



VIA eREGULATIONS SYSTEM

Senator Sujata Gadkar-Wilcox
Representative Christie M. Carpino
Senator John A. Kissel
Representative Mary Welander
Legislative Regulation Review Committee
State Capitol Building, Room 011
Hartford, CT 06106

***Re: Legislative Regulation Review Committee Review of Regulations Concerning
Underground Storage Tanks, Tracking Number: PR2023-056***

Dear Co-Chairs Gadkar-Wilcox and Carpino, Ranking Members Kissel and Welander, and
Committee Members:

In accordance with section 4-170 of the Connecticut General Statutes (CGS), the Connecticut Department of Energy and Environmental Protection (DEEP) hereby electronically submits to the Legislative Regulation Review Committee the above-referenced proposed regulations for consideration and approval.

The existing Underground Storage Tank (UST) regulations, sections 22a-449(d)-1 and 22a-449(d)-101 to 22a-449(d)-113, inclusive, of the Regulations of Connecticut State Agencies (RCSA) identify the performance standards for owners and operators of state regulated and federally regulated UST systems. The proposed amendments to the UST regulations 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 These updates are consistent with current technologies and will eliminate outdated standards.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 adds a new section to serve as a centralized location for notification and recordkeeping requirements, 22a-449(d)-114, and a new administrative civil penalties schedule is being added to RCSA section 22a-6b-8. A more detailed explanation is provided in the statement of purpose associated with the regulatory language.

This resubmission addresses substantive concerns and technical corrections identified by the Legislative Commissioner's Office in its memorandum dated February 18, 2025, as accepted by the LRRC at its February meeting. The attached response document explains the Department's response to those concerns and shows the language that was updated since the last submission to the LRRC. The Office of the Attorney General approved the updated version of the regulations as legally sufficient on March 7, 2025.

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If you have any general questions regarding this submittal, please get in touch with Harrison Nantz of DEEP by electronic mail at Harrison.nantz@ct.gov. If you have any substantive or rule drafting questions, please get in touch with Mark Latham of the Bureau of Materials Management and Compliance Assurance by electronic mail at mark.latham@ct.gov. Thank you for your assistance with this matter.

Sincerely,



Katherine S. Dykes
Commissioner

03/10/2025

Date

cc: Harrison Nantz, DEEP

Attachment 1
Responses to the Legislative Commissioners’ Office (LCO) Report on
LRRC Regulation No. 2025-003
eRegulations Tracking No. 2023-056

All of the concerns identified in the LCO Report dated February 18, 2025, are addressed as specified in the following tables. The changes are reflected in the proposed regulations file in eRegulations.

For the Committee’s Information	Action taken in response
<p>The Statement of Purpose contained at the end of the proposed regulation does not comply with Committee Rule 10(b), which requires a statement of purpose to include: (1) The purpose of the regulation, including the problems, issues or circumstances that the regulation proposes to address, (2) a summary of the main provisions of the regulation, and (3) the legal effects of the regulation, including all the ways the regulation would change existing regulations or other law.</p>	<p>The Department has revised the Statement of Purpose in accordance with Committee Rule 10(b) and has provided the revised statement at the end of the regulation text.</p>

Substantive Concerns	Action taken in response
<p>1. Throughout the proposed regulation, there are instances of "owner and operator" and "owner or operator". It is unclear whether the conjunction used in each such instance is correct. Accordingly, each such usage of "and" and "or" should be evaluated and changed, if appropriate.</p>	<p>The Department agrees that it is unclear whether “owner or operator” or “owner and operator” is the correct phrase in each instance they are used. For the majority of the regulation, “owner or operator” is the intended phrase because requiring both entities to take an action would result in duplicative efforts, while also recognizing that, in accordance with the LCO manual for drafting regulations, “or” means “and/or”.</p> <p>The Department has changed the use of “owner and operator” to “owner or operator” in the following locations:</p> <ul style="list-style-type: none"> • 22a-449(d)-1(d)(2) <u>“Each notification required by this subsection shall be submitted by the owner or operator on forms . . .”</u> • 22a-449(d)-102(a) <u>The owner or operator of</u> [the UST system, all owners and operators of

	<p>new] <u>an UST [systems] system shall [meet] ensure that such system complies with the following requirements.”</u></p> <ul style="list-style-type: none"> • 22a-449(d)-103 “<u>The owner or operator of an UST system shall ensure compliance with the following requirements:</u>” • 22a-449(d)-103(m)(5)(A) “<u>Whenever a containment sump or spill bucket is removed or replaced, for any reason, the owner or operator shall ensure that:</u>” • 22a-449(d)-106(c)(2)(F) “<u>Beginning immediately and continuing until all imminent hazards are fully abated, the owner or operator of the UST system or underground storage facility . . .</u>” • 22a-449(d)-106(e)(2) “<u>At any time, the commissioner may notify the owner or operator that the EP retained . . .</u>” • 22a-449(d)-106(k)(2) “<u>The owner or operator shall submit such scope of study to the commissioner if, . . .</u>” • 22a-449(d)-111(c) “<u>If the month and year of the installation of either a tank or piping that routinely contains product cannot be reasonably determined, the owner or operator shall immediately:</u>” • 22a-449(d)-114(b)(3) “<u>Such records shall be maintained by the current owner of the property at the location where an UST system was closed and at any location by the owner or operator of the UST system at the time that closure of an UST system was completed.</u>” <p>In certain locations, the Department has left “owner and operator” to further clarify that both entities are responsible for certain actions. While owners and operators are both responsible for complying with the regulations, the Department has found that it is helpful to the regulated community to restate that both entities are responsible for certain provisions. In addition, the regulations that apply to federally regulated USTs (§§ 22a-449(d)-101 to 22a-449(d)-114, inclusive) are written to be consistent with USEPA regulations which use the phrase “owner and operator”.</p>
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	<p>In the following provisions, the Department has evaluated the use of “owner and operator” and determined that language is appropriate:</p> <ul style="list-style-type: none"> • 22a-449(d)-1(c) – both the owner and operator shall ensure there is no release from an UST system. • 22a-449(d)-101(a) – references to “owner and operator” are necessary to set up that both persons are responsible under the regulations. • 22a-449(d)-101(a)(1) – the exemption and partial exemption language should consistently reference both entities when setting up the scope of the regulations. • 22a-449(d)-103(o) – this language adds clarity that both owners and operators must cooperate with activities conducted by the Department. • 22a-449(d)-106(a) – both owners and operators need to comply with corrective action measures. • 22a-449(d)-108(d)(8)(B) – both owners and operators need to understand they are equally responsible for the designation of operators and ensuring operators comply with their responsibilities. • 22a-449(d)-109(a)(5) – both owners and operators need to ensure that financial responsibility obligations are satisfied. • 22a-449(d)-109(a)(6) – both owners and operators must comply with this requirement to update instruments to ensure there is no lapse in financial responsibility coverage. • 22a-449(d)-109(b)(3) – definition of “Chief financial officer” is directly from the USEPA regulations, for consistency with federal program, the term “owners and operators” will remain.
<p>2. On page 7, in section 22a-449(d)-101(d)(1), subparagraphs (A) and (B) impose several notification requirements that are unclear. For example, it <i>appears</i> that the requirement to provide notice under subparagraph (B) is conditional upon the requirement to provide notice under subparagraph (A). Moreover, it is unclear exactly when</p>	<p>The Department made the following changes to clarify the notification requirements. It is the intent of the language to require an annual notification in addition to other notifications that must be submitted within 30 days of the occurrence of a specified event.</p> <p><u>(1) The owner or operator of an UST system shall submit to the commissioner and the local fire marshal:</u> <u>(A) The annual notification required under section 22a-449(e) of the Connecticut General Statutes. Such</u></p>

<p>the thirty-day period set forth in subparagraph (B) begins to run. Accordingly, subparagraphs (A) and (B) of section 22a-449(d)-1(d)(1) should be clarified.</p>	<p><u>notification shall be submitted within the time period specified by the commissioner on the department's internet website. The time period shall be a minimum of 30 days and shall conclude not later than October 10 of each year; and</u></p> <p><u>(B) As applicable, notification of each of the following events within 30 days of such event:</u></p> <ul style="list-style-type: none"> <u>(i) The installation of an UST system</u> <u>(ii) The permanent closure of an UST system</u> <u>(iii) Any change in information provided in any prior notification submitted to the commissioner and the local fire marshal in accordance with this subsection, including temporarily taking an UST system out of service.</u>
<p>3. On page 18, in section 22a-449(d)-1(j)(2)(D)(ii), the proposed regulation refers to "RSRs". However, there does not appear to be a definition for this term that applies to this particular section of the proposed regulation. Accordingly, this term should be clarified for purposes of this section of the proposed regulation.</p>	<p>The Department agrees that the term "RSRs" is not properly defined in section 22a-449(d)-1. Since the term only appears once in the section, the Department has clarified the language to define the term "RSRs" in this subsection of the regulation instead of adding a new definition.</p> <p><u>“ . . . in accordance with the requirements in the remediation standard regulations adopted pursuant to section 22a-133k of the Connecticut General Statutes.”</u></p>
<p>4. On page 110, in section 22a-449(d)-109(h), in the first line of the third paragraph, there is an opening bracket before "take" but there is not an associated closing bracket. In the fifth line of the same paragraph, there is a closing bracket after 'nonsudden'" but there is not an associated opening bracket. Accordingly, it is unclear which language is being deleted or what is intended by this paragraph. This provision should be clarified.</p>	<p>The Department agrees that the various brackets require clarification of this provision. The brackets identified in this comment were incorrectly included in the regulatory text. Consistent with the comment, the opening bracket before “take” and the closing bracket after “nonsudden” have been deleted.</p>
<p>5. On page 144, in section 22a-449(d)-114(a)(1), the proposed regulation refers to "each notification required... by the Connecticut General Statutes". This provision is overly broad and it is</p>	<p>The Department agrees this provision is broad; the specific statute that should be referenced here is the Water Pollution Control Act. The sentence is revised as follows:</p>

unclear which statutes are covered by this reference. This reference should be narrowed to refer to specific statutes.	<p>“each notification required... by chapter 446k of the Connecticut General Statutes”.</p> <p>The Department has also deleted the comma after “Statutes” as it is not necessary.</p>
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The Department has adopted all technical corrections except as otherwise noted in the table below.

Technical Corrections	Actions taken in response
3. On page 1, in section 22a-6b-8(c)(4), "22aa-449(d)" should be "22a-449(d)-114", for accuracy. Also, in said section, "commissioner", should be "Commissioner", for proper form.	<p>The Department has modified the text as follows as the reference is meant to capture all of the UST regulations, not only section 22a-449(d)-114.</p> <p><u>“or of any provision of sections 22a-449(d)-101 to 22a-449(d)-114, inclusive, of the Regulations of Connecticut State Agencies,”</u></p>
22. On page 27, in the first line of section 22a-449(d)-101(49), the closing bracket after "lines)" should be deleted, the opening bracket before "new" should be deleted and "means" should be inserted before "pipe", for proper form.	The technical correction has been made. In addition, the Department has added a closing quotation mark after the closing bracket to complete the quote around the defined term.
24. On page 29, in section 22a-449(d)-101(65)(D)(i) and (ii), ", Chapter" should be deleted, for proper form.	<p>The Department did not make this technical correction. Per page 34 of the LCO manual, as shown below, the proposed language is the proper form when citing a chapter of the USC. This is consistent with other locations in the regulation where the USC is cited.</p> <p>Cite a specific chapter of the United States Code:</p> <ul style="list-style-type: none"> • 42 USC, Chapter 60 (i.e., Title 42, Chapter 60)
32. On page 49, in section 22a-449(d)-103(m)(5)(B), a space should be inserted between "a" and "release", for proper form.	The Department did not make this technical correction because there is a space between “a” and “release”. The Department did adjust the character spacing to reflect that there is a single space between the words.
41. On page 81, in section 22a-449(d)-107(a)(2)(D), in the third line, "and" should be "who", for clarity.	The technical correction has been made. The Department identified an additional technical

	correction in this sentence that is addressed in the table below.
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Department Identified Technical Corrections	Action taken in response
On page 20, in section 22a-449(d)-101(a), the section title is missing a space between “systems” and “applicability”. The comma after “applicability” should be underlined. The title is missing the hyphen between “systems-program” as exists in the current regulations.	Sec. 22a-449(d)-101. Technical standards and corrective action requirements for owners and operators of underground storage tank systems[-program scope and interim prohibition] <u>applicability, prohibitions and definitions</u>
On page 20, in section 22a-449(d)-101(a), the subsection heading has an extra space.	The Department has moved the opening bracket to the end of “Applicability” to delete the extra space. (a) Applicability[and purpose of sections 22a-449(d)-101 through 22a-449(d)-113].
On page 28, in section 22a-449(d)-101(d)(56), the word “standards” should be singular.	<u>(56) “RSRs” means the state remediation standard regulations adopted pursuant to section 22a-133k of the Connecticut General Statutes;</u>
On page 31, in section 22a-449(d)-101(d)(68) “As used in this section, the term” should be deleted as unnecessary.	The Department is making this change as noted in Technical Correction No. 9 for the defined term “UST system component” for consistency with the definition in the state regulated tanks section. <u>(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. “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;</u>

<p>On page 31, in section 22a-449(d)-102(a), the text in the first set of brackets does not correctly reflect the current regulatory text. The word “a” should be deleted and “UST system” should be added after “the”. The words “or operator of” should be underlined for proper form.</p>	<p><u>The owner or operator of [the UST system, all owners and operators of new] an UST [systems] system shall [meet] ensure that such system complies with the following requirements.</u></p>
<p>On page 45, in section 22a-449(d)-103(l)(2)(A), the clause (iii) designator should be underlined for proper form.</p>	<p><u>(iii) Documentation from the manufacturer indicating that the regulated substances stored in such UST system are compatible with the UST system.</u></p>
<p>On page 81, in section 22a-449(d)-107(a)(2)(D), the phrase “minimum of 3 years to experience” should be moved after “a person with a” instead of later in the sentence.</p>	<p>The Department has moved “minimum of 3 years of experience” from the end of the sentence to the middle as this applies to the training of the person retained</p> <p><u>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 a minimum of 3 years of experience and training in selecting and taking samples and who shall have an understanding of the appropriate analytical methods for products stored in the UST system.</u></p>
<p>On page 112, in section 22a-449(d)-109(h)(4), “(s) of this section” should be underlined for proper form.</p>	<p>subsection [22a-449(d)-109 (s) of these regulations] <u>(s) of this section.</u></p>
<p>On page 138, in section 22a-449(d)-109(t), “or piping” on the fourth line should be underlined for proper form.</p>	<p>if corrective action is required, after corrective action has been completed and the tank <u>or piping</u> has been . . .</p>
<p>On page 142, in section 22a-449(d)-111(b)(2), the subparagraph designators (C), (D), (E), (F), (G), (H) should be underlined for proper form.</p>	<p>The Department has underlined these subparagraph designators.</p>