apply, for historic releases in particular, is needed. Currently outlined in section 22a-134tt-2(a)(1) of the proposed Released-Based Cleanup Regulations (RBCRs), "A release shall not be deemed discovered if the only evidence of such release is data available or generated before the date when regulations are first adopted . . .", and thus a historic release should not be considered "discovered" and the Department should not dictate additional investigation based solely on previously collected data from historic files.

The UST regulations are independent from the proposed Release Based Cleanup Regulations and apply different standards. The UST regulations apply to historical releases and previously closed tanks, and the Department's authority with respect to previously closed tanks does not change with the proposed UST regulations. There are also different requirements for different types of releases, but they are not contradictory. However, the Department has revised section 22a-449(d)-106(a) so that if a regulated party has a cleanup that is already underway, they can elect to continue under the previous regulatory requirements.

2. **Comments regarding administrative penalties under proposed Section 22a-6b-8(c).**

How will civil penalties be assessed under RCSA section 22a-6b-8? Will they be assessed based on ezFile status, based on inspection by the Department, or some other method?

The manner in which a penalty is assessed depends on the violation. For example, if a violation is found during an inspection it will be assessed on that basis, but a penalty for a filing violation may be assessed based on ezFile.

Several commentors stated that the penalties included in RCSA section 22a-6b-8 appear to be exorbitant and too punitive in nature and will have a major impact on UST owners and operators. Commenters recommended that the section be amended by greatly reducing or eliminating the proposed fees and clarifying when a fee can be assessed.

The Department has reassessed the amounts of penalties and made significant changes based on the feedback received by the regulated community. The Department has reduced most of the penalties by at least 50% and has simplified the penalty structure.

Administrative civil penalty for "Failure to submit an underground storage facility notification fee in violation of section 22a-449(e) of the Connecticut General Statutes" is $500 plus $10 for each additional day after October 10 of a given year. The invoices for fees are generated after submittal of the annual notifications, which are also due October 10th. A grace period should be added to allow owners to submit payment by check following receipt of invoice.

Annual notification opens August 1, which builds in a grace period for the fee to be paid before the deadline of October 10. However, the Department recognizes this comment and eliminated the $10 per day penalty.

Administrative civil penalty for "Failure to designate a class A, B & C" is a $250 violation while the civil penalty for "failure to post proper class C operator training records" is a $500 violation. The failure to have designated operators is a more important requirement than having posted the list of designated class C operators and therefore the penalty should be greater for this violation.

The Department recognizes the commenter's view of the severity of the violations and has removed the administrative civil penalty for failure to post Class C operator training records.

Commenters expressed concern regarding the proposed penalties for failure to submit annual insurance policies. Oftentimes insurance companies take time to prepare the annual policies. If an insurance policy is not received by the Department-imposed deadline, would multi-station operators be responsible for the penalties for each location subject to the insurance requirements or is there one penalty per owner?

Insurance policies are not required to be submitted to the Department, proof of the policy is required to be maintained at the site where the UST system is located and made available upon request. The requirement to carry insurance applies per tank; therefore, penalties for failure to insure would be assessed on each individual uninsured tank.

The penalties associated with USTs in use past their life expectancy are excessive given the regular possibility of market disruption with both labor and material availability. There should be a mechanism to allow for an extension if the market experiences supply chain disruptions as was experienced during and after the COVID pandemic. Additionally, the commenter would like confirmation as to how this penalty applies to out-of-service tanks that are temporarily closed beyond their life expectancy.

The proposed regulations do not change the requirement to close a tank by the end of its life expectancy, including tanks that are temporarily out of service and beyond life expectancy. Owners and operators have sufficient notice of life expectancy, and therefore of the date by which tanks must close, but should exigent circumstances arise, the Department has enforcement discretion. The Commissioner also has the authority to grant extensions, and in fact, extensions were granted during

the pandemic. The Department has reduced the civil penalty associated with operating a tank beyond its life expectancy.

Section 22a-6b-8(c)(4), Table 4A – Regarding those violations in this table that are currently at the level of a red tag shutdown, will both the fines and the red tag shutdown be enforced simultaneously, or will the fines be in lieu of the red tag action?

Administrative penalties will accompany the red tag, they will not be in lieu of the red tag action.

3. **Comments regarding tank and operating standards.**

Inventory Control - Double-walled tanks are not required to perform inventory control. Why continue to require owner/operators to perform inventory control when owners are using valid methods of release detection for tanks? Other states have done away with the requirement to perform inventory control on single-wall and double-wall tanks. The Department should consider removing the requirement to perform inventory control as it is an additional administrative burden for owners.

The first statement is correct; federally regulated double walled tanks installed on or after October 1, 2003 do not require inventory control because CGS § 22a-449o requires the use of continuous interstitial monitoring. However, there are still tanks in operation that were installed prior to October 1, 2003 that were not required to upgrade to use continuous interstitial monitoring and only use inventory control as a method for release detection. Under the proposed regulations at section 22a-449(d)-104(b)(1)(A), those double walled tanks have two years from the effective date of the regulations to upgrade their system to utilize continuous interstitial monitoring for release detection. They will not need to use inventory control in addition once that upgrade has been made. Additionally, the proposed regulations have not changed the requirements for single walled tanks; those tanks are required to use automatic tank gauges (ATGs) with inventory control and to conduct a 0.2 line leak detection test.

For state regulated tanks under section 22a-449(d)-1, the same requirements apply for double walled tanks in the proposed regulations as for the federally regulated tanks. Single walled tanks must conduct inventory control, this is not a new requirement. The proposed regulations do not prevent an owner or operator from utilizing another form of release detection on these single walled tanks, however such method would be in addition to the regulatory requirement to use inventory control as the method of release detection.

Section 22a-449(d)-1(e)(5)(C)(iii)(I) should be rewritten to include that the sensor should be located at the lowest point within the containment sump.

The Department agrees with this comment and has added the suggested language to 22a-449(d)-1(e)(5)(C)(iii)(III).

Section 22a-449(d)-1(i) Failures - If a spill bucket fails a test or a leak detector fails, overfill fails, sensor fails, ATG certification fails, cathodic protection testing and impressed current systems that fail, does that mean the Owner/Operator must cease using that tank system and empty the tank? What components constitute a failure that warrants the UST system to be shut down and/or immediately emptied? It is excessive to require the owner to immediately shut down instead of giving them a timeframe to repair the equipment.

To protect against releases to the environment, periodic testing is required. An UST system does not need to be emptied if an UST system component fails a test unless the component that failed contains product, such as the tank or piping. The UST system component that fails would need to stop being used and the component would be emptied, if applicable, to initiate removal, repair or replacement of that failed UST system component. The proposed regulation allows for repairs or the removal of the failed component with specified timeframes and does not state that owners or operators must cease using the tank system or empty the tank, unless it is needed in order to comply with section (i). The Department has modified the definition of "UST system component" in section 22a-449(d)-101 to include release detection equipment which would include sensors, ATG, and any other part of a release detection system. This definition has also been added to section 22a-449(d)-1 for further clarity.

Section 22a-449(d)-102(a)(1)(D)(iii)(II) – What is the logic for disallowing double walled tanks with dry interstitial spaces following implementation of these draft regulations? (a)(1)(D) excludes double-walled tanks with a dry interstice from new tanks that can be installed 90 days after new regulations. Commenter requests that CT DEEP continue to allow installation of double-walled tanks with dry interstice or provide supporting data and information associated with decision to prohibit new installation of such tanks. (a)(2)(C)(i)(II) requires that all piping installed on or after 10/1/2003 must be equipped with interstitial monitoring including sensors at both end of the piping run. Request that CT DEEP re-evaluate the financial impact of this requirement for owners and operators of existing systems that may need upgrades and/or equipment and consider revising to only require this for new installs 90 days after the new regulations.

The logic behind this requirement is that if the outer wall fails and you have a dry space sensor, you have no way of knowing whether the wall failed, and you no longer have a double walled tank. The only way to know if there is a failure is to use a method that tests both walls simultaneously. However, the Department has revised Section 22a-449(d)-102(a)(1)(D)(iii)(II) to allow for double walled tanks with a dry interstice, only if certain conditions are met.

Section 22a-449(d)-103(m) General operating requirements, Repairs - Please clarify if cathodic protection testing must have passed every year for the previous 5 years, or just at least once within the previous 5 years. 22a-449(d)-103(m) seems to include conflicting requirements: (2)(A) states: For cathodic protection equipment, only if such equipment passed the cathodic protection test required by subsection (h)(2) of this section within the previous 5 years. (3)(B) states: A tank or piping that does not pass the annual cathodic protection test required by subsection (h)(2) of this section and the owner or operator of such tank or piping, cannot demonstrate that such tank or piping has passed such test for the 5 years prior to such failed test.

For repairs, the requirement is that the owner or operator must demonstrate that equipment has passed the annual cathodic protection testing once within the past 5 years. The Department has made a clarifying change to the language in section 22a-449(d)-103(m)(3)(B) to reflect that intent. The provisions do not conflict, subsection (m)(2)(A) allows repairs if equipment has passed cathodic protection testing within the past five years, while subsection (m)(3)(B) prohibits repairs if a tank or piping failed the most recent annual cathodic protection test and cannot demonstrate that such equipment has passed the annual test within the past 5 years.

In section 22a-449(d)-102, certain performance standards differ from federal standards such as installation of double-walled USTs with continuous monitoring of both the inner and outer wall; UST systems must be retrofit with sumps even if the system is not using interstitial monitoring; and those USTs installed prior to October 1, 2003 must have liquid tight and monitored containment sumps within 2 years from the effective date of these regulations.

The federal UST program sets the floor for standards and requirements states must include in their UST programs. Connecticut has routinely been more stringent than the federal UST program given the importance of protecting groundwater in the state. The installation of double-walled USTs with continuous monitoring of both the inner and outer wall has been statutorily required since 2003 and is being added to the regulations now to provide clarity to the regulated community. See CGS § 22a-449o.

Section 22a-449(d)-102 - UST systems must be retrofit with sumps even if the system is not using interstitial monitoring; and those USTs installed prior to October 1, 2003 must have liquid tight and monitored containment sumps within 2 years from the effective date of these regulations. Commenter requests that CT DEEP clarify the requirement(s) associated with the above text, as they were unable to locate this specific requirement in 22a-449(d)-102. There is a similar requirement in 22a-449(d)-1(e)(5) but the only similar reference in 102 is in 22a-449(d)-102(a)(1)(E) for hazardous substances USTs.

There is no retrofit requirement, since October 1, 2003, the requirement has been that all newly installed tanks must have interstitial monitoring (i.e., liquid tight and monitored sumps). In addition, section 22a-449(d)-102(a)(5)(A) as applied to tanks installed on or after August 8, 2012 is a requirement in the current regulations and section 22a-449(d)-102(a)(5)(B) applies to new installations as of the effective date of the regulations. The Department has made edits to this section for clarity. Section 102(a)(5)(A) has been revised to make clear that condition (i) applies to UST systems with dispensers and condition (ii) applies regardless.

4. **Comments regarding release detection.**

With respect to sections 22a-449(d)-1(e)(1)(E)(ii) and 22a-449(d)-102(a)(2)(D)(iii)(II), mechanical monitoring (i.e., float sensors) are commonly used and reliable, and are easy to test and replace.

Mechanical monitoring only monitors the inner wall and not the outer wall, so there is no way of knowing whether the outer wall is breached and therefore whether there is still a double walled tank.

Section 22a-449(d)-1(e)(1)(E)(ii) - Design & Construction. Double-walled tanks installed 90 days after the effective date of the regulations, are required to have continuous interstitial monitoring that monitors both the inner and outer walls continuously using technology such as inert gas, liquid or a vacuum, but this requirement does not include "electronic monitoring or mechanical monitoring" which is included in the section above for double walled tanks installed on or after October 1, 2003 but on or before 90 days from the effective date of the regulations. What is the purpose for requiring continuous pressure or vacuum monitoring on tanks or piping? Is there any data to show that requiring these methods provides any additional environmental benefit considering the cost for an owner to install and maintain these systems?

Continuous interstitial monitoring using inert gas, liquid or a vacuum can detect whether the inner or outer wall has failed. Electronic monitoring or mechanical monitoring do not provide the same accuracy in release detection because they only monitor the inner wall and not the outer wall, so there is no way of knowing whether the outer wall is breached and therefore whether there is still a double walled tank. Better detection of outer wall failures allows for quicker response to determine if there is a release thereby providing greater protection for the environment. The state regulated d-1 tanks are not required to be inspected every three years like the federally regulated tanks and the Department has limited resources to conduct inspections more regularly for the d-1 tanks, therefore it is very important that these tanks have adequate technology in place to detect releases. As an alternative to upgrading release detection equipment, USTs can be removed and replaced with aboveground storage tanks which provide even greater environmental protections by being above the ground.

Relating to section 22a-449(d)-1(e)(5), retro-fitting new piping containment sumps onto existing tanks is not easy and may be infeasible in some cases.

The reason for this requirement is the number of releases from piping on heating oil tanks per year and this will prevent those releases from reaching groundwater. The proposed regulations include a two-year grace period to make these upgrades. A number of these tanks are located within neighborhoods that rely on well water; therefore, it is important to ensure that the groundwater is protected from potential releases.

Section 22a-449(d)-1(g)(9) Methods of release detection for single walled petroleum USTs. Why is there a new requirement to test single walled tanks every 5 years versus every 3 years?

The current and proposed regulations do not contain a 3-year testing requirement. A new failure determination test for single walled, state regulated tanks and piping must be performed once every five years during the life of the tank to help to protect against releases and equipment malfunctions or failures.

Commentor is seeking clarification on the requirements laid out in section 22a-449(d)-1(g)(8) - Methods of release detection for double walled petroleum USTs.

The Department has clarified the applicable timeframe of release detection in section 22a-449(d)-1(g)(8)(B) to indicate these requirements apply to those tanks installed after October 1, 2003 but before 90 days after the regulations become effective. Those tanks installed in that time frame must use a method of release detection that is consistent with CGS § 22a-449o while those tanks installed 90 days after the effective date of the regulations must utilize technology that monitors both the inner and outer walls of a double walled tank to ensure that a breach of either the primary or secondary containment is detected.

Section 22a-449(d)-104(d) - Additional UST system testing states tightness testing is required "if the owner or operator fails to undertake release detection…in compliance with this section". Can DEEP clarify the meaning of "fails to undertake"? Is there a specific timeframe in which the testing must be performed?

The owner or operator must undertake release detection that complies with regulations at section 22a-449(d)-104, and if the Department inspects and finds that they are not in compliance, the Department can require tightness testing. This is not a change in current practice, the requirement is just being added to the regulation text.

Section 22a-449(d)-104(a)(2)(C)(ii) - If an annual test reveals that equipment is not functioning properly, what components warrant emptying the entire UST system until the component is repaired?

If an annual test reveals that equipment is not functioning properly, the proposed regulation gives owners or operators the option to repair or replace components, if the repair can be conducted under section 22a-449(d)-103(m), such as repairs to containment sumps and spill buckets. For those components that cannot be repaired, such as a tank or piping that routinely contains product, those components would need to be emptied under subclause (II).

Section 22a-449(d)-104(b)(2)(A)(IV) Release detection requirements for single-walled petroleum UST systems using Automatic Tank gauging (ATG) with inventory control - This sentence should be changed to say "Ensures that deliveries of petroleum are made through a drop tube that extents to within 6 inches of the bottom of any gasoline tank and to within one foot of the tank bottom for any other tank." This is to be consistent with CT DEEP air regulations which require gasoline tanks to have a fill tube that extends to within 6 inches of the bottom of the tank.

The Department appreciates this comment to ensure consistency for owners and operators across DEEP's regulatory programs and has clarified this sentence to remove 'within one foot of the tank bottom' and replace it with 'within six inches of the tank bottom'. The Department sees the importance of applying this language broadly to all federally regulated tanks as it is not uncommon for owners and operators to change the product that is placed in a tank between gasoline and diesel; therefore, owners or operators will not need to change the length of the drop tube depending on the product placed in a tank. Since this will be a new requirement, the Department is also allowing one year from the date the regulations become effective for compliance, ideally providing the opportunity for the drop tubes to be replaced during the annual inspection.

Water most commonly enters sumps and spill buckets from the cover, which is not part of the tightness test. At section 22a-449(d)-105(c)(2)(B)(iv), recommend changing liquid to "the product stored in the UST system." Spill buckets are designed to catch drips of product from the filling operation, requiring a tightness test every time liquid is in the spill bucket is impractical.

Spill buckets and sumps cannot fulfill the purpose of containing regulated product if they are already full of water, which is why the term "liquid" is used rather than "product."

Reporting and investigating suspected releases and confirmation steps, section 22a-449(d)-105(c)(2)(B)(iv) requires testing of containment sump or spill bucket within 48 hours after liquid has been removed unless the sump or spill bucket has passed a tightness test within the previous 30 days. Several commenters anticipated challenges for owners/operators and testing contractors and felt that completion of testing within 48 hours would be challenging due to contractor availability issues, considering that some contractors have separate crews strictly for hydrostatic testing. One commenter recommended testing be done within 30 days after product is discovered in containment sumps. Another commenter requested the definition of 'liquid' not to include 'any fluid' primarily water.

This is common practice currently with red tags involving sumps or spill buckets and is being done currently with very little issue. The only way to determine if a spill bucket or containment sump is liquid tight is to conduct a tightness test. Liquid should not be entering these components and it is the intent of the Department that liquid is a broadly used term to capture water, products or other liquids.

5. **Comments regarding life expectancy.**

The proposed regulations eliminate RCSA section 22a-449(d)-1(h)(3) but adds (5) which also states that the commissioner may modify the period of life expectancy. Will the Approval of an Alternate Life Expectancy for consumptive use heating oil USTs be modified and continued under RCSA 22a-449(d)-1(5)? If not, will the option for Alternate Life Expectancy be eliminated for tanks installed prior to 10/1/2003 that have not yet reached 30 years old? Will tanks older than 30 currently operating under Alternate Life Expectancy be permitted to continue to do so?

The Alternate Life Expectancy (ALE) for (d)-1 tanks will not continue after the proposed regulations become effective. However, as stated in section 22a-449(d)-1(h)(5), the Commissioner does have the authority to modify the period of life expectancy. Tanks that are currently operating under the ALE will be permitted to continue operating under that 40-year life expectancy, so long as they continue to meet the conditions outlined in the ALE, but no additional tanks will be eligible for the ALE. Most of the same eligibility criteria under the ALE will apply to the newly proposed 45-year life expectancy. In addition, the 45-year life expectancy applies for all (d)-1 tanks, not just those used for consumptive use heating oil. The Department has also eliminated the installation cut-off date of October 1, 2003, so a tank with equipment that meets the criteria in the life expectancy subsection will be eligible for the applicable life expectancy regardless of installation date.

The state regulated tanks are not required to be inspected every three years like the federally regulated tanks and the Department has limited resources to conduct inspections more regularly for

the d-1 tanks, therefore it is very important that these tanks have appropriate technology in place to detect releases to the environment. As an alternative to upgrading release detection, USTs can be removed and replaced with aboveground storage tanks which provide even greater environmental protection by being above the ground.

Section 22a-449(d)-111(d) of the proposed regulations states that the commissioner may modify the period of life expectancy. Will the option for Alternate Life Expectancy be eliminated for tanks installed prior to 10/1/2003 that have not yet reached 30 years old? Will tanks older than 30 years, currently operating under Alternate Life Expectancy be permitted to continue to do so? Will the Commissioner's approval letter regarding alternative life expectancies (ALE) continue to be in effect for eligible tanks installed prior to October 1, 2003? This question is regarding existing tanks with current ALEs (effectively 40 year tanks assuming continued compliance) and those tanks that owners and operators are planning to submit an ALE notification for in the near future.

The Department is not eliminating any options for tanks installed prior to October 1, 2003, and tanks can continue under the ALE if they have already notified/opted in and continue to comply with all conditions. Tanks with existing ALEs only represent approximately 3% of the entire universe of tanks. The current ALE requirements have been incorporated into the proposed regulations; therefore, when the regulations take effect, an owner or operator will not need to submit an ALE notification if those conditions can be met. Instead, the owner or operator will need to update the life expectancy in ezFile.

Is there any thought to trying to incorporate the table in the powerpoint presentation used at the public hearings into the regulations as an exhibit table to help people to understand the various categories and the breakdown of the life expectancy.

The Department can post that table to the DEEP website, but it is not necessary to put this in the regulations, which explain in detail the life expectancy categories.

Based on the life expectancy slide presentation which details the tanks into 4 groups, can a Category 3A double-wall dry interstice tanks installed after 10/01/2003 be converted to a Category 3B double-wall brine tank or convert to constant vacuum on the interstice? Would this tank then gain an additional 5 years of life after conversion? If an Owner/Operator installed a tank on 09/30/2003 which is DW Brine, does this tank only get 30 years even though it meets the Cat 3B tank description? When the Regs go into effect in 2025, does the "Effective Date" mean that all Category 1 and Category 2 tanks will need to be removed? If an existing registered tank system has a 10-year life extension already in place when the regs go into effect, will the 10-year extension be grandfathered and be able to continue to be used or will the Owner/Operator have to cease using the tank and remove it?

The table in the powerpoint slide from the public comment hearings detailed the information applicable to federally regulated tanks, not d-1 tanks. Although the commentor presents these as questions for d-1 tanks, the Department is interpreting this line of questions to be for federally regulated tanks.

The Department has removed references to the installation dates in the life expectancy section because it is the type of technology in use that determines life expectancy, not when that equipment was installed.

Yes, a double-walled tank with dry interstice can be upgraded to a tank utilizing brine or a constant vacuum to monitor the interstice. If such upgrade takes place, the tank would qualify for 40-year life so long as the additional conditions are met (i.e., utilize double walled non-metallic piping, tests interstitial space on tank and piping every 6 months).

No, a tank installed prior to October 1, 2003 with a brine system would receive a 45 year life. This would be the life expectancy for such a tank regardless of installation date.

No, once the regulations take effect, tanks that fall under the 30-year life expectancy will still have that same life expectancy and will not be required to be removed until they reach 30 years. This would apply to tanks regardless of installation date.

Yes, any tank that is currently operating under an ALE with a 40-year life expectancy will continue to have the same life expectancy when the regulations take effect so long as the UST system continues to meet the conditions now incorporated into the regulation.

Commenter expressed concern with the feasibility of standardizing the 40 and 45 year life expectancies primarily because the major manufacturers of underground storage tanks and other equipment only provide warranties for 30 years. The equipment is not necessarily intended to be used beyond that period, so what additional measures need to be put in place in order for that life extension to be standardized and feasible. There are also concerns with the vacuum monitoring interstitial space equipment. It's not equipment that is widely used currently, and understanding is that there are reliability issues with that equipment leading to false positives for leak detection and also compatibility with new materials in the future. 45 years is a long, long way out, and we've seen a lot of changes recently in the higher ethanol fuels and other biofuels, so extending the life expectancy out that far, we may have issues with material compatibilities in the future.

The central goal of the UST program is release prevention, and one way to ensure that goal is met is to get tanks out of the ground before they leak. All UST equipment is required to be compatible with the product stored, which takes into account changes in fuel used in the future. Routine inspection, maintenance and testing also ensure that equipment is functioning properly with the ability to repair certain system components to prolong the life of equipment. The Department has found that tying life expectancy to warranty was infeasible when many manufacturers went to one year warranties. The 30 year mark for many tanks installed around the time of the original regulations recently passed and many tanks came out of the ground in good condition. Given the new technologies available, the Department sees the value in extending life expectancy where improved leak detection technology is utilized by acknowledging the benefits in preventing releases.

Connecticut is one of very few states limiting the use period for double-walled UST systems. When double-walled USTs reach the end of allowed life expectancy, they must be replaced by new double-walled USTs, which are, in most cases, no more protective to the environment than that system that was removed. The state of Maine recently amended their regulations to remove the 10 year limitation (extension) for double-walled tanks that meet the requirements, allowing these tanks to remain in use

indefinitely, as long requirements to perform additional testing, etc. are met. Commenter would like to request that CT DEEP consider eliminating the life expectancy limitation.

Use is never indefinite, a tank is in use until it leaks, and the Department's intent is to prevent failing tanks. We have allowed an additional 10-15 years, depending on system, but to allow them to be used until they leak will put groundwater, which is Connecticut's primary source of drinking water, at unnecessary and unacceptable risk.

Commenter noted that they have as many as ten USTs that would be eligible for the 45-year life expectancy if not for the October 1, 2003 condition. If the regulations were adopted as drafted, the commenter will be required to remove fiberglass-reinforced tanks that are equipped with continuous interstitial monitoring (that monitor both the primary containment and secondary containment such that the inner and outer walls are continuously monitored using brine) when the tanks approach the age of 30 years. Gaining an additional 15 years before expending resources to replace these tanks would be a significant cost savings. The commenter requests clarification on why this extended life expectancy is limited to tanks installed after October 1, 2003 and recommends omitting the minimum installation date prerequisite if a tank meets all other conditions proposed in the regulation.

The Department agrees with this comment and has revised the language in section 22a-449(d)-111(b)(3) to remove the October 1, 2003 requirement.

Commenter expressed concerned that under section 22a-449(d)-102 many safe, functional, and stable USTs will not be eligible for a life expectancy extension. The proposed regulations also create questions about what would happen to USTs that have already been extended. There is concern that owners will be required to perform tank top upgrades at a significant cost and without an opportunity to utilize the alternate life expectancy and may be required to remove UST systems shortly after the upgrades were required to be completed. Costs to owners could easily total in the hundreds of millions of dollars to replace otherwise serviceable USTs that in any other state would be allowed continued use. This is a significant economic burden for tank owners with potentially limited return. Recommend that any new technical requirements placed on tanks be limited to new UST systems, while existing systems continue to be monitored for safety and functionality.

Many of the requirements were already Alternate Life Expectancy (ALE) requirements and are not being changed by the proposed regulations. USTs that would have previously met eligibility criteria for ALE will continue to have that same life expectancy under the revised regulations. Under the current regulations, an owner or operator would need to make these upgrades to qualify for the ALE. The tradeoff of retrofitting is that they gain additional life expectancy (up to 10-15 years). The Department incorporated additional protections derived from the ALE for new tank installations.

6. **Comments regarding examinations and training requirements.**

Section 22a-449(d)-103 General operating requirements (c) Annual inspections - what “qualifies” an individual or third-party contractor to be eligible to perform the annual inspection?

A qualified person must meet the standards set out in RP 900-21. The Department has clarified the language in section 22a-449(d)-103(c)(2) to reflect this.

Section 22a-449(d)-103(m)(5) Requirements regarding removal or replacement of containment sumps and Spill buckets - Is the department going to provide a list of ICC U-2 certified individuals/contractors? Due to requiring having an ICC U-2 certified individual to oversee replacement, this will inhibit repairs being made in a timely manner and could potentially cause the site to have to shut down since they component would have to be taken out service until repair made. This section will adversely affect the owner/operator.

The Department does not intend to provide a list of ICC U2 certified contractors. The proposed regulatory language is for the removal or replacement of containment sumps and spill buckets, therefore, the requirement that individuals conducting such work be qualified in a certain manner will not impact the speed at which these UST system components are repaired. The Department requires individuals conducting work on USTs to be appropriately qualified to ensure the systems are installed to prevent releases to the environment.

Under section 22a-449(d)-107(a)(2)(A), when conducting UST system closure, the UST system owner/operator shall ensure the person responsible for conducting closure, and who shall be present at the facility, have the following training: 40-hr HAZWOPER training; passed an examination listed on the Department’s internet website; annual 8-hr HAZWOPER refresher training. To whom do these training requirements apply (e.g., contractor, LEP, PEP, etc.)? Is this for the removal contractor or individual collecting closure samples? What specific "examination" is on the Department's "internet website"? Has the Department prepared a framework for the examination? Will the exam be a one-time requirement, or will refresher training and continuing education be required?

These requirements apply to the person who is conducting the closure, this means the individuals doing the actual tank removal. A person conducting closure can be the removal contractor as well as the person collecting samples. The training is not needed for individuals who may be on site but are not performing the work. The Department has clarified the proposed regulatory text to specify that the International Code Council (ICC) U2-UST Decommissioning Exam is the exam required; many other states already require this credential. The person conducting closure needs Occupational Safety and Health Administration (OSHA) training from OSHA contractors, and most likely already has this training if engaged in this work. The 40-hour training is a one-time training and the 8-hour course is an annual refresher. These trainings are required under federal regulation for hazardous waste operations and emergency response.

Under section 22a-449(d)-107(a)(2)(D), UST system owners/operators shall retain a person to conduct the closure assessment who has a minimum 3 years of experience and training in selecting and taking samples and understands the appropriate analytical methods for products stored in the UST system. Please clarify if this requirement applies to field personnel collecting the samples, or to the individual supervising the field personnel. We suggest this requirement apply to the supervising individual responsible for managing environmental monitoring during the UST system closure.

If the person taking samples and person selecting sampling locations are two different people, requirements would apply to both. In many cases at UST sites, it is the same person.

Section 22a-449(d)-108(f) - Class A, B and C Operator requirements - Operator training programs requires submittal of new request for training program approval for previously approved programs. What is the process for an operator training program to receive renewed approval? Specifically - when does this need to be submitted, what must be submitted and how should this be submitted?

All previously approved operator training programs must be reapproved under the proposed regulations. Requests for approval of previously approved programs must be submitted within 90 days of the effective date of the regulations, on a form prescribed by the commissioner. The form will indicate how it should be submitted to the Department.

7. **Comments regarding inspections.**

If CT DEEP plans to continue a requirement under section 22a-449(d)-110 that piping containment sumps and under-dispenser containment sumps must be inspected monthly, commenters feel annual sump inspections are sufficient, especially when sumps are continuously monitored. EPA and most states require annual visual inspections of containment sumps. Even with the necessary safety precautions in place, the monthly frequency increases the risk of safety hazards to inspectors, both in potential injury when opening the piping containment sumps and in risk of being hit by inattentive motorists at retail facilities.

The monthly visual inspection requirement is not a new requirement and is not covered by this rulemaking, it has been in place since 2012 and follows the recommended practices by the Petroleum Equipment Institute.

Section 22a-449(d)-103 General operating requirements (b) Monthly Inspections and (c) Annual inspections require parties to note actions that have been or will be taken in response to non-compliant items. Furthermore, if an action takes longer than 30 days, an explanation of the delay must be noted in the inspection report. Commenters feel that this process will create logistical challenges. For instance, the inspector may not be informed of planned actions. Additionally, adding notes to the report after inspection is done can present challenges, especially for owners of many locations. Owners/operators could provide similar detail, upon DEEP request, by providing maintenance and repair records.

Monthly and annual inspections are designed to ensure that any problems with equipment are quickly detected and repaired. The Department does not have the staff or resources to look for potential issues and request information, so these inspection reports need to be proactively submitted to the Department by owners and operators. Since inspections are conducted monthly, if there is an action that must be undertaken by the owner or operator, it should be resolved and documented in the following monthly inspection report. Documentation of failures is essential to ensuring noncompliance is addressed. An inspector should make their best efforts to determine if action to bring equipment into compliance would take greater than 30 days.

Section 22a-449(d)-103 General operating requirements includes added timeline limitations for periodic inspections & testing – for instance, there must be at least 9 months between annual tests. This creates an unnecessary complication for owners/operators and contractors as it relates to tracking, dispatching, and performing testing. Suggest adopting periodic inspection and testing requirements that are similar to the Florida DEP UST Program rules. For example, FAC 62-761.600(5) states: "An annual operability test will be deemed timely if performed within the same calendar month in which the test is due." This would allow owners/operators more flexibility to meet the annual testing/inspection requirements, while still achieving the compliance goal of conducting annual testing/inspections in a timely manner.

Connecticut is a recipient of federal Leaking Underground Storage Tank (LUST) prevention grant funding and must follow certain requirements. One such requirement of the federal grant is that actions need to be taken by anniversary dates. For example, if annual testing was performed on March 1, 2020, and then again on March 8, 2021, it would be considered untimely because it was not performed by the anniversary date of March 1, 2021. As a result, the Department cannot use a structure that relies only on calendar month.

Section 22a-449(d)-103(g)(2)(i) should refer to Recommended Practices of the Petroleum Equipment Institute RP-1200 instead of 900.

It is the Department's intent for the proposed regulations to reference the 2021 version of RP-900 for overfill prevention equipment.

Currently under section 22a-449(d)-103(b)(2), monthly inspections are typically done by Class C Operators, as Class A/B Operators have broad responsibility for numerous UST locations.

The current regulations require inspection to be done under supervision of a Class A or B operator, the only change is that the Class B operator complete the inspection rather than just supervise. These inspections are not a responsibility that is appropriate for a Class C operator.

Section 22a-449(d)-103(b)(4) inspection records are often electronic, suggest changing to "reviewed by Class B Operator" rather than signed by.

The signature can be electronic, but the record must be signed, otherwise there is no way to verify that it was actually reviewed by the operator.

Commenter would like clarification that a third-party Class B operator can be used to complete monthly inspections under section 22a-449(d)-103(b).

Yes, inspection must be done by "a Class B Operator" not necessarily that facility's Class B operator. However, the operator must meet requirement of section 22a-449(d)-103(b) that they have working familiarity with specifics of the UST systems being inspected at the underground storage facility.

Tracking and complying with the 90 day requirement under section 22a-449(d)-103(c)(1) for Facilities with multiple USTs would be difficult for the regulated community. Suggest deleting this requirement and just require annually, once per calendar year.

If the requirement is once per calendar year, a regulated party could inspect in December of 2024 and then a week later in January of 2025 and could then go almost two years until the next inspection by waiting until December of 2026. This would be in compliance with a calendar year requirement, but would go against the intent of the regulation, which is to conduct inspections approximately one year apart.

DEEP staff has indicated that the test in section 22a-449(d)-103(d)(2) is for the containment system, (i.e., interstitial space). Suggest clarifying this requirement.

Section 22a-449(d)-103(d)(2) states that each double-walled UST and double-walled connected piping shall be tested to determine if there is a release or any loss of liquids from any part of such tank or piping, as applicable. This is meant to detect releases from any part of the system, not just interstitial space.

With numerous USTs and often separate test dates on different parts of the UST system, requiring this testing every third calendar year, as opposed to by 3 years from test date would be very beneficial to the regulated community (for sections 22a-449(d)-103(d)(2)(C) & 22a-449(d)-103(e)((2)(C)).

This timing requirement is an EPA requirement. Additionally, this is not a new requirement, and the comment is therefore outside the scope of the proposed regulatory changes.

The test at section 22a-449(d)-103(g)(2)(A)(iii) is typically done as part of the annual test, with that proposed within 90 day of anniversary date, and this different requirement, will be extremely

difficult to track and coordinate this testing. Suggest leaving at annually, once per calendar year. Also suggest leaving the test at section 22a-449(d)-103(g) as annually, once per calendar year.

Owners and operators are allowed to test more frequently than is required by regulations and can do so in order to coordinate testing schedules. Additionally, this is not a new requirement, and this comment is therefore outside the scope of the proposed regulatory changes.

8. **Comments regarding forms**.

RCSA section 22a-449(d)-103 General operating requirements (b) Monthly Inspections and (c) Annual inspections - Numerous commentors had questions about the forms required for inspections. Will CT DEEP require inspection findings to be reported on a state required form? If so, are the CT DEEP required forms the UST Monthly Inspection Checklist, UST Monthly Inspection Report For USTs Temporarily Out-of-Service and UST Annual Inspection Checklist? Will CT DEEP allow use of an alternate form if it includes the same inspection items as the state checklists? What information will be required on these forms? Commentors are concerned about the requirements for these inspections being on a form and not in the regulation and that using online forms can produce compliance issues, such as where a regulated party does not have access to the web (during a field inspection), if the Department's website is experiencing issues, etc.

The Department is working to create forms for the UST Monthly Inspection Checklist, UST Monthly Inspection Report for USTs Temporarily Out-of-Service, and UST Annual Inspection Checklist. It is the Department's intent to make the forms available on the Department's website prior to the adoption of the regulations. The Department will allow use of these forms and checklists or another form or checklist that includes the same information.

The proposed regulations refer to the Petroleum Equipment Institute RP-900, "Recommended Practices for the Inspection and Maintenance of UST Systems" for both monthly and annual inspections. See section 22a-449(d)-103(b) and (c). The information required on the "UST Monthly Inspection Checklist" and "UST Annual Inspection Checklist" forms will be developed to closely align with RP-900's checklists, as stated in the regulation. The "UST Monthly Inspection Report for USTs Temporarily Out-of-Service" form will also require the information specified in the monthly Petroleum Equipment Institute RP-900, "Recommended Practices for the Inspection and Maintenance of UST Systems," with omissions of items or requirements that do not apply to a tank that is temporarily out of service. The Department has found that UST operators can put tanks in a temporary out of service state and then leave them that way for years without any confirmation that equipment is still in proper working order, which is why monthly inspections are required.

It is the responsibility of the owner or operator to ensure the form is completed properly. These forms are not additional regulatory requirements or a separate rulemaking, they are being created to carry out the requirements already specified in the proposed regulations.

It is true that in certain instances throughout the UST regulations—and throughout the Regulations of Connecticut State Agencies more generally—the flexibility to specify additional information to be

submitted on a form is reserved. Without such a reservation, any time there was a need to add or delete a question, regulations would have to be amended. Such an approach is not practicable, for the Department or for the public.

Section 22a-449(d)-103 General operating requirements (b) Monthly Inspections and (c) Annual inspections - Is Connecticut now requiring two individual inspection checklist/forms?

There is one form prescribed by the Commissioner for the monthly inspections and one form for the annual inspections, both of which are the respective checklists noted in the proposed regulations. Once the checklist form is completed in full and signed by the applicable individual, the checklist becomes the inspection report.

The proposed regulations require a host of new forms be prepared and submitted by UST owner/operators during various states of release response and corrective action. These forms are yet to be developed but will be made available at some point under DEEP's general authority. Several commenters recommended a process where draft forms would be circulated for public participation and feedback regarding the information to be required on the new forms. Commenters believe such feedback will help streamline the new processes by offering insight into the reasonability of providing all the forms' requested information without risk of a notice of insufficiency.

The forms created by the Department will require the information specified in the proposed UST regulations and in the Remediation Standard Regulations, as well as information requested by EPA. Forms will be shared once ready prior to the effective date of these proposed regulations.

9. **Comments regarding Licensed Environmental Professionals (LEPs) and Permitted Environmental Professionals (PEPs).**

The proposed UST regulations include requirements for owners of regulated USTs to obtain the services of LEPs. Under the proposed UST regulations, LEPs cannot verify that releases have been remediated in accordance with the RSRs (i.e., all compliance decisions will be made by DEEP). The LEP program was designed to allow LEPs to operate with a certain amount of autonomy, subject to the requirements specified in the LEP regulations. We question whether DEEP will have the resources to provide timely review and approval under these proposed regulations and whether there is an opportunity to delegate additional responsibilities to LEPs.

The Department is not proposing to take on additional work that DEEP staff does not already do. To the contrary, the proposed regulations will reduce the Department's workload by using forms rather than full reports. Currently, Department staff handle all aspects of Section 106, but the proposed regulations delegate some aspects to Environmental Professionals, reducing the burden on Department staff.

Several comments stated that both the RBCRs and the proposed UST regulations do not include the minimum credentials for Permitted Environmental Professionals (PEPs) and the process by which they will be permitted. Several comments request that DEEP confirm that the term PEP as used in the proposed UST regulations is, in fact, referring to a new classification of environmental professional like the RBCR have proposed and that the proposed UST regulations are not using PEP in reference to contractors who are permitted through existing 22a-454 programs. They also request that additional details on PEPs be provided so that the LEP community can better understand the role of this new class of professionals in addressing releases. Commenters recommended using the proposed UST regulations (and the RBCRs) to fully outline the minimum credentials for PEPs as well as the process by which PEPs will be permitted. Also suggest that the minimum credentials include a requisite number of years of related experience along with an alternative certification such as a Chemical Hazardous Material Manager or Professional Engineer. Until such time that the PEP is fully defined and permitting process established, all releases will need to continue being overseen by the highest credentialed (and most expensive) professionals. Without additional details regarding PEPs, commenters question whether the proposed UST regulations strike the correct balance between work that may be performed by PEPs and work that must be performed by LEPs.

Permitted Environmental Professionals (PEPs) in this context are people or entities permitted under CGS § 22a-454, as defined in proposed RCSA § 22a-449(d)-101(d)(44). Each CGS § 22a-454 permit application may include whatever conditions the commissioner deems necessary, which allows flexibility in ensuring that PEPs have the correct credentials for each situation. Under the current UST program, spill contractors are permitted to conduct work under the UST regulations; while the CGS § 22a-454 permit is not new, the term 'PEP' is new for the individuals covered under a CGS § 22a-454 permit. This is not a new requirement but is being memorialized in the proposed regulations.

10. **Comments regarding remedial action and closure.**

Upon submittal of a complete Remedial Action Report (RAR) and associated Monitoring Reports, and assuming all regulatory requirements and RSR criteria are met, will CT DEEP issue an official "Closure Letter" or "No Further Action Letter" to formally close out the release for the property? What is the confirmation from the State that "closure" of the release has been achieved? This is obviously very important for property owners to receive such confirmation, as it can affect property values, property sales, and is often required by lending institutions during property transactions or refinancing of loans. Clarification within the regulations and/or guidance is needed regarding the closure process for releases in order to ensure economic/stakeholder confidence in the closure.

The Department issues certificates of compliance when orders related to leaking tanks have been fully complied with. The proposed regulations will require an environmental professional to sign off on closure for actions that are not subject to enforcement. No revisions have been made in response to this comment.

The regulations indicate that releases and follow-up remediation will need to go through a closure process that could include several forms submitted to DEEP at certain milestones and reports be

written, that may also be required to be submitted. It is unclear if a release that has been discovered during closure and immediately addressed will require the vigorous investigation and remediation requirements outlined in Section 106 of the proposed regulations. Further, the scenario where a limited amount of soil can be remediated and confirmed during tank closure should be addressed in the regulations and not require the corrective action process outlined in the regulations

The Department is developing a form to address scenarios where releases found can be resolved during the closure process. The form is anticipated to help describe the need for submissions of information under section 106. Such form will be made available on the Department's website during this rulemaking process.

The proposed regulations include requirements for analytical data but do not reference Connecticut's Reasonable Confidence Protocols (RCPs). Commenter recommends that the regulations leverage the existing methods and procedures that are already in place under the RCP program. This will provide consistency for analytical data across cleanup programs in Connecticut.

The proposed regulations require compliance with the Remediation Standard Regulations (RSRs), which contain Connecticut's Reasonable Confidence Protocols (RCPs). No revisions have been made in response to this comment.

For the scenario in which a UST has been removed and remedial action had been performed prior to the effective date of the regulations but the site continues to be in a groundwater monitoring regiment, it is unclear under section 22a-449(d)-106 whether the regulations would require that the remedial action form and/or monitoring and progress status form be submitted to DEEP, or whether the regulations would empower DEEP to notify the UST owner/operator that DEEP is requiring its review and approval of the remedial action and/or the monitoring. It is also unclear if a UST owner/operator could be charged the annual fees imposed during monitoring of remedial action in this scenario. If the regulations allow the fees to be charged in such cases, then the fiscal analysis that accompanied the proposed regulations did not reflect this cost to state agencies and municipalities. Commenter recommends the regulations clarify that, for these scenarios, site owner/operators are exempt from being required to submit the remedial action form and/or monitoring and progress status form and that the annual fees would not be levied.

All applicable forms need to be submitted to the Department as proposed in section 106, and if parties are in monitored natural attenuation (MNA) but have not submitted a RAP, owners or operators will need to submit the RAP within 90 days of effective date of regulations. The Department will exercise its discretion to request any additional information for sites that are already undergoing corrective action when the proposed regulations take effect. The Department has revised section 22a-449(d)-106(n) to clarify the fee monitoring section for owners or operators that are already conducting groundwater monitoring, with the monitoring fee to kick in two years from effective date.

Clarification is needed to establish what activity constitutes the completion of the investigation. Is it the last day of field investigation activities or the day the last laboratory analytical report is received

or the date upon which an environmental professional has determined the investigation and results are sufficient and a conceptual site model has been developed that is considered adequate to begin evaluating potential remedial strategy options? Setting a 30-day timeframe to something that is undefined/ambiguous creates confusion and lends to potential varying interpretations. 30 days from the last field investigation activities or from the receipt of the last laboratory report is considered an unreasonably short timeframe.

Whether an investigation is complete should be determined by a qualified environmental professional. A Conceptual Site Model is not needed for leaking UST systems.

There are a lot of unknowns that can occur during the course of investigation activities, for example access issues, weather, complex subsurface conditions, etc. that can affect an investigation timeframe. The designation as "non-compliance" for the form required to request a schedule extension suggests the responsible party and/or their environmental consultant willfully disregarded the approved schedule, where in fact unforeseen circumstances more likely resulted in an inability to meet the prescribed timeframe. Documentation that a business, either the responsible party or their consultant, as being "non-compliant" can have real business ramifications including damage to reputation and potentially loss of business when the conditions may have been outside their control. In alignment with other established programs, it is suggested that the form should be designated as a "Schedule Extension Request Form", not a "non- compliance form".

The title "non-compliance form" is accurate as the regulated party is not compliant with the schedule they submitted. If the schedule needs to be revised, it should be revised before the regulated party is out of compliance, so that they can then remain in compliance with the new schedule.

Section 22a-449(d)-106 – 30 days to complete the Initial Site Characterization and submittal of the Site Check Form is too short of a timeframe due to potential unseen circumstances that can delay an investigation, as well as known issues facing environmental consultants such as driller availability. Several commenters recommended that the time frame be extended to at least 60 days, and preferably 90 days, or that the details required on the Site Check Form be limited to information that could be reasonably obtained within 30 days.

The proposed regulations expand the timeframes over the current timeframes in Section 106. Specifically, in Section 106(f) the proposed regulation adds an additional 10 days for submission of Site Check Form from the 20-day time frame applicable in the current regulations at Section 22a-449(d)-106(d)(2). No revisions have been made in response to this comment.

The Department received several comments that the window for submission of the completed NAPL form is listed as between 45 days and 60 days, which is too short. Commenters recommend that the timeframe be extended to at least 90 days in order to provide a comprehensive and effective report, as efforts to require the information requested, such as completing soil borings, well installations, and NAPL recovery systems and programs, often need this amount of time to implement.

The proposed regulations are intended to expand the timeframes over the current timeframes in 106. Specifically, Section 106(g) of the proposed regulations adds an additional 15 days for submission of the NAPL form from the 45 days in Section 106(f) of the current regulations.

30 days to complete a Remedial Action Plan (RAP) after the submission of a Completion of Investigation (COI) report is far too short of a timeframe. Currently, the Property Transfer and Voluntary Remediation programs allow one year for submittal of a RAP after the COI report is submitted. Developing an effective RAP takes time, and may require feasibility testing of remedial alternatives, which may require multiple iterations of field testing to determine the most effective and sustainable strategy. Commenters recommended that this timeframe be extended to up to one year to align with current practice under other programs and to provide ample time to develop an effective and sustainable strategy.

This situation of a leaking UST system is not comparable to the Property Transfer Program or the voluntary remediation program because the release will already have been defined and the remediation of leaking USTs is very defined and limited in scope making it easier to identify remedial actions. The proposed regulations provide more time than the current regulations for parties to begin working on a RAP. Built into the proposed regulations is 30 days from the completion of investigation to submission of the COI form and another 30 days from submission of the COI form to submission of the RAP for 60 days total.

The proposed regulations indicate quarterly progress reports are required every 90 days for duration of all activities, from discovery of release to compliance with GW monitoring unless otherwise specified in writing by the commissioner. The schedule for Progress Report submittals should be established in the approved Schedule thereby taking into consideration the activities being conducted. For example, if a project has completed soil remediation and monitored natural attention (MNA) with annual sampling has been deemed an effective and sustainable remedial strategy with no risk to potential receptors, providing Progress Reports every 90 days would be non-productive for both the Agency and the responsible party.

If a different schedule is agreed upon it will be adjusted, otherwise the 90-day requirement will apply. Should an owner or operator seek a different timeframe than the 90-days, the proposed regulations allow for that so long as the agreed upon schedule is specified by the Commissioner in writing.

11. **Comments regarding fees.**

The Department received several comments regarding the tables of fees in RCSA section 22a-449(d)-106(n) associated with investigation and implementation of corrective actions for regulated USTs. Comments questioned the justification for the need to pay for simple sites that have only occasional monitoring performed and documentation of actual costs carried by the state to keep these sites in monitoring, to justify these fees. Commenters noted that while the escalating fee structure may be designed to promote swift action, it may have the unintended consequence of influencing remedial decisions. The fees may be too high for projects that need to rely on longer term remedial strategies, such as monitored natural attenuation. Corrective action should be performed at sites based on good

science and risk based/sustainable practices within the regulatory framework, and not driven by exorbitant fees.

The state-authorized UST program is a federal program with requirements from the EPA for leaking underground storage tank (LUST) completed milestone that is directly tied to the funding EPA provides the State. Sites that remain in monitoring for years are not acceptable closure practice to EPA and the Department has developed a significant backlog of sites that need to be closed. EPA calculates federal funding levels based on the speed at which the Department closes sites. The intent of the fees in section 22a-449(d)-106(n) is to provide a financial incentive to close sites and to prevent sites from remaining in monitored natural attenuation (MNA) and never achieving compliance with applicable standards. Furthermore, Connecticut relies heavily on groundwater as a source of drinking water and needs to protect those resources by reducing the number of sites that rely on MNA. These fees are aimed at getting sites closed, not at recouping costs paid by the Department. However, the Department has reevaluated the fee structure and amounts of fees and the doubling of fees has been eliminated and the majority of fees have been reduced by 50% or more.

The proposed annual fees are not in line with the fee structure being proposed under the Release-Based Cleanup Regulations (RBCRs) and are considered excessive, especially for sites where MNA has been deemed the selected strategy based on effectiveness, risk, and sustainability considerations. Many UST facilities are owned by individual owners and/or small businesses where these annual fees would put a significant financial burden on their business, and in turn, have real ramifications to employees, other stakeholders, and the community. This is inconsistent with the RSRs and good professional practice, which prioritize protection of public health and the environment in the most cost-effective manner possible.

The UST regulations are independent from the proposed Release Based Cleanup Regulations (RBCRs), most significantly because the UST program is a federally regulated program with more stringent cleanup requirements. The fee structure recognizes that USTs are systems in the ground, which pose a unique and significant threat to groundwater, the primary drinking water source for the state. While MNA may be an appropriate cleanup option at times, it is not a protective solution where the goal is to remediate sites to address risk to human health and the environment. The UST fees differ from those in the proposed RBCRs by starting at a lower rate and the fees associated with monitoring are not imposed until two years after the initiation of monitoring, which allows time to determine if the remedial action is effective. The Department recognizes the fees will impact owners and operators and reduced the majority of the fees by 50% and eliminated the doubling of the fee.

Clarification is requested on whether fees in the proposed regulations are cumulative.

The fees are not cumulative. Each year the fee for only that year is due, rather than one payment at the end of the remedial action or monitoring period. For example, in year four, only the fee for year four is assessed and not the fees for previous years (which should already have been paid on those years).

It is unclear whether these fees apply only to releases from existing USTs or also apply to historic releases that originated from previous UST generations. Since the regulations are intended to apply to currently registered USTs, historic releases should be exempt.

The UST regulations have always applied to historically closed tanks and will continue to apply to historically closed tanks. See section 22a-449(d)-107(d) in the current regulations and the proposed regulation section 22a-449(d)-107(e).

12. **Comments regarding transfer of ownership.**

Section 22a-449(d)-113(b) states that the seller of a UST system is liable for compliance with UST regulations until the new owner has submitted notification (on ezFile) to document ownership transfer. Under what statutory, regulatory, case law and/or legal precedent CT DEEP is deriving their authority to hold a private entity liable for UST regulations at property they do not own or operate? The seller cannot control the buyer's actions. Many states require seller notifications to the agency and commenter would request CT DEEP consider this approach instead. Such notifications provide confirmation of transfer and new owner information.

This approach is also inconsistent with the UST regulations themselves: section 101(a) (Applicability) clearly states that the UST regulations apply to "all owners and operators" of a USTs. Once a transfer happens, the transferor is no longer the owner or operator, and is no longer subject to the USTS regulations except to the extent of requirements that applied before the transfer, i.e., while the transferor was the owner or operator. Proposed section 114(a)(4) properly reflects that once the tank is sold, the seller has no legal authority over it, and absent fraudulent transfer or other such unusual circumstances, is not legally responsible for it.

The Department relies on the information provided in the notification on file and has no way of knowing that a UST has been transferred unless a new notification is filed. The responsibility has always been on the buyer to submit new notification (as the owner). The proposed regulations now include a requirement that the seller must let buyer know about the notification requirements or can require that the purchaser complete notification as a condition of sale. With this additional obligation on the seller, it is the intent of the Department to ensure that accurate information about UST system owners and operators is on file. The Department has reviewed the language in this section and determined that no changes were necessary.

13. **Comments regarding systems temporarily out of service.**

Several commenters requested clarity around the requirements in 22a-449(d)-110 when USTs are placed out of service. Under section 22a-449(d)-110, UST systems temporarily taken out of service states that the owner and operator must comply with UST regulations, with 2 exceptions. This implies that all other requirements must be met, including compliance testing under section 22a-

449(d)-103. Testing of temporarily out of service UST systems is not feasible or rational given that such UST systems would be empty. Request that CT DEEP better clarify compliance requirements for temporarily closed UST systems. If CT DEEP plans to require testing of temporarily out of service UST systems, request that CT DEEP provide reasoning for such requirement and detail about what specific testing must be performed.

Section 22a-449(d)-110 clearly states that all UST regulation requirements apply, other than the two exclusions for release detection and monthly and annual inspections. Release detection testing would not be required per the exclusion in section 22a-449(d)-110(b)(1). These requirements are not new, the language was moved from section 22a-449(d)-107, updated, and outdated standards were removed. Inspections were always required, the regulations have now fleshed out the requirements in a form.

The terms "abandoned" and "temporarily out-of-service" have been removed from section 22a-449(d)-1, as have the requirements for managing these types of UST systems. How should these types of USTs be managed under the revised regulations?

The term "abandoned" was removed from the definitions in section 22a-449(d)-1 because the term is no longer used in the regulation. Instead, the term "abandoned" has been replaced with closures. Tanks taken temporarily out of service have a requirement to notify the Department and the local fire marshal within 30 days as stated in section 22a-449(d)-1(d)(1)(B)(iii), otherwise, all of the other requirements apply.

14. **Comments regarding insurance.**

Suggest changing section 22a-449(d)-109(g)(2) to read: "Each insurance policy issued after the effective date of this regulation..." Rewording for current policies may be burdensome.

The Department has added language to section 22a-449(d)-109(a)(2) to make it clear that financial responsibility instruments will need to comply with the proposed regulations within 90-days of the effective date of the regulations.

Section 22a-449(d)-109 adds more stringent insurance requirements by requiring insurance policies to be submitted; adds more stringent bond rating requirements by removing junk bonds status from bond rating test; adds more stringent financial test requirements by requiring greater tangible net worth for companies; requires notification to the commissioner of cancellation or nonrenewal of insurance. Request that CT DEEP clarify the requirement to submit insurance policies. Commenter was unable to locate this specific requirement in section 22a-449(d)-109.

There is no requirement to submit insurance policies to the Department, but the Department has the right to request it. The ezFile system asks for some insurance information but not a copy of the full policy.

15. **Comments regarding public notice.**

Section 22a-449(d)-106(m) - The proposed regulations indicate that public notice will be required if remediation is to occur; however, the language in that section is vague concerning DEEP's expectations on how the public notice should be completed (i.e., "may include public notice in local newspaper") and whether public notice would even be required if the public is not affected by the remediation. More specific details on public notice requirements should be provided.

Public notice is a requirement of the federal program and the Department is limited by that. The regulation provides discretion and flexibility for the owner or operator to determine the best method to notify the "members of the public directly affected by the release and the planned remedial action." RCSA § 22a-449(d)-106(m)(1). Furthermore, details are provided about what is required if the release is in an environmental justice community.

Several comments questioned how to access demographic information for the language component of the public notice requirement. One commenter proposed the following as a more achievable approach that preserves the regulatory intent, and is consistent with the rest of proposed section 106(m)(1): "... The commissioner may, in writing, specify a particular type of notice that shall be provided. If such release is in an environmental justice community, as defined by section 22a-20a of the Connecticut General Statutes, [the owner or operator shall provide such notice in writing in all languages spoken by not less than fifteen per cent] and the commissioner reasonably determines that one or more language(s) other than English are spoken by a substantial percentage of the population that resides within one-half-mile radius of the release, the commissioner may, in writing, specify that such notice be provided in such language(s) in addition to English."

Otherwise, commenters requested that the Department identify the information source by which an owner or operator can make the specific population determinations required by section 106(m)(1) as proposed, and confirm that those sources are readily available to owners and operators.

This requirement to provide notice in writing in all languages spoken by not less than fifteen percent is required under the Environmental Justice Law, Conn. Gen. Stat. section 22a-20a. The Department recommends using U.S. Census Data, which can be accessed at data.census.gov, but the regulated community may also use other reliable sources, such as public school data.

16. **Comments regarding recordkeeping.**

Section 22a-449(d)-114, Notification and recordkeeping, subsection (3)(D) Closure requires notification within 30 days of removal - The closure report is supposed to be attached to removal notification filing through ezFile but Section 22a-449(d)-107 Closure of a UST system (c) Closure report states closure report must be "prepared" no later than 60 days after removal. Several commenters requested clarification of requested process for submitting notification of removal and closure report, and suggested allowing 60 days for closure notification.

The closure report required in section 22a-449(d)-107 is a separate document with a different process from the closure notification required in section 22a-449(d)-114. The proposed regulations do not require that the closure report be attached to closure notification in ezFile. A closure report is

required to be prepared within 60 days after all activity required in section 22a-449(d)-107 is completed and be made available upon request, while closure notification is required to be submitted within 30 days of removing a tank or rendering a tank unusable.

Recordkeeping requirements under RCSA 22a-449(d)-114(b) require maintaining certain records for the operational life of a UST system. This period seems excessive for records associated with general operating requirements, such as monthly inspections and release detection. Commenter requested that CT DEEP consider reducing the period that records must be maintained, especially for certain types of records that would greatly accumulate over the life span of a UST system. Recordkeeping requirements under RCSA 22a-449(d)-114(b) now include an option to maintain and provide records in an electronic format. Commenter appreciates DEEP adding this option for online recordkeeping.

The current UST regulations require maintenance of records for the operational life plus 5 years. The proposed regulations reduce that timeframe to one year beyond the operational life of the component to alleviate the burden on the regulated community.

The EPA currently allows electronic records, and many states have already adopted this provision. Consequently, DEEP should allow for compliance records to be available and maintained electronically either at the UST location or in a location where they can be made available within 24 hours of a request for records.

The proposed regulations are consistent with EPA's allowance of electronic records. It is a federal requirement that records be maintained at the facility where the UST is located, but they do not need to be available in hard copy, so they can be in a centralized location if they can be produced immediately electronically.

Commenter requests that DEEP re-evaluate the requirement that records be made immediately available for inspection and instead allow an option for records to be provided upon request, within a specified timeline.

It is a federal requirement that records be maintained at the facility where the UST is located and therefore provided immediately upon request. However, records do not need to be available in hard copy and can be produced immediately electronically.
Commenter requests that DEEP allow records stored at a centralized location under CGS 22a-449q (option for owners with more than 10 facilities) be made available upon request and within a specified timeline, rather than "immediately" at the site during the inspection. When records are stored at a centralized location, they are not available for immediate review on site.

It is a federal requirement that records be maintained at the facility where the UST is located. However, records do not need to be available in hard copy, so they can be in a centralized location if they can be produced immediately electronically.

Commenter requests that in section 22a-449(d)-114(c)(l), the Department provide UST owners with the option to provide records within 24 hours instead of "immediately" given the use of electronic record storage systems by owners and vendors providing UST testing and repair services. The

Department already allows records to be stored at a centralized location under 22a-449q of the Connecticut General Statues for owners with more than 10 facilities, and giving the additional time for these record requests for all owners will allow them to more readily comply. This aligns with the direction other states have taken or will take in the future given advances in technology and available record storage systems.

Documents need to be available immediately to facilitate efficient inspections, and because documents can be made available electronically, immediate production should not be a burden. Using a central location for owners with more than 10 facilities was meant to provide flexibility for larger scale operations, further, the statute requires "that such records are immediately available for inspection by the Commissioner of Energy and Environmental Protection, or the commissioner's designee, at any such central location". CGS § 22a-449(q).

The Commenter urges the Department to compile all USTS recordkeeping requirements, including those currently in CGS section 22a-449q, into RCSA section 22a-449(d)-114. Given the same basic parameters for all the recordkeeping, most beneficial for all concerned would be for this consolidation to be in table form, including cross-references to the source requirement. Less preferably, but still valuable would be in list form. The lists in current section 103(e) have been very useful and should be continued and strengthened in proposed section 114.

The proposed language in the new section 22a-449(d)-114 does not list all records because the proposed language states at section 22a-449(d)-114(b)(1)(A) that unless otherwise provided, all records related to a UST system must be maintained. Those records that are specifically listed have certain timeframes in which they must be submitted which is why the Department has called them out individually. Otherwise, if a document is created for a UST system, it must be maintained unless there is an exemption. The Department has reviewed and does not feel it is necessary to include a specific list in Section 114.

17. **Comments regarding use of the Department's website.**

Regarding the expanded use of the department's internet website for future actions regarding the use of required forms, testing methods, inspections, training, etc., commenter considered this to be a method for creating legally enforceable regulatory requirements while bypassing the State of Connecticut's legally required rulemaking process as it eliminates the opportunity for the public and regulated entities to provide input. The commenter requests the Department to reconsider the use of this method and allow all forms and test methods, etc. to have an opportunity to be evaluated by the public and regulated entities.

Advances in technology provide new and better methods for many tank related activities and in the past, the Department has been forced to disallow new technologies because regulations did not specifically allow them. This is an attempt for the Department to keep up with technology, otherwise the regulations would need to be amended every time the regulated community wants to utilize a new technology. Where the proposed regulations reference the use of the Department's website, the primary intent is to provide additional information whether its test methods, codes of practice, or materials that can be used in addition to those provided in the regulations. This is not a new practice, the current regulations also utilize the Department website to provide information on acceptable and unacceptable codes of practice. Other references to the website are for ease of use for the regulated

community by including forms, dates for submission of notifications and contact information. Use of the Department's website does not create regulatory requirements, it is a method for carrying out the new proposed regulations.

For 22a-449(d)-103, CT DEEP has previously stated that a list of unacceptable methods would be posted online. Please advise if CT DEEP still plans to post such a list and if it will be posted prior to the comment deadline.

The Department still plans to post a list, but it will not be posted prior to comment deadline. The Department will assess methods as they are proposed for use and add them to the posted list as appropriate.

Commenter acknowledges that posting to the state's websites can be efficient means to communicate important information to the public, and that the existing UST regulations include one instance (RCSA 22a-449(d)-102(a)(15)(F)) where DEEP can use its website to post a specific interpretation of a regulation (in this case, declaring a tank test method to be non-permissible). The proposed regulations contain as many as twenty-five (25) subsections where the regulated community must rely on what DEEP posts to its website to know what is or is not permissible or what the allowable time frames will be. Commenter recommends that this aspect of the proposed regulations be revised to provide more surety to the regulated community. It is conceivable that a prescriptive regulation could inadvertently prohibit yet-to-be-identified technologies and practices that would improve the environment or make compliance more affordable. CTDEEP and the regulated community should have the flexibility to make use of new and better means without pursuing a regulation revision. Therefore, commenter recommends that these regulations be used as the opportunity to establish a process by which new compliance tactics can be allowed (or disallowed) in a way that provides for participation and transparency for the state's decision making.

Use of the website is the Department's method of providing enough flexibility to allow for use of new technologies in the future. The alternative is to mandate a fixed set of tests in the regulations, in which case, new and better technologies could not be utilized as they come up without reopening and revising the regulations.

18. **Comments regarding the Department's proposed Release Based Cleanup Regulations**

Why is it proposed to have a different set of regulatory requirements for UST releases, as drafted in the Proposed UST Regulations, and other (non-UST) releases, as drafted in the proposed Release Based Cleanup Regulations (RBCRs)? Since it was advertised that the regulatory update was to streamline the system and bring all releases under a single released based system, it is strongly recommended that releases from USTs should be included in the proposed RBCRs, so that there is one set of regulations that governs all releases in CT.

The proposed new UST Regulations (22a-449(d)-105 through -107) and the proposed RBCRs (22a-134tt-1 to 22a-134tt-13) are separating releases from underground storage tanks (USTs) from all other releases and the requirements for investigation, remediation, reporting, fees, and closure of a

release are significantly different between the two sets of regulations. The release reporting and corrective action sections in the proposed new UST Regulations would be unnecessary if all releases to the lands and waters of the state, including those from USTs, were included in the Proposed RBCRs. The duplicative nature of remedial requirements in both sets of Regulations will only contribute to confusion regarding the requirements for "closure" of releases and will create economic uncertainties. The primary focus of the UST Regulations should be the compliance of UST construction, installation, and operation activities and then should link directly to the already-established Release Reporting Regulations (22a-450) and proposed RBCRs (22a-134tt-1 to 22a-134tt-13) to address release reporting, investigation, remediation, and closure, including those from USTs. We understand that the UST regulations need to be consistent with and address the requirements of the Federal UST regulations, but we believe that it is confusing and counterproductive to have two distinctly separate and different sets of regulations that deal with releases in the State of Connecticut (Proposed UST Regulations and the Proposed RBCRs). It is recommended that the Proposed UST Regulations be re-drafted in a manner to directly refer to the Proposed RBCRs for required actions in response to any discovered release, whether from a UST or other source. If this is not possible, could the Department please provide the reason why separate regulations are required?

Connecticut's UST regulatory program is a state authorized federal program; the UST program exercises certain federal authority delegated to the state. The EPA requires state-authorized federal UST programs to specify measures to address suspected and confirmed releases from UST systems while in operation or at the time of permanent closure. The UST Regulations must contain provisions for addressing releases in order for Connecticut to maintain its state program approval with EPA. The RBCRs do not contain all the provisions EPA requires of state approved federal programs. For example, the proposed UST regulations specify different steps for investigating and remediating groundwater plumes to meet federal requirements. Creating a bright line between the UST Regulations and the RBCRs is necessary at this time. Although there are two sets of regulations, the proposed UST regulations will be beneficial to the regulated community because the inclusion of the process for addressing suspected and confirmed releases in the UST regulations provides a complete set of procedures for all UST owners and operators to follow without having to search in other regulations for information.

The process for the creation of the proposed new UST Regulations is considered to have been inadequate. With so many revisions/additions proposed in the new UST regs, this process should have been handled in the same manner as the Proposed RBCRs, with stakeholder engagement, working groups, subcommittees, and adequate comment periods and revisions. Very limited stakeholder involvement was conducted prior to the Public Comment Period, which is considered too short due to the significant revisions being proposed and the potential overlap and inconsistency to the proposed Release-Based Cleanup Regulations (RBCRs). The majority of "releases" in CT are from regulated UST systems, yet they are currently being excluded from the RBCRs, and the proposed new UST regulations are attempting to rapidly push through corrective action regulations with little input and guidance from environmental professionals, attorneys, owner/operators, and other stakeholders.

The Department has complied with the legal rulemaking process set out in the Uniform Administrative Procedure Act which all state agencies must follow when developing regulations. Although the Department is not legally required to engage in public outreach prior to filing a Notice of Intent to adopt regulations, here the Department recognized that public input on updating these

regulations is important and did have stakeholder engagement, more than a year in advance, with an opportunity for stakeholders to comment. After the stakeholder session, the Department also provided a list of comments and responses on its website prior to finalizing the draft regulations that went to public notice. The Department also offered a longer public comment period than statutorily required and extended that public comment period at the request of the regulated community. While the RBCRs have had a very involved public engagement process, the UST program does not have the same statutory working group requirements nor is that the typical process in Connecticut. Additionally, the EPA has certain requirements for state authorized programs, which the RBCRs do not meet, so USTs are addressed separately. The Department's failure to meet EPA's requirements could also endanger our federal funding.

Does the 24-hour notification timeframe being permitted for suspected releases in the proposed regulation 22a-449(d)-105(c)(1) supersede the recently promulgated Release Reporting Regulations, wherein Section 22a-450-2(a)(1)(D) details that release reporting is required for releases "from or suspected to be from a UST system" and that Section 220-450-4(a)(1)(A) requires the initial report to the DEEP within either 1 hour or 2 hours of discovery, depending on the specific quantities and compounds released?

The 24-hour reporting requirement for suspected releases is not a new provision in the UST regulations and does not contradict the release reporting regulations. Section 105 is for suspected releases not for confirmed releases; once a release is confirmed, section 106 is applicable. The Department has clarified in section 22a-449(d)-106(c)(2)(A) that the Release Reporting statute and regulations are applicable.

19. **Comments regarding the Fiscal Note and Small Business Impact Statement.**

The actual costs that UST owners and the Department will incur if these proposed changes are adopted are not reflected in the Small Business Impact Statement and the Fiscal Note, which need to be reevaluated so that they accurately state the true cost of the proposed regulations. The work that is required under these proposed regulations could cost exponentially more than required under the current regulations, and in some cases the new proposed fees could exceed the cost of cleanup. The fiscal note should also be revised to recognize the added work for the Department created by increased submittals under the proposed regulations.

The Department has considered the costs the proposed changes to the regulations will likely have on the regulated community, including other state agencies, as well as to the Department, as outlined in the Fiscal Note. The proposed regulations will strengthen pollution prevention measures, ultimately saving money by preventing a release which would require costly cleanup and potentially result in the incurrence of cleanup fees if remediation is not completed in a timely manner. The Department has also taken into account that removing contamination from the ground up front will save money in the long run while extending the life expectancy of tanks will be a considerable cost savings for owners and operators. Currently, Department staff handle all aspects of Section 106, but the proposed regulations delegate some aspects to Environmental Professionals, reducing the burden on Department staff.

20. **Comments regarding statutory language.**

It is recommended that Conn. Gen. Stat. section 22a-449(e) include language that allows for a grace period of ninety (90) days after receipt of an invoice so that owners who choose to pay an invoice by check are not unduly penalized.

The Department is not proposing any legislative changes to the existing statute. Additionally, fees have been in place, so the regulated community is well acquainted with deadlines and the process for submitting fees.

Commenter requested that DEEP consider eliminating the separate recordkeeping requirements under CGS 22a-449q and consolidate all UST recordkeeping requirements under RSCA section 22a-449(d)-114(b) in keeping with CT DEEP's intent to consolidate and streamline requirements.

The Department is not proposing any legislative changes to the existing statute. Additionally, the Department has made an effort to consolidate by referencing the statute in Section 22a-449(d)-114(b).

21. **Comments regarding definitions and proposing specific changes to regulation text.**

It is not clear what is the intended text of this section of the proposed regulation at section 22a-449(d)-1(a)(2). The "[" at the end of the caption ("[As used in this section: Definitions]") indicates that only the caption is proposed for deletion, and that the text immediately following (definitions of various terms, starting with "Abandoned") would remain. Yet proposed revision section l(b) ("Definitions") apparently would provide a new slate of definitions. Are these proposed to be in addition to the existing definitions in section 1(a)(2)? There also is a "]" at the end of the definitions in section 1(a)(2) (after the definition of "Underground"). Scrutiny did not locate a corresponding "[" lurking anywhere in the prior two pages, but it is difficult to be certain. Please clarify if the intent was to delete the entire existing slate of definitions in section 1(a)(2).

Yes, intent is to delete existing definitions and replace with definitions in section 1(b). There is currently a close bracket (]) after "Definitions" and an open bracket ([) before the first definition "Abandoned," but the Department will remove those redundant brackets in section 1(a) for clarity.

Section 22a-449(d)-1(b)(1) "Abnormal loss or gain" - Please confirm that this definition is fully consistent the regulatory standard currently in effect with, and not intended to make any substantive changes.

Yes, the proposed definition is consistent with the current regulatory standard. This definition has not changed other than an update to a cross reference, a grammatical change and the removal of the word "container" which is redundant of tank.

Section 22a-449(d)-1(b)(2) “Closure” – Proposed the following text edits to avoid ambiguity and to promote reader understanding and compliance: “Closure” means removing an UST from the ground or rendering an UST permanently unusable (with or without any connected piping) , or removing or rendering permanently unusable more than 50 percent of the piping associated with an UST , and for either tank or piping, as applicable, performing the assessment required by subsection (j) of this section

The Department agrees with adding the second proposed comma after UST and has made that revision.

Section 22a-449(d)-1(b)(6) “Failure” - Delete excess punctuation to promote reader understanding and compliance: “Failure” means a condition which can or does allow the uncontrolled passage of liquid into or out of any portion of an UST system, including but not limited to, the primary or secondary containment system. Similar edits would be appropriate in other provisions to ensure consistency (definition of “farm,” “tank”) - suggest doing a document-wide search and replace.

For consistency with other definitions in sections 22a-449(d)-1 and 22a-449(d)-101, the Department has made no revision to the definition of “Failure”. However, the Department recognizes the commentors request for consistency and has added a comma after ‘including’ and ‘but not limited to’ in the definition of “Failure” found in section 22a-449(d)-101.

Section 22a-449(d)-1(b)(19) “Tank” -Text edit for consistency with form of other definitions: “Tank means a stationary object designed to contain ...

The Department has revised “is” to “means” for consistency.

Section 22a-449(d)-1(b)(22) “UST system” - Text edits to avoid ambiguity and to promote reader understanding and compliance: “UST system” means a system of interconnected tanks, pipes, pumps, vaults, fixed containers and appurtenant structures, singly or in any combination, which is used or has been used for the storage, transmission or dispensing of oil or petroleum liquids, including any monitoring devices. As used in this section, the term “UST system” refers only to UST systems of which 10 percent or more of the volumetric capacity of the UST system is below the surface of the ground and that portion which is below the surface of the ground is not fully visible for inspection. [and] “UST system” does not include residential underground heating oil storage tank systems;

The Department has separated that last sentence in the above quoted language into two sentences, as recommended by the commenter.

Section 22a-449(d)-101(d)(52) "Release" -As drafted, the proposed definition is absolute, and lacks language to account for trivial, de minimis conditions that do not merit the Department's or regulated parties' time and resources. Commenter urges the Department to hone the definition of “release” to include an appropriate de minimis clause. This is particularly important because of the regulatory requirements that hinge on that term, such as investigation, testing, and reporting requirements. Commenter also urges the Department to refine the “suspected releases” provisions in section 105(b)

and (c), to ensure a reasonable link between any required action and the condition that precipitates the requirement.

The Department is more stringent than EPA, but release is a federally defined term. Including a "de minimis" clause was considered but was not included so that the Department remains consistent with EPA. No revisions have been made in response to this comment.

Commenter urges the Department to refine the "suspected releases" provisions in proposed section 22a-449(d)-105(b) and (c), to ensure a reasonable link between any required action and the condition that triggers the requirement. In particular, proposed section 105(c) lists and specifies in detail several different types of investigations. Appropriately, most are contingent upon certain conditions (if the suspected release is due to a containment sump or spill bucket alarm, the investigation must address the containment sump or spill bucket, proposed section 105(c)(2)(B)). However, as drafted, proposed section 105(c)(2)(A) apparently would always require the investigation to include a tightness test. A tightness test may be appropriate in many situations, but would be irrelevant for, e.g., when the suspected release is due a containment sump alarm due to the presence of water. A tightness test also would invariably require the owner/operator to find and hire a third-party contractor on no advance notice, and at significant expense and disruption to the facility operations.

Commenter proposes deleting the language "listed in this section" from the end of 22a-449(d)-105(c), and adding the language "if investigation consistent with section 22a-449(d)-105(c)(2)(B), (C), or (D), as applicable, does not determine whether a release has occurred and the source(s) of any such release," to the beginning of 22a-449(d)-105(c)(2)(A).

The Department has added language to section 22a-449(d)-105(c)(2)(A) to clarify that a tightness test does not need to be conducted if no further action is required under section 22a-449(d)-105(a)(1)(D).

Section 22a-449(d)-101(d)(62) "Under-dispenser containment sump" - Text edits for consistency with proposed revised RCSA 22a-449(d)-l(c)(23), and to avoid ambiguity: "Under-dispenser containment sump" means [a] containment [sump located] underneath a dispenser [whose purpose is] system designed to prevent [liquids that may accumulate in such containment sump, including but not limited to, liquid] ~~releases~~ a release from the dispenser[,] and piping within or above the under-dispenser containment sump from leaving the [containment sump or from reaching the soil, groundwater or surface waters] UST system;

There could be multiple releases, therefore "releases" is the correct term here rather than "a release." No revisions have been made in response to this comment.

Section 22a-449(d)-101(d)(64) "Underground storage facility" - The last phrase needs at least the following critical clarification to avoid unintended overbreadth and resulting regulatory confusion, in suggesting that these regulations would now also apply to historic sites that contained UST systems that were removed long before any USTS regulations or the Department itself even existed: "Underground storage facility" means a parcel of real property on which an UST or an UST system is located or on which an UST or an UST system subject to sections 22a-449(d)-101through 22a-

449(d)-114, inclusive, was previously located. Commenter did not have sufficient time to scrutinize the proposed regulations to determine if even this clarification would still leave open the potential for unintended over-reach. Their understanding is that the revisions to this definition are intended to ensure that USTS release investigation and remediation requirements apply to sites from which a regulated USTS was removed. Please confirm that this is the intent.

The applicability section of the regulations takes care of this issue as well as the scope of the regulations section, so clarification is not needed in the definitions as well. No revisions have been made in response to this comment.

Section 22a-449(d)-106(f)(3): The following inserts apparently missing text, consistent with the wording in subsequent sentences: (3) After submission of the site check form, for every release, and regardless of whether any changes to the schedule for performing the actions required under subsections

The Department agrees and will add the language "regardless of."

Section 22a-449(d)-106(i)(3): Proposed text clarifications to eliminate potential confusion and ambiguity, and to promote compliance. Commenter proposed deleting the language "soil criteria, direct exposure criteria, pollutant mobility criteria, determining compliance with the soil criteria, and additional remediation of polluted soil" from subsection (3) and deleting the language "soil criteria, direct exposure criteria, pollutant mobility criteria, determining compliance with the soil criteria, additional remediation of polluted soil, and any criteria for other impacted material" from subsection (3)(B) and putting that information in a separate subsection as either a table or separate provisions.

The Department will not be making edits to language but will put helpful information and guidance on the website. The proposed edits reorganize the provisions, but do not change the language of this section, so no change is necessary.

Section 22a-440(d)-106(l) (Progress reports) - Edit to avoid potential confusion and to ensure consistency with other provisions (e.g., proposed sections 106(m)(5)(B)(ii), 106(c)(2), 106(f)(2), 106(g)(2), and 106(g)(3)) by clarifying that where a "suspect release" is discovered and subsequently confirmed per proposed section 105, the 90-day deadline for the first progress status report runs from the date that the release is confirmed: Unless otherwise specified by the commissioner in writing, the owner or operator of an underground storage facility shall submit a quarterly monitoring and progress status form 90 days after the discovery or confirmation of a ~~confirmed~~ release, and every 90 days thereafter, until all actions required by this section have been completed.

The provision already makes that clear by stating that the 90 days runs from the discovery of a confirmed release; the Department will not be making any changes.

Section 22a-449(d)-107(a)(2)(D) (Closure) - Text edit for consistent sentence structure and clarity: (D) Not later than 5 days after completing the events described in subparagraphs (B) and (C) of this

subdivision, the owner or operator shall retain a person ~~with~~ who has (i) ~~a minimum of 3 years of experience and~~ been appropriately trained in selecting and taking samples and ~~shall have~~ (ii) an understanding of the appropriate analytical methods for products stored in the UST system....
Also, a subsequent sentence includes text with unclear meaning and need, and so should be deleted:
... This evaluation shall include sampling from all sides and the bottom of the area where a tank has been removed ~~or closed in place~~, areas of staining, areas where holes or perforation in the removed tank are visible, and areas where spill buckets, containment sumps, or dispensers were used.

The Department wants individuals with sufficient experience which is why the 3 year requirement is there, and "been appropriately trained" is too ambiguous. Additionally, the "closed in place" language is not being removed, and it is not new language. There is a procedure to "close in place" rather than remove, so that language is not redundant, and there needs to be sampling done in that situation. No revisions have been made in response to this comment.

Section 22a-449(d)-108(c) - Text edits to align the caption with the body of the provision, and for clarity:

[(b)] (c) [Operator Training Program Requirements.] Requirements for operator to be present at an underground storage facility. [...] The owner or operator of an underground storage facility (other than an underground storage facility (where regulated substances are not available for sale to any person, such as a facility where access is limited to use by employees) shall ensure that a Class B or Class C operator is present at ~~an~~ the underground storage facility at all times when any regulated substance is or may be dispensed at such facility. ~~Except, that the owner or operator of an underground storage facility where regulated substances are not available for sale to any person, such as a facility where access is limited to use by employees, is not required to ensure that there is either a Class B or Class C operator at an underground storage facility at all times.~~

The proposed construction has the same language as the current draft regulation, but does not meet the Legislative Commissioners' Office manual for drafting regulations, so the Department will not be changing language.

Section 22a-449(d)-112 (UST system location transfer) - Text edit to eliminate redundancy and promote clarity, given that "under-dispenser containment sump" is already defined in section 101(d)(62): (b) An owner or operator of an UST system shall not install or reinstall a dispenser from another location, including from another location at the same underground storage facility, unless such dispenser is equipped with ~~a containment sump that meets the requirements of~~ an under-dispenser containment sump.

The Department will not be deleting the phrase "a containment sump that meets the requirements of" because there are under dispenser containment sumps that do not meet those standards, so that language is not redundant and is needed for clarity. No revisions have been made in response to this comment.

Section 22a-449(d)-113(a) (Transfer of UST system ownership, possession or control) - This provision would require disclosure of (among other things) any "outstanding warning letters, notices of violation, orders or judgments." While the commenter supports the requirement in general, the term "outstanding" is unclear with respect to notices of violation (NOVs) and warning letters. Accordingly, Commenter recommends that section 113(a) be revised as follows: (a) ... No owner or operator shall transfer ownership, possession or control of any [petroleum] UST system without providing full disclosure []to the transferee ... of all information regarding: any warning letters or notices of violations regarding the UST system received within the past 5 years and not concluded, withdrawn or otherwise resolved except if such warning letters or notices responded to by the operator and not concluded by the Department; any outstanding orders or judgments; and the current notification submitted pursuant to section 22a-449(d)-1149a) of the UST regulations….

To clarify, outstanding means anything not yet closed. The Department will not be adopting the 5 year time limit proposed above for warning letters or Notices of Violation because there are items outstanding from 20 plus years. No revisions have been made in response to this comment.

CHANGES MADE BY THE DEPARTMENT

1. **Typographical edits**

Proposed Language:

Section 2. Section 22a-449(d)-1 of the Regulations of Connecticut State Agencies is amended as follows:

Section 3. Sections 22a-449(d)-101 to 22a-449(d)-113, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

Final Language:

Sec. 2. Section 22a-449(d)-1 of the Regulations of Connecticut State Agencies is amended as follows:

Sec. 3. Sections 22a-449(d)-101 to 22a-449(d)-113, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

Reason for change: abbreviated 'Section' for appropriate formatting.
Proposed Language: Section 22a-449(d)-1(a)(2)

(2) [As used in this section: Definitions]
["Abandoned" means rendered permanently unfit for use.

Final Language: Section 22a-449(d)-1(a)(2)

(2) [As used in this section: Definitions
"Abandoned" means rendered permanently unfit for use.

Reason for change: removed redundant brackets for correct formatting.

Proposed Language: 22a-449(d)-102(a)(2)

(A) [The piping is constructed of fiberglass-reinforced plastic; or] Properly designed and constructed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, unless the commissioner has posted on the department's internet website that use of such code of practice is unacceptable. In addition, the commissioner may post codes of practice deemed acceptable on the department's internet website;
(B) [The piping is constructed of steel and cathodically protected in the following manner:]
(i) [The piping is coated with a suitable dielectric material;] Constructed of a non-corrodible material; or
(ii) [Field-installed cathodic protection systems are designed by a corrosion expert;] Constructed of steel. If such piping is constructed of steel, such piping shall not come in contact with the ground or any water unless such piping is:
. . .
(I) [Underwriters Laboratories Subject 971, "UL Listed Non-Metal Pipe";] Coated with a suitable factory applied dielectric material approved by the manufacturer of such piping for the proposed use; and
(II) Equipped with:
(a) Galvanic cathodic protection attached to the piping; or
(b) An impressed current cathodic protection system that allows the owner or operator to perform a structure to soil voltage test of such system to determine whether such system is properly operating; and
. . .
(C) In addition to compliance with subparagraphs (A) and (B) of this subdivision:
. . .
(D) The owner or operator shall ensure that all underground piping associated with a hazardous substance UST:
(i) Complies with the requirements of subparagraphs (A) through (C), inclusive, of this subdivision; and

Final Language: 22a-449(d)-102(a)(2)

(A) [The piping is constructed of fiberglass-reinforced plastic; or] Properly designed and constructed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, unless the commissioner has posted on the department's internet website that use of such code of practice is unacceptable. In addition, the commissioner may post codes of practice deemed acceptable on the department's internet website; and
(B) [The piping is constructed of steel and cathodically protected in the following manner:
(i) The piping is coated with a suitable dielectric material;] Constructed of a non-corrodible material; or

[(ii)Field-installed cathodic protection systems are designed by a corrosion expert;]

(C) Constructed of steel. If such piping is constructed of steel, such piping shall not come in contact with the ground or any water unless such piping is:

. . .

[(I) Underwriters Laboratories Subject 971, "UL Listed Non-Metal Pipe";] (i) Coated with a suitable factory applied dielectric material approved by the manufacturer of such piping for the proposed use; and

[(II)](ii) Equipped with:

(I) Galvanic cathodic protection attached to the piping; or

(II) An impressed current cathodic protection system that allows the owner or operator to perform a structure to soil voltage test of such system to determine whether such system is properly operating; and

. . .

(D) In addition to compliance with subparagraphs (A) and (B) or (C) of this subdivision:

. . .

(E) The owner or operator shall ensure that all underground piping associated with a hazardous substance UST:

(i) Complies with the requirements of subparagraphs (A) through (D), inclusive, of this subdivision; and

Reason for change: Adjusted numbering to comply with appropriate formatting requirements.

Proposed Language: 22a-449(d)-104(m)(5)(C)

(C) Sump or Spill Bucket Removal or Replacement Report. Not later than 30 days after completing the sampling necessary for the assessment required by subdivision (5)(A)(iii) of this subsection, the owner or operator of the UST system shall:

(i) Ensure that a detailed report is prepared regarding the removal or replacement of a containment sump or spill bucket, as applicable. Such report shall include at a minimum:

(I) A description of the underground storage facility, including any UST systems in use and general characteristics of the area in which the facility is located;

(II) A detailed description of the replacement or removal activities undertaken;

(III) A detailed description and justification for the sample locations, sample depths, analytical methods used, and quality assurance/quality control measures taken;

(IV) A detailed analysis of the analytical results. This analysis shall include:

(a) All sampling results and a justification for disregarding or not using any sampling results;

(b) A description of the distribution and concentration of any substances in soil or groundwater that may have been released from the underground storage facility;

(c) A description of the general characteristics of soil in the vicinity of the underground storage facility;

(d) A map to scale showing the extent and concentration of all releases;

(e) The tabulated analytical results of all laboratory analysis of soil and groundwater;

(f) A description of the experience and training of the person undertaking the assessment required by subsection (m)(5) of this section; and

(g) Any other information specified by the commissioner.

Final Language: 22a-449(d)-104(m)(5)(C)

(C) Sump or Spill Bucket Removal or Replacement Report. Not later than 30 days after completing the sampling necessary for the assessment required by subdivision (5)(A)(iii) of this subsection, the owner or operator of the UST system shall ensure that a detailed report is prepared regarding the removal or replacement of a containment sump or spill bucket, as applicable. Such report shall include at a minimum:

(i) A description of the underground storage facility, including any UST systems in use and general characteristics of the area in which the facility is located;

(ii) A detailed description of the replacement or removal activities undertaken;

(iii) A detailed description and justification for the sample locations, sample depths, analytical methods used, and quality assurance/quality control measures taken;

(iv) A detailed analysis of the analytical results. This analysis shall include:

(I) All sampling results and a justification for disregarding or not using any sampling results;

(II) A description of the distribution and concentration of any substances in soil or groundwater that may have been released from the underground storage facility;

(III) A description of the general characteristics of soil in the vicinity of the underground storage facility;

(IV) A map to scale showing the extent and concentration of all releases;

(V) The tabulated analytical results of all laboratory analysis of soil and groundwater;

(VI) A description of the experience and training of the person undertaking the assessment required by subsection (m)(5) of this section; and

(VII) Any other information specified by the commissioner.

Reason for change: Adjusted numbering to comply with appropriate formatting requirements.

Proposed Language: Section 22a-449(d)-108

Class A, B, and C Operator [training required] requirements

Final Language: Section 22a-449(d)-108

Class A, B, and C [Operator training required] operator requirements

Reason for change: section headings do not capitalize all the words in the heading.

Proposed Language: Section 22a-449(d)-109(c)(1)

(1) Owners or operators of petroleum [underground storage tanks] USTs shall demonstrate financial responsibility y for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs in at least the following per-occurrence amounts:

Final Language: Section 22a-449(d)-109(c)(1)

(1) Owners or operators of petroleum [underground storage tanks] USTs shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs in at least the following per-occurrence amounts:

Reason for change: removed the extra 'y' after responsibility.

The Department has also revised the headings of section 2 and section 3 of the regulatory text for proper form.

Proposed Language: Section 22a-449(d)-109(e)(4)

. . . If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test or a financial test under a State program authorized under 40 CFR [part] 281 by the tank identification number provided in the notification submitted pursuant to [subsection 22a-449(d)-102 (b)] section 22a-449(d)-114 of [these regulations] the Regulations of Connecticut State Agencies ("RCSA") or the corresponding State requirements.}

. . .

EPA and State Regulations **Amount**

Final Language: Section 22a-449(d)-109(e)(4)

. . . If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test or a financial test under a State program authorized under 40 CFR [part] 281 by the tank identification number provided in the notification submitted pursuant to [subsection 22a-449(d)-102 (b)] section 22a-449(d)-114 of [these regulations] the Regulations of Connecticut State Agencies ("RCSA") or the corresponding State requirements.}

. . .

EPA and State Regulations **Amount**

Reason for change: underlined 'the Regulations of Connecticut State Agencies ("RCSA")' and 'and State' for accurate formatting.

Proposed Language: Section 22a-449(d)-109(h)(2)

Scope of Coverage: {List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks

at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to subsection [22a-449(d)-102 (b) of these regulations] 22a-449(d)-114 of the Regulations of Connecticut State Agencies ("RCSA"), or the corresponding state requirement, and the name and address of the facility. List the coverage guaranteed by the bond: ″taking corrective action″ and/or ″compensating third parties for bodily injury and property damage caused by″ either ″sudden accidental releases″ or ″nonsudden accidental releases″ or ″accidental releases″ ″arising from operating the UST″}.

Final Language: Section 22a-449(d)-109(h)(2)

Scope of Coverage: {List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to [subsection 22a-449(d)-102 (b) of these regulations] section 22a-449(d)-114 of the Regulations of Connecticut State Agencies ("RCSA"), or the corresponding state requirement, and the name and address of the facility. List the coverage guaranteed by the bond: ″taking corrective action″ and/or ″compensating third parties for bodily injury and property damage caused by″ either ″sudden accidental releases″ or ″nonsudden accidental releases″ or ″accidental releases″ ″arising from operating the UST″}.

Reason for change: replaced 'subsection' with 'section' to appropriately reference the regulation.

Proposed Language: Section 22a-449(d)-109(h)(2)(e)

Such obligation does not apply to any of the following:

…

(e) Bodily injury or property damage for which {insert owner or operator} is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of subsection [22a-449(d)-109 (d) of these regulations] 22a-449(d)-109(c) of the RCSA.

Final Language: Section 22a-449(d)-109(h)(2)(e)

Such obligation does not apply to any of the following:

…

(e) Bodily injury or property damage for which {insert owner or operator} is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of [subsection 22a-449(d)-109 (d) of these regulations] section 22a-449(d)-109(c) of the RCSA.

Reason for change: replaced 'subsection' with 'section' to appropriately reference the regulation.

Proposed Language: Section 22a-449(d)-109(h)(2)

. . .

Upon notification by [{the Director of the Implementing Agency}] the Commissioner that the Principal has failed to {"take corrective action, in accordance with section 22a-449(d)-106 of [these regulations] the RCSA and the [Director's] Commissioner's instructions," and/or "compensate injured third parties"} as guaranteed by this bond, the Surety(ies) shall either perform {"corrective action in accordance with sections 22a-449(d)-101 to [113]114, inclusive, of [these regulations] the RCSA and the [Director's] Commissioner's instructions," and/or "third-party liability compensation"} or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by [{the Director of the Implementing Agency}] the Commissioner under [subsections]subsection 22a-449(d)-109(s) of [these regulations] the RCSA.

Upon notification by [{the Director}] the Commissioner that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal and the Commissioner, whichever is later, from the Surety(ies) and that [{the director}] the Commissioner has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by [{the Director}] the Commissioner under subsection 22a-449(d)-109(s) of [these regulations] the RCSA.

Final Language: Section 22a-449(d)-109(h)(2)

. . .

Upon notification by [{the Director of the Implementing Agency}] the Commissioner that the Principal has failed to {"take corrective action, in accordance with section 22a-449(d)-106 of [these regulations] the RCSA and the [Director's] Commissioner's instructions," and/or "compensate injured third parties"} as guaranteed by this bond, the Surety(ies) shall either perform {"corrective action in accordance with sections 22a-449(d)-101 to [113]114, inclusive, of [these regulations] the RCSA and the [Director's] Commissioner's instructions," and/or "third-party liability compensation"} or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by [{the Director of the Implementing Agency}] the Commissioner under [subsections]section 22a-449(d)-109(s) of [these regulations] the RCSA.

Upon notification by [{the Director}] the Commissioner that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal and the Commissioner, whichever is later, from the Surety(ies) and that [{the director}] the Commissioner has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by [{the Director}] the Commissioner under [subsection] section 22a-449(d)-109(s) of [these regulations] the RCSA.

Reason for change: In first paragraph, removed 'sub' from the term 'subsection' and in second paragraph, replaced 'subsection' with 'section' to appropriately reference the regulation.

Proposed Language: Section 22a-449(d)-109(h)(2)

. . .

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in [subdivision 22a-449(d)-109 (i) (2) of these regulations] section 22a-449(d)-109(h)(2) of the RCSA as such regulations were constituted on the date this bond was executed.

Final Language: Section 22a-449(d)-109(h)(2)

. . .

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in [subdivision 22a-449(d)-109 (i) (2) of these regulations] section 22a-449(d)-109(h)(2) of the RCSA as such regulations were constituted on the date this bond was executed.

Reason for change: removed ‘sub’ from the term ‘subsection’ to appropriately reference the regulation.

Proposed Language: Section 22a-449(d)-109(h)(4)

(4) The owner or operator who uses a surety bond to satisfy the requirements of subsection 22a-449(d)-109[(d) of these regulations] (c) of the RCSA shall establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond shall be deposited directly into the standby trust fund in accordance with instructions from the [Director] Commissioner under subsection 22a-449(d)-109[ ](s) of [these regulations] the RCSA. This standby trust fund shall meet the requirements specified in subsection 22a-449(d)-109[(k) of these regulations](n) of the RCSA.

Final Language: Section 22a-449(d)-109(h)(4)

(4) The owner or operator who uses a surety bond to satisfy the requirements of subsection [22a-449(d)-109 (d) of these regulations] (c) of this section shall establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond shall be deposited directly into the standby trust fund in accordance with instructions from the [Director] commissioner under subsection [22a-449(d)-109[ ](s) of these regulations] (s) of this section. This standby trust fund shall meet the requirements specified in subsection [22a-449(d)-109(k) of these regulations](n) of this section.

Reason for change: replaced references to RCSA to “section” as this provision is regulatory text, not instrument language. Changed ‘commissioner’ to lower case for appropriate formatting.

Proposed Language: Section 22a-449(d)-109(i)(1) and (3)

(1) An owner or operator may satisfy the requirements of subsection 22a-449(d)-109[(d) of these regulations](c) of the UST regulations by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section. The issuing institution shall be an entity that has the authority to issue letters of credit in each state where used and whose letter-of-credit operations are regulated and examined by a federal or state agency.

. . .

(3) An owner or operator who uses a letter of credit to satisfy the requirements of [subsection] section 22a-449(d)-109[(d) of these regulations] (c) the UST regulations shall also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the [Director of the Implementing Agency] commissioner shall be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the [Director] commissioner under [subsection] section 22a-449(d)-109[ ](s) of [these regulations] the UST regulations. This standby trust fund shall meet the requirements specified in [subsection] section 22a-449(d)-109[(n)] (k) of [these regulations] the UST regulations.

Final Language: Section 22a-449(d)-109(i)(1) and (3)

(1) An owner or operator may satisfy the requirements of subsection [22a-449(d)-109(d) of these regulations](c) of this section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section. The issuing institution shall be an entity that has the authority to issue letters of credit in each state where used and whose letter-of-credit operations are regulated and examined by a federal or state agency.

. . .

(3) An owner or operator who uses a letter of credit to satisfy the requirements of subsection [22a-449(d)-109 (d) of these regulations] (c) this section shall also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the [Director of the Implementing Agency] commissioner shall be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the [Director] commissioner under subsection [22a-449(d)-109 (s) of these regulations] (s) of this section. This standby trust fund shall meet the requirements specified in subsection[22a-449(d)-109 (n) of these regulations] (k) of this section.

Reason for change: Retained use of the term ‘subsection’, removed references to ‘the UST regulations’ and replaced with ‘this section’ to accurately reference regulations consistent with formatting requirements.

Proposed Language: Section 22a-449(d)-113(a)

[As of November 1, 1985, no] No owner or operator shall transfer ownership, possession or control of any [petroleum] UST system without providing full disclosure []to the transferee [of the status of the UST system with respect to compliance with these regulations at least fifteen (15) days prior to the transfer. Such disclosure shall include an up-to-date copy of the information submitted to the commissioner pursuant to subsection 22a-449 (d)-102 (b) of these regulations and, as of the effective date of these regulations, such disclosure shall include an up-to-date copy of all information submitted to the commissioner pursuant to section 22a-449 (d)-102 of these regulations] of all information regarding any outstanding warning letters, notices of violation, orders or judgments, and the current notification submitted pursuant to section 22a-449(d)-114(a) of the UST regulations. Such disclosure shall be made at least 15 days prior to any such transfer.

Final Language: Section 22a-449(d)-113(a)

[As of November 1, 1985, no] No owner or operator shall transfer ownership, possession or control of any [petroleum] UST system without providing full disclosure to the transferee [of the status of the UST system with respect to compliance with these regulations at least fifteen (15) days prior to the transfer. Such disclosure shall include an up-to-date copy of the information submitted to the commissioner pursuant to subsection 22a-449 (d)-102 (b) of these regulations and, as of the effective date of these regulations, such disclosure shall include an up-to-date copy of all information submitted to the commissioner pursuant to section 22a-449 (d)-102 of these regulations] of all information regarding any outstanding warning letters, notices of violation, orders or judgments, and the current notification submitted pursuant to section 22a-449(d)-114(a) of the UST regulations. Such disclosure shall be made at least 15 days prior to any such transfer.

Reason for change: Corrected brackets and underlining for consistency with formatting requirements.

2. **Edits for clarity**

Proposed Language: Section 22a-449(d)-1(a)

(a) [Definitions, applicability and purpose] Applicability

Final Language: Section 22a-449(d)-1(a)

(a) [Definitions, applicability and purpose] Applicability and partial exemptions

Reason for change: added language to clarify the contents of the subsection.

Proposed Language: Section 22a-449(d)-1(b)(2)

(2) “Closure” means removing an UST from the ground or rendering an UST permanently unusable (with or without any connected piping) or removing or rendering permanently unusable more than 50 percent of the piping associated with an UST and for either tank or piping, as applicable, performing the assessment required by subsection (j) of this section;

Final Language: Section 22a-449(d)-1(b)(2)

(2) “Closure” means removing an UST from the ground or rendering an UST permanently unusable (with or without any connected piping) or removing or rendering permanently unusable more than 50 percent of the piping associated with an UST, and for either tank or piping, as applicable, performing the assessment required by subsection (j) of this section;

Reason for change: added comma in the third line after “UST” for clarity and as recommended by a commenter.

Proposed Language: Section 22a-449(d)-1(b)(6)

(6) “Failure” means a condition which can or does allow the uncontrolled passage of liquid into or out of any portion of an UST system, including, but not limited to, the primary or secondary containment system;

Final Language: Section 22a-449(d)-1(b)(6)

(6) “Failure” means a condition which can or does allow the uncontrolled passage of liquid into or out of any portion of an UST system, including, but not limited to, the primary or secondary containment system;

Reason for change: added commas after “including” and “but not limited to” for consistency with other definitions in the regulations.

Proposed Language: Section 22a-449(d)-1(b)(19)

(19) “Tank” is a stationary object designed to contain, or that contains, an accumulation of oil or petroleum liquid and constructed of non-earthen materials including, but not limited to, concrete, steel, fiberglass, and plastic, that provide structural support;

Final Language: Section 22a-449(d)-1(b)(19)

(19) “Tank” means a stationary object designed to contain, or that contains, an accumulation of oil or petroleum liquid and constructed of non-earthen materials including, but not limited to, concrete, steel, fiberglass, and plastic, that provide structural support;

Reason for change: changed “is” to “means” for consistency and as recommended by a commenter.

Proposed Language: Section 22a-449(d)-1(b)(22)

(22) "UST system" means a system of interconnected tanks, pipes, pumps, vaults, fixed containers and appurtenant structures, singly or in any combination, which is used or has been used for the storage, transmission or dispensing of oil or petroleum liquids, including any monitoring devices. As used in this section, the term "UST system" refers only to UST systems of which 10 percent or more of the volumetric capacity of the UST system is below the surface of the ground and that portion which is below the surface of the ground is not fully visible for inspection and does not include residential underground heating oil storage tank systems;

Final Language: Section 22a-449(d)-1(b)(22)

(22) "UST system" means a system of interconnected tanks, pipes, pumps, vaults, fixed containers and appurtenant structures, singly or in any combination, which is used or has been used for the storage, transmission or dispensing of oil or petroleum liquids, including any monitoring devices. As used in this section, the term "UST system" refers only to UST systems of which 10 percent or more of the volumetric capacity of the UST system is below the surface of the ground and that portion which is below the surface of the ground is not fully visible for inspection. As used in this section, the term "UST system" does not include residential underground heating oil storage tank systems;

Reason for change: separated the last sentence into two sentences for clarity as recommended by a commenter.

Final Language: 22a-449(d)-1(b)(23)

(23) "UST system component" means any of the following items associated with the use of an UST: an underground storage tank, connected piping, dispensers, spill buckets, containment sumps or release detection and release prevention equipment. As used in this section, the term "UST system component" does not include piping that does not routinely contain regulated substances or items associated with routine maintenance such as filters or o-rings;
(24) . . .

Reason for change: added defined term for clarity because it is used throughout the section. Renumbered subsequent defined term from (23) to (24).

Proposed Language: Section 22a-449(d)-1(e)(5)(C)(iii)(III)

(III) Be located so that any liquid present in such sump can be detected.

Final Language: Section 22a-449(d)-1(e)(5)(C)(iii)(III)

(III) Be located at the lowest point within the containment sump so that any liquid present in such sump can be detected.

Reason for change: to clarify the location of the sensor in the containment sump.

Proposed Language: Section 22a-449(d)-1(*l*)(1)

(1) Recordkeeping. The owner or operator of an UST system shall maintain all records regarding each component of the UST system, including installation, operation, maintenance, compatibility, inspection, testing, calibration, release detection, repair, release or suspected release, closure, and any record or report required to demonstrate compliance with any requirement of the UST regulations, other than records relating to routine maintenance of such system which includes changing filters or lubricating parts.

Final Language: Section 22a-449(d)-1(*l*)(1)

(1) Recordkeeping. The owner or operator of an UST system shall maintain all records regarding each component of the UST system, including installation, operation, maintenance, compatibility, inspection, testing, calibration, release detection, repair, release or suspected release, closure, and any record or report required to demonstrate compliance with any requirement of this section, other than records relating to routine maintenance of such system which includes changing filters or lubricating parts.

Reason for change: replaced "UST regulations" with "this section" to clarify that these requirements apply to section 22a-449(d)-1.

Proposed Language: Section 22a-449(d)-101(d)(18)

[(22)] (18) "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system [including, but not limited to,]such as a tank from piping;

Final Language: Section 22a-449(d)-101(d)(18)

[(22)] (18) "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system including, but not limited to, tank from piping;

Reason for change: leaving the definition as currently written for consistency with other definitions.

Proposed Language: Section 22a-449(d)-101(d)(25)

(30)] (25) "Failure" means a condition which can or does allow the uncontrolled passage of liquid into or out of any portion of an UST system, [and includes] including but [is] not limited to [a discharge to the waters of the state without a permit issued pursuant to Section 22a-430 of the General Statutes] the primary or secondary containment system;

Final Language: Section 22a-449(d)-101(d)(25)

(30)] (25) "Failure" means a condition which can or does allow the uncontrolled passage of liquid into or out of any portion of an UST system, [and includes] including, but [is] not limited to, [a discharge to the waters of the state without a permit issued pursuant to Section 22a-430 of the General Statutes] the primary or secondary containment system;

Reason for change: added commas after "including" and "but not limited to" for consistency with other definitions in the regulations.

Proposed Language: Section 22a-449(d)-101(d)(68)

(68) "UST system component" means any of the following items associated with the use of an UST: an underground storage tank, connected piping, dispensers, spill buckets, containment sumps, but does not include piping that does not routinely contain regulated substances or items associated with routine maintenance such as filters, o-rings;

Final Language: Section 22a-449(d)-101(d)(68)

(68) "UST system component" means any of the following items associated with the use of an UST: an underground storage tank, connected piping, dispensers, spill buckets, containment sumps or release detection or release prevention equipment. As used in the UST regulations, the term "UST system component" does not include piping that does not routinely contain regulated substances or items associated with routine maintenance such as filters or o-rings;

Reason for change: clarified that an UST system component includes release detection and release prevention equipment. And separated the last sentence into two sentences for clarity.

Proposed Language: Section 22a-449(d)-102(a)(5)

(5) Containment Sumps. The owner or operator of an UST system shall ensure that such UST system complies with the following requirements:
(A) An UST system installed on or after August 8, 2012 that includes a dispenser:
(i) Shall be equipped with under-dispenser containment sumps that comply with the requirements specified in subparagraph (C) of this subdivision; and

(ii) No owner or operator shall install piping containment sumps unless such sump complies with the requirements specified in subparagraph (C) of this subdivision; and
(B) For an UST system installed on or after {insert date 2 years from the effective date of these regulations}, no owner or operator shall use or operate such UST system, unless such UST system is equipped with piping containment sumps, and as applicable, under-dispenser containment sumps, that comply with the requirements specified in subparagraph (C) of this subdivision.

Final Language: Section 22a-449(d)-102(a)(5)

(5) Containment Sumps. The owner or operator of an UST system shall ensure that such UST system complies with the following requirements:
(A) For an UST system installed on or after August 8, 2012:
(i) If the UST system includes a dispenser, it shall be equipped with under-dispenser containment sumps that comply with the requirements specified in subparagraph (C) of this subdivision; and
(ii) No owner or operator shall install piping containment sumps unless such sump complies with the requirements specified in subparagraph (C) of this subdivision; and
(B) For an UST system installed on or after {insert effective date of these regulations}, no owner or operator shall use or operate such UST system, unless such UST system is equipped with piping containment sumps, and as applicable, under-dispenser containment sumps, that comply with the requirements specified in subparagraph (C) of this subdivision.

Reason for change: Section 102(a)(5)(A) has been revised to make clear that condition (i) applies to UST systems with dispensers and condition (ii) applies regardless. Section 102(a)(5)(B) has been revised to apply to all tanks installed after the effective date of the regulations.

Proposed Language: Section 22a-449(d)-103(b)(4)

(4) The findings of each monthly inspection shall be recorded on an inspection report on a form prescribed by the commissioner and shall be signed by the Class B operator.

Final Language: Section 22a-449(d)-103(b)(4)

(4) The findings of each monthly inspection shall be recorded on the "UST Monthly Inspection Checklist" and when signed by the Class B operator, shall become the inspection report.

Reason for change: Clarified that the inspection report form/checklist will become the report once it is signed. These are not two separate forms.

Proposed Language: Section 22a-449(d)-103(c)(2)

(2) Annual inspections shall be conducted by an independent third-party qualified and with experience performing such inspections.

Final Language: Section 22a-449(d)-103(c)(2)

(2) Annual inspections shall be conducted by an independent third-party qualified and with experience performing such inspections. Such individual shall meet the qualification requirements set forth in the 2021 version of the Petroleum Equipment Institute RP-900, "Recommended Practices for the Inspection and Maintenance of UST Systems".

Reason for change: Clarified the qualifications of an individual conducting an annual inspection.

Proposed Language: Section 22a-449(d)-103(c)(4)

(4) The findings of each annual inspection shall be recorded in an inspection report on a form prescribed by the commissioner and signed by the individual who conducted the inspection.

Final Language: Section 22a-449(d)-103(c)(4)

(4) The findings of each annual inspection shall be recorded on the "UST Annual Inspection Checklist" and when signed by the individual who conducted the inspection, shall become the inspection report.

Reason for change: Clarified that the inspection report form/checklist will become the report once it is signed. These are not two separate forms.

Proposed Language: Section 22a-449(d)-103(m)(3)(B)

(B) A tank or piping that does not pass the annual cathodic protection test required by subsection (h)(2) of this section and the owner or operator of such tank or piping, cannot demonstrate that such tank or piping has passed such test for the 5 years prior to such failed test.

Final Language: Section 22a-449(d)-103(m)(3)(B)

(B) A tank or piping that does not pass the annual cathodic protection test required by subsection (h)(2) of this section and the owner or operator of such tank or piping cannot demonstrate that such tank or piping has passed such test within the 5 years prior to such failed test.

Reason for change: Clarified that the test must be passed within the past 5 years rather than for each of the past 5 years.

Proposed Language: Section 22a-449(d)-105(c)(2)(A)

(2) (A) Tightness test. The owner or operator shall complete a tightness test of the UST system not later than 72 hours after the discovery of any suspected release.

Final Language: Section 22a-449(d)-105(c)(2)(A)

(2) (A) Tightness test. The owner or operator shall complete a tightness test of the UST system not later than 72 hours after the discovery of any suspected release; however, a tightness test need not be conducted if no further action is required under subsection (a)(1)(D) of this section.

Reason for change: Clarified instances where a tightness test is not required under this section.

Proposed Language: Section 22a-449(d)-106(c)(2)(A)

(A) Immediately report the release to the commissioner in the event of an imminent hazard, or otherwise as soon as is possible, but in no event later than 1 hour after the discovery of the release. The report shall be made using a telephone number specified by the commissioner or some other method for reporting releases from an UST posted by the commissioner on the department's internet website;

Final Language: Section 22a-449(d)-106(c)(2)(A)

(A) Immediately report the release to the commissioner in accordance with section 22a-450 of the Connecticut General Statutes and sections 22a-450-1 to 22a-450-6, inclusive, of the Regulations of Connecticut State Agencies, as soon as possible, but in no event later than one hour after the discovery of the release. The report shall be made using a telephone number specified by the commissioner or some other method for reporting releases from an UST posted by the commissioner on the department's internet website;

Reason for change: Added reference to the Release Reporting Statute and Release Reporting Regulations for clarity.

Proposed Language: Section 22a-449(d)-106(d)(1)

(1) Any submittal to the commissioner as required by this section shall be made in writing on one of the following forms prescribed the commissioner:

(A) Site check form, as required by subsection (f)(2) of this section;
(B) NAPL action form, as required by subsection (g)(3) of this section;
(C) Non-compliance form, as required by subsection (h)(1) of this section;
(D) Completion of investigation form, as required by subsection (h)(2)(B) of this section;
(E) Remedial action plan form, as required by subsection (i)(1)(B) of this section;
(F) Completion of remedial action form, as required by subsection (i)(3)(B) of this section; and
(G) Monitoring and progress status form, as required by subsections (i)(4)(B), (k)(4)(B) and (l) of this section.

Final Language: Section 22a-449(d)-106(d)(1)

(1) Any submittal to the commissioner as required by this section shall be made in writing on one of the following forms prescribed the commissioner:

(A) Initial site characterization form, as required by subsection (f)(2) of this section;
(B) NAPL action form, as required by subsection (g)(3) of this section;
(C) Completion of investigation form, as required by subsection (h)(2)(B) of this section;
(D) Remedial action plan form, as required by subsection (i)(1)(B) of this section;
(E) Completion of remedial action form, as required by subsection (i)(3)(B) of this section;
(F) Monitoring and progress status form, as required by subsections (i)(4)(B), (k)(4)(B) and (l) of this section; and
(G) Non-compliance form, as required by subsection (h)(1) of this section.

Reason for change: replaced reference to "site check form" with "initial site characterization form," and re-ordered list for clarity.

Proposed Language: Section 22a-449(d)-106(f)(2)

(2) Not more than 30 days after a release is confirmed, unless otherwise specified by the commissioner in writing, the owner or operator shall submit to the commissioner a completed site check form which shall include a summary of the measures taken under this subsection and the information collected in compliance with subdivision (1)(C) of this subsection signed by the EP retained by the owner or operator to comply with this subsection, including a schedule for performing the actions required under subsections (g) to (i), inclusive, of this section. . . .

(3) After submission of the site check form, for every release, and whether any changes to the schedule for performing the actions required under subsections (g) to (i), inclusive, of this section are deemed necessary, the owner or operator shall proceed without commissioner review and approval until notified otherwise by the commissioner. . . .

Final Language: Section 22a-449(d)-106(f)(2)

(2) Not more than 30 days after a release is confirmed, unless otherwise specified by the commissioner in writing, the owner or operator shall submit to the commissioner a completed initial site characterization form which shall include a summary of the measures taken under this subsection and the information collected in compliance with subdivision (1)(C) of this subsection signed by the EP retained by the owner or operator to comply with this subsection, including a schedule for performing the actions required under subsections (g) to (i), inclusive, of this section. . . .

(3) After submission of the initial site characterization form, for every release, and regardless of whether any changes to the schedule for performing the actions required under subsections (g) to (i), inclusive, of this section are deemed necessary, the owner or operator shall proceed without commissioner review and approval until notified otherwise by the commissioner. . . .

Reason for change: added missing language "regardless of" for clarity and as suggested by a commenter and replaced references to "site check form" with "initial site characterization form."

Proposed Language: Section 22a-449(d)-106(h)(1)

(1) . . . Unless otherwise directed by the commissioner, the investigation required by this subparagraph shall be completed as soon as technically practicable, but in no event later than the schedule approved by the commissioner provided in the site check form. . . .

Final Language: Section 22a-449(d)-106(h)(1)

(1) . . . Unless otherwise directed by the commissioner, the investigation required by this subparagraph shall be completed as soon as technically practicable, but in no event later than the schedule approved by the commissioner provided in the initial site characterization form. . . .

Reason for change: replaced reference to "site check form" with "initial site characterization form."

Proposed language: Section 22a-449(d)-107(a)(2)(A)

(A) [Leave vent lines open and functioning; and] A person with the training specified in this subparagraph who is responsible for conducting such closure is present at the underground storage facility. Such person responsible for conducting closure shall, before such closure, have received a certification of successful completion of 40-hour Hazardous Waste Operations and Emergency Response training under 29 CFR 1910.120, successfully passed an examination listed on the department's internet website, and received at least 8 hours of annual Hazardous Waste Operations and Emergency Response refresher training required under 29 CFR 1910.120, as applicable;

Final language: Section 22a-449(d)-107(a)(2)(A)

(A) [Leave vent lines open and functioning; and] A person with the training specified in this subparagraph who is responsible for conducting such closure is present at the underground storage facility. Such person responsible for conducting closure shall, before such closure, have received a certification of successful completion of 40-hour Hazardous Waste Operations and Emergency Response training under 29 CFR 1910.120, successfully passed the International Code Council Decommissioning Exam U2 or an examination listed on the department's internet website, and received at least 8 hours of annual Hazardous Waste Operations and Emergency Response refresher training required under 29 CFR 1910.120, as applicable;

Reason for change: Specified the examination required for individuals conducting the closure of USTs.

Proposed Language: Section 22a-449(d)-107(e)

If a release or potential release from an UST system closed before July 31, 1994 may, in the judgment of the commissioner, pose a current or potential threat to human health or the environment,

when directed by the commissioner, the owner or operator shall comply with the closure procedures in this section and comply with section 22a-449(d)-105 of the UST regulations or section 22a-449(d)-106 of the UST regulations, as applicable.

Final Language: Section 22a-449(d)-107(e)

If a release or potential release from an UST system closed before July 28, 1994 may, in the judgment of the commissioner, pose a current or potential threat to human health or the environment, when directed by the commissioner, the owner or operator shall comply with the closure procedures in this section and comply with section 22a-449(d)-105 of the UST regulations or section 22a-449(d)-106 of the UST regulations, as applicable.

Reason for change: Corrected date from July 31, 1994 to July 28, 1994.

3. **Substantive edits**

Proposed Language: Section 22a-6b-8(c)

Table 4A **Penalty Schedule for Underground Storage Tank (UST) Violations**	
Type of Violation	**Penalty**
Failure to submit a completed underground storage facility annual notification in violation of section 22a-449(e) of the Connecticut General Statutes.	$500 plus $10 for each additional day after October 10 of a given year
Failure to submit an underground storage facility notification fee in violation of section 22a-449(e) of the Connecticut General Statutes.	$500 plus $10 for each additional day after October 10 of a given year
Submission of a false statement in a Connecticut General Statutes section 22a-449(e) underground storage facility notification or other notification required under section 22a-449(d)-114 of the Regulations of Connecticut State Agencies in violation of section 22a-6(a)(8) of the Connecticut General Statutes.	$1,000 per violation
Failure to maintain a disabling devise on dispensers and fill pipes in violation of section 22a-449(g) of the Connecticut General Statutes.	$10,000 per violation
Failure to submit an UST system installation fee in violation of section 22a-449(h) of the Connecticut General Statutes.	$500 per violation
Failure to post Operator Response Guidelines at the site where the UST system is located in violation of section 22a-449(d)-103 of the Regulations	$500 per underground storage

of Connecticut State Agencies.	facility
Failure to report a suspected release from a regulated UST or UST system within 24 hours in violation of section 22a-449(d)-105 of the Regulations of Connecticut State Agencies.	$500 per UST or UST system
Failure to designate and maintain Class A, B, and C operator in violation of section 22a-449(d)-108 of the Regulations of Connecticut State Agencies.	$250 per violation
Failure to post proper Class C operator training records at the site where the UST system is located in violation of section 22a-449(d)-108 of the Regulations of Connecticut State Agencies.	$500 per underground storage facility
Failure to maintain proper Financial Responsibility records at the site where the UST system is located in violation of section 22a-449(d)-109 of the Regulations of Connecticut State Agencies.	$500 per record
Failure to maintain proper Financial Responsibility coverage in violation of section 22a-449(d)-109 of the Regulations of Connecticut State Agencies.	$1,000 plus $50 for each additional day
Failure to remove regulated substances from an UST system that is temporarily taken out of service in violation of 22a-449(d)-110 of the Regulations of Connecticut State Agencies.	$500 plus $50 for each additional day
The use of operation of an UST system beyond its life expectancy or the failure to permanently close any such UST system prior to the last day of its life expectancy in accordance with the closure requirements specified in section 22a-449(d)-107 of the Regulations of Connecticut State Agencies, in violation of 22a-449(d)-111 of the Regulations of Connecticut State Agencies.	$5,000 per UST system plus $50 for each additional day
Failure to maintain spill prevention equipment test records at the site where the UST system is located in violation of section 22a-449(d)-114 of the Regulations of Connecticut State Agencies.	$500 per required record
Failure to maintain proper UST closure documentation at the site where the UST system is located in violation of section 22a-449(d)-114 of the Regulations of Connecticut State Agencies.	$500 per required record
Failure to maintain records of repairs at the site where the UST system is located in violation of section 22a-449(d)-114 of the Regulations of Connecticut State Agencies.	$500 per required record
Failure to maintain completed monthly visual inspection records at the site where the UST system is located in violation of section 22a-449(d)-114 of the Regulations of Connecticut State Agencies.	$500 per required record
Failure to submit a properly completed Certificate of Installation in violation of section 22a-449(d)-114 of the Regulations of Connecticut State Agencies.	$500 per required record
Failure to maintain proper release detection compliance records at the	$500 per required

site where the UST system is located in violation of section 22a-449(d)-114 of the Regulations of Connecticut State Agencies.	record
Failure to notify the commissioner within 30 days of any change to any information in a prior notification submitted about a regulated UST system or of the installation of an UST system in violation of 22a-449(d)-114 of the Regulations of Connecticut State Agencies.	$500 per required notification

Final Language: Section 22a-6b-8(c)

Table 4A **Penalty Schedule for Underground Storage Tank (UST) Violations**	
Type of Violation	**Penalty**
Failure to submit a completed underground storage facility annual notification in violation of section 22a-449(e) of the Connecticut General Statutes or notify the commissioner within 30 days of any change to any information in a prior notification submitted about a regulated UST system or of the installation of an UST system in violation of 22a-449(d)-114 of the Regulations of Connecticut State Agencies.	$250 per violation
Failure to submit an underground storage facility notification fee in violation of section 22a-449(e) of the Connecticut General Statutes or to submit an UST system installation fee in violation of section 22a-449(h) of the Connecticut General Statutes.	$250 per violation
Submission of a false statement in a Connecticut General Statutes section 22a-449(e) underground storage facility notification or other notification required under section 22a-449(d)-114 of the Regulations of Connecticut State Agencies in violation of section 22a-6(a)(8) of the Connecticut General Statutes.	$1,000 per violation
Failure to maintain a disabling device on dispensers and fill pipes in violation of section 22a-449(g) of the Connecticut General Statutes.	$1,000 per violation
Failure to post Operator Response Guidelines at the site where the UST system is located in violation of section 22a-449(d)-103 of the Regulations of Connecticut State Agencies or to post proper Class C operator training records at the site where the UST system is located in violation of section 22a-449(d)-108 of the Regulations of Connecticut State Agencies.	$100 per underground storage facility
Failure to report a suspected release from a regulated UST or UST system within 24 hours in violation of section 22a-	$500 per UST or UST system

449(d)-105 of the Regulations of Connecticut State Agencies or a confirmed release from a regulated UST or UST system within one hour in violation of section 22a-449(d)-106 of the Regulations of Connecticut State Agencies.	
Failure to designate and maintain Class A, B, and C operator in violation of section 22a-449(d)-108 of the Regulations of Connecticut State Agencies.	$250 per violation
Failure to maintain proper Financial Responsibility records at the site where the UST system is located in violation of section 22a-449(d)-109 of the Regulations of Connecticut State Agencies.	$250 per record
Failure to maintain proper Financial Responsibility coverage in violation of section 22a-449(d)-109 of the Regulations of Connecticut State Agencies.	$1,000 per violation
Failure to remove regulated substances from an UST system that is temporarily taken out of service in violation of 22a-449(d)-110 of the Regulations of Connecticut State Agencies.	$500 per violation
The use or operation of an UST system beyond its life expectancy or the failure to permanently close any such UST system prior to the last day of its life expectancy in accordance with the closure requirements specified in section 22a-449(d)-107 of the Regulations of Connecticut State Agencies, in violation of 22a-449(d)-111 of the Regulations of Connecticut State Agencies.	$500 per UST system for the first 12 months beyond life expectancy, then $1,000 per UST system for each additional year beyond life expectancy
Failure to maintain the following records at the site where the UST system is located in violation of section 22a-449(d)-114 of the Regulations of Connecticut State Agencies: spill prevention equipment test records; proper UST closure documentation; records of repairs; completed monthly visual inspection records; or proper release detection compliance records.	$250 per required record
Failure to submit a properly completed Certificate of Installation in violation of section 22a-449(d)-114 of the Regulations of Connecticut State Agencies.	$250 per required record

Reason for change: The Department has reduced most of the penalties by at least 50% and has simplified the penalty structure based on feedback from the regulated community.

Proposed Language: 22a-449(d)-1(e)(5)

(5) **Containment sumps.**
(A) Under Dispenser Containment Sump. Except for UST systems that do not have a dispenser, each UST system shall comply with the following requirements:

(i) On or after {insert effective date of the regulations}:

Final Language: 22a-449(d)-1(e)(5)

(5) **Containment sumps.**
(A) Under Dispenser Containment Sump. Except for UST systems that do not have a dispenser, each UST system shall comply with the following requirements:
(i) On or after {insert date two years from effective date of the regulations}:

Reason for change: added a two-year grace period for compliance.

Proposed Language: Section 22a-449(d)-1(g)(8)(B)

(8) Methods of Release Detection for Double-Walled Petroleum USTs. A double-walled UST shall use interstitial monitoring that complies with the requirements of this subdivision:
. . .
(B) For a double-walled UST installed on or after October 1, 2003, but before {insert the effective date of the regulations}, the release detection shall continuously monitor the interstitial space between the walls of the UST or conduct interstitial monitoring that complies with subparagraph (C) of this subdivision.

Final Language: Section 22a-449(d)-1(g)(8)(B)

(8) Methods of Release Detection for Double-Walled Petroleum USTs. A double-walled UST shall use interstitial monitoring that complies with the requirements of this subdivision:
. . .
(B) For a double-walled UST installed on or after October 1, 2003, but before {insert 90 days after the effective date of the regulations}, the release detection shall continuously monitor the interstitial space between the walls of the UST or conduct interstitial monitoring that complies with subparagraph (C) of this subdivision.

Reason for change: added a 90-day grace period for compliance.

Proposed Language: Section 22a-449(d)-1(h)(3)

(3) Life expectancy shall be 45 years for a double-walled tank or piping installed after October 1, 2003 made of fiberglass-reinforced plastic, or any other non-metallic material and using continuous interstitial monitoring that monitors both the primary containment and secondary containment such that the inner and outer wall are continuously monitored using technology such as inert gas, or liquid, or under constant vacuum;

Final Language: Section 22a-449(d)-1(h)(3)

(3) Life expectancy shall be 45 years for a double-walled tank or piping made of fiberglass-reinforced plastic, or any other non-metallic material and using continuous interstitial monitoring that monitors both the primary containment and secondary containment such that the inner and outer wall are

continuously monitored using technology such as inert gas, or liquid, or under constant vacuum.

Reason for change: Removed the condition that tanks must be installed after a certain date. Life expectancy should not be tied to the date a system is installed; it is based on the technology used.

Proposed Language: Section 22a-449(d)-102(a)(2)(D) and (E)

(D) In addition to compliance with subdivision (1)(A) to (1)(C), inclusive, of this subsection: Each tank installed on or after October 1, 2003, shall:
(i) Be a double-walled underground storage tank;
(ii) Have secondary containment that can fully contain regulated substances leaked from the primary containment until the regulated substances are detected and removed and that can prevent the release of regulated substances from the tank at any time during the operational life of such tank; and
(iii)(I) Tanks installed on or after October 1, 2003, but on or before {insert date 90 days after the UST regulations take effect} shall continuously monitor the interstitial space of the tank of such UST system using inert gas, liquid, a vacuum, electronic monitoring, or mechanical monitoring; and
(II) Tanks installed after {insert date 90 days after the UST regulations take effect} shall have continuous interstitial monitoring that monitors both primary containment and secondary containment, such that the inner and outer walls are continuously monitored using technology such as inert gas, liquid, or a vacuum; and
(E) The owner or operator of a hazardous substance UST shall ensure that such UST:
(i) Complies with subparagraphs (A) to (D), inclusive, of this subsection;
(ii) Is equipped with external liners, including vaults, designed, constructed, and installed to:
(I) Contain 100 percent of the capacity of the largest tank within its boundary;
(II)Prevent the interference of precipitation or ground-water intrusion with the ability to fully contain or detect a release of regulated substances; and
(III)Surround the tank completely so that it is capable of preventing lateral and vertical migration of regulated substances; and
(iii) If installed before October 1, 2003:
(I) Is double-walled and is designed, constructed, and installed to detect and fully contain a release from any portion of the primary containment system, including the inner wall of a tank; and
(II) Has a secondary containment designed, constructed and installed to:
(a) Continuously monitor for any liquid in the secondary containment;
(b) Fully contain any liquid that is in such secondary containment until such liquid is detected and removed, except for brine being used for the purposes of interstitial monitoring; and
(c) Prevent the release of any liquid outside of such secondary containment.

Final Language: Section 22a-449(d)-102(a)(2)(D) and (E)

(D) In addition to compliance with subdivision (1)(A) to (1)(C), inclusive, of this subsection, for tanks installed on or after October 1, 2003, be a double-walled underground storage tank with secondary containment that can fully contain regulated substances leaked from the primary

containment until the regulated substances are detected and removed and that can prevent the release of regulated substances from the tank at any time during the operational life of such tank; and

(i) For tanks installed on or after October 1, 2003, but on or before {insert date 90 days after the UST regulations take effect}, continuously monitor the interstitial space of the tank of such UST system using inert gas, liquid, a vacuum, electronic monitoring, or mechanical monitoring; and

(ii) For tanks installed after {insert date 90 days after the UST regulations take effect}, have continuous interstitial monitoring that monitors both primary containment and secondary containment, such that the inner and outer walls are continuously monitored using technology such as inert gas, liquid, or a vacuum, except that tanks installed after {insert effective date of regulations} may have an electronic or mechanical system that does not continuously monitor both the inner and outer wall, such as a system utilizing a dry space with a sensor, provided that the tank and piping, whichever is applicable, shall meet the following conditions:

(I) Be used for the storage of petroleum only;

(II) Be constructed of double walled fiberglass-reinforced plastic or composite steel;

(III) Have striker plates beneath each access point present since time of installation;

(IV) Utilize non-metallic piping;

(V) Have piping containment sumps and under dispenser containment sumps that are liquid tight and monitored;

(VI) Pass an interstitial test that meets the requirements of the Petroleum Equipment Institute, Recommended Practice 1200-12 every 6 months until permanently closed;

(VII) Not be located within an aquifer protection area or within 1,000 feet of a potable well, not including potable wells on the site where the tank is located; and

(VIII) Conduct line leak testing, when required by section 22a-449(d)-104 of the UST regulations, every 6 months; and

(E) For a hazardous substance UST:

(i) Comply with subparagraphs (A) to (D), inclusive, of this subsection;

(ii) Be equipped with external liners, including vaults, designed, constructed, and installed to:

(I) Contain 100 percent of the capacity of the largest tank within its boundary;

(II) Prevent the interference of precipitation or ground-water intrusion with the ability to fully contain or detect a release of regulated substances; and

(III) Surround the tank completely so that it is capable of preventing lateral and vertical migration of regulated substances; and

(iii) If installed before October 1, 2003, be double-walled, be designed, constructed, and installed to detect and fully contain a release from any portion of the primary containment system, including the inner wall of a tank, and have a secondary containment designed, constructed and installed to:

(I) Continuously monitor for any liquid in the secondary containment;

(II) Fully contain any liquid that is in such secondary containment until such liquid is detected and removed, except for brine being used for the purposes of interstitial monitoring; and

(III) Prevent the release of any liquid outside of such secondary containment.

Reason for change: to allow double-walled tanks utilizing dry space with a sensor as a monitoring method for release detection, provided certain conditions are met. Adjusted numbering for appropriate formatting.

Proposed Language: Section 22a-449(d)-104(b)(2)(A)(ii)(IV)

(IV) Ensures that deliveries of petroleum are made through a drop tube that extends to within one foot of the tank bottom; and

Final Language: Section 22a-449(d)-104(b)(2)(A)(ii)(IV)

(IV) Ensures that deliveries of petroleum are made through a drop tube that extends to within one foot of the tank bottom and by {insert one year after effective date of the UST regulations}, such drop tube shall extend no more than six inches from the tank bottom; and

Reason for change: providing one year for owners and operators to lengthen drop tubes to within six inches of the tank bottom for consistency with the Department's air regulations related to gasoline tanks. See RCSA § 22a-174-20(a)(5).

Proposed language: Section 22a-449(d)-106(a)

(a) General.
For releases discovered on or after {insert effective date of regs}, the owner and operator of an UST system, including any UST system or underground storage facility in use, temporarily taken out of service, or permanently closed, shall comply with the requirements of this section in response to a confirmed release from such UST system or underground storage facility.

Final Language: Section 22a-449(d)-106(a)

(a) General.
For confirmed releases from an UST system or UST system component, including those in use, temporarily taken out of service, or permanently closed, owners and operators shall:
(1) For release response already underway as of {insert effective date of the UST regulations} and proceeding in compliance with the UST regulations effective July 28, 1994, either proceed in accordance with those regulatory requirements effective July 28, 1994, or proceed in accordance with the requirements of this section.
(2) For releases discovered on or after {insert effective date of the UST regulations} or releases discovered prior to {insert effective date of the UST regulations} but not currently proceeding in compliance with the UST regulations effective July 28, 1994, comply with the requirements of this section.

Reason for change: to allow a regulated party that already has a cleanup underway to elect to continue under the previous regulatory requirements, or under the new regulatory requirements in Section 106.

Proposed Language: 22a-449(d)-106(n)

(n) **Fees.**

(1) During Investigation and Implementation of Remedial Actions

Beginning 12 months after the date of discovery of a release, the owner or operator of an UST or underground storage facility shall pay an annual fee to the commissioner until completion of remedial action has been approved by the commissioner. Such fee shall begin at $1,000 and shall be due and payable on the anniversary of the date of discovery of the release. The annual fee required by this subdivision shall double on each following anniversary date until completion of remedial action has been approved by the commissioner, provided, at the end of year 5 after the date of discovery of a release, such fee shall not exceed $12,000.00 for each year thereafter. The fee schedule shall be as follows:

Fee payable on anniversary of discovery pursuant to (n)(1)				
1	2	3	4	5+
$1,000.00	$2,000.00	$4,000.00	$8,000.00	$12,000.00

(2) During Monitoring of Remedial Action

Two years after the date the remedial action form has been submitted to the commissioner as required by subsection (i) of this section, if monitoring has failed to document compliance with the groundwater provisions of the RSRs, the owner or operator of the UST or underground storage facility shall pay an annual fee to the commissioner until completion of remedial action has been approved by the commissioner. Such fee shall begin at $1,000 and shall be due and payable on the anniversary of the date 2 years after the remedial action form has been submitted to the commissioner. Such fee shall double on each following anniversary date until compliance has been achieved, provided, the annual fee due at the end of the 6th year after the remedial action form has been submitted, such fee shall not exceed $12,000.00 for each year thereafter.

Fee payable on anniversary of remedial action form submission pursuant to (n)(2) beginning at year 2				
2	3	4	5	6+
$1,000.00	$2,000.00	$4,000.00	$8,000.00	$12,000.00

Final Language: 22a-449(d)-106(n)

(n) **Fees.**

(1) During Investigation and Implementation of Remedial Actions

Beginning 12 months after the date of discovery of a release, the owner or operator of an UST or underground storage facility shall pay an annual fee to the commissioner until completion of remedial action form has been submitted or approved by the commissioner, if required under subsection (i) of this section. Such fee shall begin at $1,000 and shall be due and payable on the anniversary of the date of discovery of the release. The annual fee required by this subdivision shall increase by $1,000 on each following anniversary date until completion of remedial action form has been submitted or approved by the commissioner, if required under subsection (i) of this section provided, at the end of year 5 after the date of discovery of a release, such fee shall not exceed $5,000.00 for each year thereafter. If such completion of remedial action form is rejected by the commissioner, payment of such fees shall resume. The fee schedule shall be as follows:

Fee payable on anniversary of discovery pursuant to (n)(1)

1	2	3	4	5+
$1,000.00	$2,000.00	$3,000.00	$4,000.00	$5,000.00

(2) During Post-Remedial Monitoring

(A) Two years after the date the completion of remedial action form has been submitted to the commissioner as required by subsection (i) of this section, if monitoring has failed to document compliance with the groundwater provisions of the RSRs, the owner or operator of the UST or underground storage facility shall pay an annual fee to the commissioner until monitoring demonstrates compliance as documented by submittal of a monitoring and progress status form, or as approved by the commissioner if required under subsection (i) of this section. Such fee shall begin at $1,000 and shall be due and payable on the anniversary of the date 2 years after the remedial action form has been submitted to the commissioner. Such fee shall increase by $1,000 on each following anniversary date until compliance has been achieved, provided, at the end of the 6th year after the remedial action form has been submitted, such fee shall not exceed $5,000.00 for each year thereafter.

(B) If the UST is in post remedial monitoring as of {insert effective date of regulations}, the owner or operator of the UST or underground storage facility shall pay an annual fee to the commissioner until monitoring demonstrates compliance as documented by submittal of a monitoring and progress status form, or as approved by the commissioner, if required under subsection (i) of this section, beginning {insert date two years after effective date of regulations}. Such fee shall begin at $1,000 and shall be due and payable on the anniversary of the date 2 years after the remedial action form has been submitted to the commissioner. Such fee shall increase by $1,000 on each following anniversary date until compliance has been achieved, provided, at the end of the 6th year after the remedial action form has been submitted, such fee shall not exceed $5,000.00 for each year thereafter.

(C) If such monitoring and progress status form is rejected by the commissioner, payment of such fees shall resume.

Fee payable on anniversary of remedial action form submission pursuant to (n)(2) beginning at year 2				
2	3	4	5	6+
$1,000.00	$2,000.00	$3,000.00	$4,000.00	$5,000.00

Reason for change: the Department has reevaluated the fee structure and amounts of fees based on comments. A new subparagraph has been added to describe post-remedial action that is taking place at the time the proposed regulations become effective. The doubling of fees has been eliminated and the majority of fees have been reduced by 50% or more.

Final Language: Section 22a-449(d)-109(a)(2)

(2) Owners and operators shall ensure at least one of the available financial responsibility instruments required by this section is established or amended by {insert date 90 days after the UST regulations take effect}, unless the financial responsibility instrument fully complies with this section.

Reason for change: a new subdivision is added to provide time for owners and operators to update financial responsibility documents.

Proposed Language: Section 22a-449(d)-111(b)

(b) From the date of installation, the life expectancy for a tank or piping that routinely contains product shall be as follows: . . .

(2) For a tank or piping that does not meet the requirements of subdivision (3) of this subsection and is made of fiberglass-reinforced plastic, any other non-metallic material, or a tank constructed of steel and clad or jacketed with a non-corrodible material, life expectancy is 30 years;

(3) For a double-walled tank or double-walled piping installed after October 1, 2003 made of fiberglass- reinforced plastic, any other non-metallic material, or a tank constructed of steel and clad or jacketed with a non-corrodible material:

(A) Using interstitial monitoring that does not monitor both the primary containment and secondary containment such as a sensor in a dry space, life expectancy is 40 years; or

(B) Using continuous interstitial monitoring that monitors both the primary containment and secondary containment such that the inner and outer walls are continuously monitored using technology such as inert gas, or liquid, or under constant vacuum, life expectancy is 45 years; and

Final Language: Section 22a-449(d)-111(b)

(b) From the date of installation, the life expectancy for a tank or piping that routinely contains product shall be as follows: . . .

(2) For a tank or piping that does not meet the requirements of subdivision (3) of this subsection and is made of fiberglass-reinforced plastic, any other non-metallic material, or a tank constructed of steel and clad or jacketed with a non-corrodible material, life expectancy is 30 years, except that for a tank or piping that meets the following criteria, life expectancy is 40 years:

(A) The tank and piping is used for the storage of petroleum only;

(B) The tank is constructed of:

(i) single-walled fiberglass-reinforced plastic or composite steel, or

(ii) double-walled fiberglass-reinforced plastic or composite steel;

(C) The tank has a striker plate beneath each access point present since time of installation;

(D) Piping is non-metallic;

(E) The tank or piping has piping containment sumps and under dispenser containment sumps that are liquid tight and monitored;

(F) For a single-walled tank, the tank has passed a tightness test within 12 months, before or after, {insert the effective date of the UST regulations}, and passes a tightness test annually thereafter until permanently closed;

(G) Except for a double-walled tank using brine and vacuum, the double-walled tank has passed an interstitial test within 12 months, before or after, {insert the effective date of the UST regulations}, and passes an interstitial test annually thereafter until permanently closed. Such interstitial test must meet the requirements of the Petroleum Equipment Institute, Recommended Practice 1200-12;

(H) The tank or piping is not located within an aquifer protection area or within 1,000 feet of a potable well, not including potable wells on the site where the tank is located; and

(I) Line leak testing, when required by section 22a-449(d)-104 of the UST regulations, is conducted every 6 months.

(3) For a double-walled tank or double-walled piping made of fiberglass-reinforced plastic, any other non-metallic material, or a tank constructed of steel and clad or jacketed with a non-corrodible material:

(A) Using interstitial monitoring that does not monitor both the primary containment and secondary containment such as a sensor in a dry space, life expectancy is 40 years; or

(B) Using continuous interstitial monitoring that monitors both the primary containment and secondary containment such that the inner and outer walls are continuously monitored using technology such as inert gas, or liquid, or under constant vacuum, life expectancy is 45 years; and

Reason for change: added a 40-year life expectancy category by incorporating the Alternate Life Expectancy requirements and removed the installation date requirement of the 45-year life expectancy category.

CONCLUSION

Based upon the comments addressed in this Hearing Officer's Report, I recommend the proposed amendments to the UST Regulations, public noticed on June 28, 2024, be revised as recommended herein, and that the recommended final proposal be submitted to the Commissioner for approval and submittal to the Attorney General and subsequently to the Legislative Regulations Review Committee of the Connecticut General Assembly.

December 12, 2024

/s/ Mark Latham
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