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Affirmative Action/Equal Opportunity Employer

Notice of Intent

In accordance with section 4-168(a) of the Connecticut General Statutes, the Commissioner of Energy and Environmental Protection (the “Commissioner”) hereby gives notice of intent to adopt minor revisions to sections 22a-449(d)-101 to 22a-449(d)-113, inclusive, of the Regulations of Connecticut State Agencies (“RCSA”), commonly referred to as the Underground Storage Tank Regulations.

The Underground Storage Tank (“UST”) Regulations are adopted pursuant to 22a-6, 22a-422, 22a-424, 22a-449 of the Connecticut General Statutes.

Comment Period

The comment period shall begin upon the posting of this notice to the eRegulations System website (<https://eregulations.ct.gov>) and shall end at 5:00 p.m. on June 7, 2021.

Statement of Purpose

Minor revisions to the state’s UST regulations being proposed originate in changes enacted by Congress in the UST Compliance Act (“the Act”), an Act amending certain sections of 42 USC § 6901 et seq. (see sections 1521 to 1533 of the Energy Policy Act of 2005). The Act changed requirements regarding inspections, operator training, delivery prohibition, secondary containment, financial responsibility and cleanup of certain releases. Although the Department completed a number of regulatory revisions in response to the Act in August 2012, U.S. Environmental Protection Agency (“EPA”) published a final rule making further revisions to the federal UST regulations on July 15, 2015 (80 Fed. Reg. 41566). These July 2015 revisions made changes similar to key portions of the Act as well as other updates to the federal UST regulations that require Connecticut to make additional changes to its regulations to ensure that the Connecticut’s UST program is no less stringent than the federal program.

The federal UST requirements include provisions that allow EPA to approve state programs. Connecticut received approval of its UST Program from EPA effective August 4, 1995. Connecticut’s approved UST program avoids dual federal and state regulation. The proposed revisions that are the subject of this notice are required to ensure that Connecticut’s UST Program can maintain program approval from USEPA.

Detailed Description of the Proposed Regulation

The proposed regulations are intended to modify the following seven sections:

- 22a-449(d)-101(a)&(b) – Applicability and Purpose
- 22a-449(c)-102(a)(5) – Spill and Overfill Prevention Equipment

- 22a-449(d)-102(a)(15) – Testing Requirements for UST Systems
- 22a-449(d)-103(a)(4) – Spill Prevention Equipment
- 22a-449(d)-103(c) – Compatibility of UST Systems with Regulated Substances
- 22a-449(d)-103(d)(6)-(8) – Repairs to Spill/Overfill Prevention Equipment & Testing
- 22a-449(d)-103(e)(2) – Record keeping

In addition to editorial revisions, these proposed regulations:

- Eliminate an outdated reference to USTs subject to section 22a-449 (d)-1 of the RCSA.
- Clarify that the partial exemption from full regulation for certain USTs includes an exemption from section 108 of the UST Regulations.
- Update references to the federal regulations for certain USTs that are not regulated under the UST Program but are subject to licensure by the Nuclear Regulatory Commission.
- Remove the partial exemption for USTs storing fuel for use by emergency power generators. Also, remove the partial exemption for airport fuel hydrant systems and field constructed USTs and prohibit the use of such USTs.
- Prohibit use of a flow restrictor in vent lines as a means to restrict flow into a UST to prevent over-filling.
- Transition from testing every five (5) years to every three (3) years, the testing of double-walled USTs to ensure that there is no release for loss of liquids from such tanks. The proposed rules also ensure that the testing of all USTs is required, not just those USTs installed after August 8, 2012.
- Require that spill prevention equipment satisfy certain requirements, ensure that such equipment is tested at least once every three (3) years and ensure that records of compliance with these requirements is maintained.
- Require a demonstration of compatibility for USTs storing greater than ten (10) percent ethanol or greater than twenty (20) percent biodiesel.
- Require testing of repaired spill prevention and overfill prevention equipment.
- Move a provision regarding the repair of under-dispenser-containment sumps and piping containment sumps from the performance standard section (section 22a-449(d)-102(a)(15) of the RCSA) to the section regarding the repair of USTs (section 22a-449(d)-103(d) of the RCSA).

Availability of Information

The proposed regulations, Regulatory Flexibility Analysis/Small Business Impact Statement, Fiscal Note and the statement required by section 22a-6(h) of the CGS are all posted and available on the eRegulations System website (<https://eregulations.ct.gov>), Tracking Number PR2020-027, or can be obtained by contacting the Department of Energy and Environmental Protection's Underground Storage Tank program by email (DEEP.USTenforcement@ct.gov).

Public Hearing

In addition to accepting written comments, a public hearing has been scheduled to obtain public comment on the proposed regulations. This hearing will be held through Zoom, a remote online hearing platform. All interested persons can register to attend the public hearing and express their views on the proposed regulations using the following link:

Date: Thursday, June 3, 2021

Time: 1:30 p.m.

Zoom Link: <https://ctdeep.zoom.us/meeting/register/tJUuduuuqTgoGtzYdTpUxx1Co3WR8Kj6zhMC>

Speakers are requested, although not required, to submit a written copy of their comments as instructed below. The hearing will adjourn when the last speaker present and signed in has provided comment.

Written Comments

Interested persons are invited to comment upon the proposed regulations, in writing, during the public comment period. The public comment period shall begin upon posting of this notice to the eRegulations System website and shall end at 5:00 p.m. on June 7, 2021.

Comments may be submitted using one of the following methods:

- Online via the [eRegulations System](#) (Tracking Number PR2020-027).
- By email to DEEP.USTEnforcement@ct.gov

The Department is an Affirmative Action/Equal Opportunity Employer that is committed to complying with the requirements of the Americans with Disabilities Act. Any person with a disability who may need a communication aid or service may contact the Department's ADA Coordinator at 860-424-3194 or at deep.hrmed@ct.gov. Any person needing a hearing accommodation may call the State of Connecticut relay number - 711. Any person with limited proficiency in English, who may need information in another language, may contact the Department's Title VI Coordinator at 860-424-3035 or at deep.aao@ct.gov. ADA or Title VI discrimination complaints may be filed with the Department's EEO Manager at 860-424-3035 or at deep.aao@ct.gov. Requests for accommodations must be made at least two weeks prior to any agency hearing, program or event.

Lulu S Dykes

Katherine S. Dykes
Commissioner