



Underground Storage Tank Regulations Questions, Comments, and Answers

After hosting a Stakeholder Engagement Meeting on June 1, 2023, the Department of Energy and Environmental Protection (DEEP or the Department) staff welcomed questions and ideas from the regulated community on forthcoming revisions to the Underground Storage Tank (UST) regulations found at sections 22a-449(d)-1 through 22a-449(d)-113, inclusive, of the Regulations of Connecticut State Agencies. DEEP appreciates the feedback from stakeholders as the Department undertakes the process of amending the UST regulations. Engaging with stakeholders early and often is important to the development of the UST regulation amendments. In addition to this initial request for feedback, stakeholders will have the opportunity to comment on the draft regulations once they are publicly noticed.

DEEP received a number of comments and questions submitted by stakeholders during the stakeholder meeting and the initial outreach process. The following are questions and comments focused on clarifying and amending the regulations with responses from DEEP staff.

Q: Is the *Low Liquid Level UST Containment Sump Testing Procedures* from the EPA an acceptable testing procedure for Underground Storage Tank (UST) system containment sumps in Connecticut, in regard to current regulations and the new proposed regulations?

A: No. In CT, sumps are required to be liquid tight, therefore the only acceptable integrity test is to test the entire sump, not just part of it. CT does not preclude the use of other methodologies that test the entire volume of the sump. DEEP is not proposing to make a change in the proposed regulations.

Q: Will the revised regulations consider applicability of sump integrity testing for piping systems that are sealed on both ends with an integrated continuous leak detection wire? One example being Perma-pipe.

A: Yes, sump integrity testing for piping systems would continue to be required. For Connecticut, as of August 8th, 2012, all sumps must be liquid tight, monitored, and tested, regardless of whether they are used for interstitial monitoring or not.

Q: Will a “Request for Approval for Use of EPH/VPH/APH Analytical Methods and Associated Criteria” be needed with written DEEP approval if the commentor plans to use EPH/VPH analytical method for UST post-excavation confirmatory soil sampling and commentor plans on uploading the UST closure report to the UST ezFile? And is it correct that the RSRs do not apply to the property?

A: The RSRs apply to cleanups of all releases in CT. Currently, there are no numerical RSRs criteria for the EPH/VPH/APH analytical methods in the RSRs. As required by the RSRs for constituents that do not have numerical RSRs criteria, Additional Polluting Substances Criteria must be approved by the Commissioner.

Q: Statements have been made by CT DEEP personnel that at current only full hydrostatic to the brim of the containment including the Top-Hat – which is not normally included in an industry standard or manufacturer standard – is the acceptable test for a sump/UDC.

A: Current regulations require that hydrostatic testing needs liquid filled to greater than the highest penetration of the sump/UDC. The acceptable tests in CT are considered normal industry and manufacturer standards. DEEP is not planning to propose changes to the acceptable methods in the proposed regulations.

Q: From the meeting, it appears that all Interstitially Monitored Tank and/or pipe is required to conduct triennial testing no matter the installation date. Therefore, would it be possible to clearly identify such in the revisions to the regulations?

A: Yes. DEEP plans to clarify this issue in the proposed regulations. A double-walled UST systems (which includes the tank and piping) using interstitial monitoring that continuously monitors both the inner and outer walls, such as brine or vacuum systems is exempt from the triennial testing. For dry interstitial spaces associated with requisite interstitial monitoring, testing is required every three years, regardless of installation date.

Q: Where are unacceptable testing methods posted on the department's website?

A: While there are currently no unacceptable testing methods posted on the Department's website, in the future, DEEP plans to post unacceptable methods on DEEP's website. DEEP plans to clarify this issue in the proposed regulations.

Q: Why are best technology, manufacturer and industry referenced in the following portion of regulation? What is the significance?

"The owner or operator shall use a qualified individual or company who has the expertise to perform and document the results of the testing required by this subdivision and shall ensure that the tests required by this subdivision use the best available technology or that such tests are conducted in accordance with the manufacturer's guidelines and standards. If there are no manufacturer's guidelines or standards, the owner or operator shall ensure that such tests are conducted in accordance with an applicable method specified in an industry code or engineering standard."

A: DEEP plans to rely on the most appropriate testing methodologies available that are developed by 3rd party testing organizations or equipment manufacturers.

Q: Is the added 3-year sump/spill bucket testing as necessary for someone without use for storage of non-hazardous waste oil and water as relevant as it is for a fuel distribution application?

A: Yes, the three-year test is required by federal regulations and CT is required to have this requirement. Sump/spill bucket testing is necessary for UST systems that store non-hazardous waste oil and water. However, UST systems containing a "regulated substance" which receives deliveries of less than 25 gallons at any one time are not required to have spill and overfill controls.

Q: With regards to biennial training requirements and having Class A/B and C operators, might the commentor be able to consider lowering those requirements for owners that do not dispense fuel and have far less risk operating a tank? The commentor carries \$1M of insurance on their tank. Might such a mechanism be lessened considering non-hazardous storage and 98% wastewater?

A: DEEP is not planning to propose changes to the biennial operator training requirements. The operator training requirements only apply to USTs pursuant to RCSA sections 22a-449(d) 101 through 113.

Q. For routine testing, the regulations should reference the most up-to-date version of PEI RP 1200 (currently 2019). Routine testing includes: tank interstitial spaces, piping interstitial spaces, spill buckets, containment sumps, overfill equipment, line leak detectors, automatic tank gauges, shear valves, E-Stops. For testing spill buckets and containment sumps, if a method has a 3rd party

certification listed on the NWGLDE website (such as Dri-Sump or Leak Detection Technologies), it should be able to be utilized in CT as long as testing conforms with the test equipment manufacturer's requirements.

A: The Department plans to consider this comment when revising the regulations.

Q. For routine walkthrough inspections (daily, monthly, annual), the regulations should reference the most up-to-date version of PEI RP 900 if this standard will be a requirement.

A: The Department plans to consider this comment when revising the regulations.

Q. CT DEEP should be clear in the regulations that any tanks and piping installed on or after 10/01/2003, must utilize interstitial monitoring as the primary form of release detection.

A: Since 2003, Connecticut General Statutes section 22a-449o has required any UST system installed on or after October 1, 2003 to have continuous interstitial monitoring. While this is not a new requirement, DEEP plans to clarify the need for interstitial monitoring associated with tanks and piping installed on or after October 1, 2003.

Q. CT DEEP should be clear on what equipment testing is required at installation of new tank systems.

A: DEEP plans to clarify what equipment testing is required at installation of new tank systems, including testing of the secondary containment interstitial spaces, in the proposed regulations.

Q. CT DEEP should be clear on what equipment testing and frequency of testing is required for older systems that may have approval for an extended life expectancy.

A: The testing requirements for UST systems with an Alternate Life Expectancy (ALE) are contained in the conditions of the ALE signed by the Commissioner and are posted on the Department's website.

For Heating Oil UST systems: [Alternate Life Expectancy for Underground Storage Tanks Used Solely for Storage of Heating Oil for On-Site Consumption](#)

Federally regulated UST systems: [Approval of an Alternative Life Expectancy For Certain Underground Storage Tanks](#)

Q. CT DEEP should eliminate the requirement for an owner to perform inventory control on tank systems that are completely double-wall (tanks & piping are both double-wall) and are utilizing interstitial monitoring as their form of release detection.

A: The current regulation does not require inventory control for double-walled systems that utilize interstitial monitoring for release detection. DEEP is not proposing to change this current requirement in the proposed regulations.

Q. For fill port color coding, CT DEEP should reference the most current version of API 1637 (2020 version).

A: The current regulation does not regulate fill port color coding. DEEP is not proposing to regulate fill port color coding.

Q. Clarification that the tri-annual tightness testing is just for the tank interstitial space, not the primary tank.

A: The Department plans to consider this comment when revising the regulations.

Q. Testing per calendar year would be a lot easier, not by the date three years from the last test date, as different components may be tested at different dates.

A: DEEP does not contemplate changing to a calendar year testing frequency. The testing requirements prevent people from conducting a test on December 31st of one year and January 1st of the next year.

Q. Incorporate 2003 Public Act 03-218 double wall tank and system requirements into both the heating fuel and federally regulated UST sections.

A: Since 2003, Connecticut General Statutes section 22a-449o has required any UST system installed on or after October 1, 2003 to have continuous interstitial monitoring. While this is not a new requirement, DEEP plans to clarify the need for interstitial monitoring associated with tanks and piping installed on or after October 1, 2003.

Q. Clarify that metallic piping in non-metallic containment doesn't require cathodic protection in the heating fuel (-1) section regarding the systems "not in contact with the ground."

A: The regulations currently state that if the metallic piping is in contact with soil or water, cathodic protection is required.

Q. Clarify that coated tanks (such as ACT-100 tanks) that meet industry standards do not need cathodic protection, both in heating fuel (-1) section and federally regulated sections.

A: The regulations currently state that if the metallic UST system is in contact with soil or water, cathodic protection is required. With an ACT-100 tank, the metallic UST system is not in contact with soil or water.

Q. Add any life expectancy extensions that are policy, into the regulations. Any chance of any extensions on cathodically protected tanks?

A: The Department plans to consider this comment when revising the regulations.

Q. Alternative Life Expectancy:

a. **Currently, an UST owner/operator must follow requirements from the CT DEEP UST regulations as well as requirements that fall under the Connecticut General Statutes (CGS). The requirements and processes related to Alternate Life Expectancy (ALE) do not fall under the UST regulations or CGS. If it would be possible to compile all requirements to fall under the UST regulations, the commentor feels this would make it easier for UST owners and operators to navigate and comply with requirements.**

b. **In our experience, UST owners/operators are often confused about the process for life expectancy extension, specifically regarding lack of formal approval from CT DEEP and with the requirement to submit a new Notice of ALE upon transfer of ownership.**

i. **The commentor appreciates the existing "FAQs for Alternate Life Expectancy (ALE) tanks" provided by CT DEEP. The commentor feels it may be helpful to owners/operators to add detail to the FAQs or in the regulations about CT DEEP's process for ALE sites, such as when and what CT DEEP does to review and accept the Notices of ALE and what owners can expect (from our understanding, communication only if/when CT DEEP rejects ALE for tanks).**

ii. **The commentor would like to request that CT DEEP explore an alternative to, or elimination of, the current requirement for a new owner to submit a new Notice of ALE.**

A: The authority to approve an Alternate Life Expectancy (ALE) is stated in the regulation which provides DEEP the ability to add any condition which it deems appropriate. As discussed in the June

1, 2023 presentation, DEEP plans to propose changes to the life expectancy regulatory text that will include longer life expectancies for certain USTs.

Q. Annual Third-Party Inspections: CT DEEP has proposed the addition of a requirement for annual third-party inspections. In most cases, states that have a requirement for third-party inspections utilize this program in place of UST compliance inspections conducted by the regulatory agency. Is this the intent of this addition? If so, why would the frequency of inspections be annual, rather than every three years? If this is not intended to replace the inspections performed by CT DEEP inspectors, this additional requirement on top of existing compliance testing requirements and visual inspection requirements would be perceived as an operational and financial burden by owners and operators.

A: DEEP does not intend for annual third-party inspections to replace DEEP's inspection program. The Department plans to consider this comment when revising the regulations.

Q. Monthly Visual Sump Inspections: 22a-449(d)-108 (c) (Additional Operator Requirements) includes a requirement to inspect new piping containment sumps and new under-dispenser containment sumps monthly. US EPA and most states require annual visual inspections of containment sumps. Under 22a-449(d)-101, new piping and under-dispenser containment sumps must be continuously monitored. The commentor would like to comment that they feel annual visual sump inspections are sufficient. 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 piping containment sumps and in risk of being hit by inattentive motorists at retail facilities.

A: The Department plans to consider this comment when revising the regulations.

Q. Compliance Testing Requirements: The commentor would like to request that CT DEEP better clarify the expected testing scope for UST systems and to re-evaluate the need for the requirement for tank and piping interstitial space testing. Regarding clarification of requirements, the commentor has encountered different interpretations of the requirements from parties within the regulated community, specifically related to the meaning of "*shall be capable of determining if there is a release or any loss of liquids from any part of the UST system*" (from 22a-449(d)-102(a) (15) Testing requirements for underground storage tank systems), the requirements for interstitial space testing and containment sump testing and the requirements for UST systems that are subject to the life expectancy extension.

A: DEEP will consider whether clarifying language is necessary.

For instance, a facility subject to the life expectancy extension must have annual interstitial space testing performed, but is this required only for the UST or is it also required for the piping?

A: As used in Connecticut statutes and regulations, the term UST includes both tank and piping.

Q. Life Expectancy: The commentor would like to request that DEEP consider eliminating the life expectancy limitation or extending the period for double-walled systems that meet certain criteria for construction and monitoring. A: As discussed in the June 1, 2023 presentation, DEEP plans to propose changes to the life expectancy section that will include longer life expectancies for certain USTs.

Q. Financial Responsibility: It is burdensome for owners to have to submit filings (Notification for USTs) twice a year in ezFile when financial assurance coverage period is beyond 30 days from the annual filing deadline. The commentor would like to recommend that CT DEEP considers a change to the requirement for such owners/operators. Most states that do require notification updates for new financial responsibility mechanisms, such as New Jersey, do not require a separate

notification *only* for financial responsibility updates. The new financial responsibility information can be documented on the notification when the next annual filing is completed.

A: The requirement to notify for changes to financial responsibility is a federal requirement.

Q. Recordkeeping period: 22a-449(d)-103 (e) Requires that owners and operator maintain records for at least five years beyond the operational life of the UST system. This period seems excessive for records associated with general operating requirements. The commentor would like to request 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.

A: The Department plans to consider this comment when revising the regulations.

Q. Availability of records stored offsite and electronic recordkeeping: The commentor feels it would be helpful for CT DEEP to clarify the expectation for records to be presented for a CT DEEP inspection. For instance, if records are stored at a central location, is there a specific process for the inspector to request and obtain the records from the owner? Additionally, the commentor would like to request that CT DEEP re-evaluate the requirement to provide records “immediately” and allow more leeway in timing to present records that are stored off site, to help support electronic document storage efforts.

A: Owners/operators may provide records in writing or in electronic format. Certain records need to be housed at the facility and other records may be stored at a central location upon notification to the Commissioner, but all records need to be available at the time of inspection.

Q. UST Life Expectancy Requirements: The commentor requests that DEEP amend its requirements to allow all double-wall tank systems, that meet all spill containment requirements, to remain in service indefinitely without the current alternate life expectancy restrictions, i.e. potable well and aquifer protection areas.

A: As discussed in the June 1, 2023 presentation, DEEP plans to propose changes to the life expectancy section that would include longer life expectancies for certain USTs.

Q. Sump and Containment Testing: The commentor requests that DEEP allow low level testing of containment structures that utilize positive shutdown to minimize disruption to UST owner operations, the amount of wastewater that is generated during the testing process and cost of the testing and disposal processes.

A: Many CT residents rely on groundwater for their public and private drinking water supply. Therefore, Connecticut has a more stringent requirement.

Q. Third Party Inspections: The commentor supports the use of third party inspectors to meet the tri-annual compliance inspection requirements. This is similar to programs used by area states such as Pennsylvania and Massachusetts. Implementing a third party program will allow DEEP staff to focus on additional enforcement and UST owner relations. Since training and certifications are already in place for other states in EPA Region 1, the opportunity exists for licensing reciprocity reducing the administrative burden on the Department.

A: DEEP does not intend for annual third-party inspections to replace DEEP’s inspection program. The Department plans to consider this comment when revising the regulations.

Q. Delivery Prohibition Regulations: The commentor requests that if a delivery prohibition enforcement action is required, that the UST owner is allowed to operate until the remaining product

in the tank at the time the red tag is applied is exhausted. This will potentially allow the owner to make preparations for repair while continuing to operate and ultimately limit the amount of time they are not in business.

A: As part of the hearing process, a determination is made to allow for the remaining product to be exhausted when a red tag is placed.

The commentor also asks that the Department clarify the rules around an order to stop the sale of product and make those violations clear in the regulations.

A: Pursuant to CGS section 22-449(g), the delivery and use prohibitions when a notice of disabling device is placed on a UST system is a statutory requirement in CT that was mandated by EPA. Statutory changes were not being contemplated as part of this effort to update the regulations.

Q. Electronic Compliance Recordkeeping: Keeping on site paper records in the age of digital document storage and retention is antiquated and an environmentally unsound practice. The commentor would like to see the implementation of specific rules regarding the use of electronic recordkeeping. Specifically, the Department should allow UST owners to keep all pertinent compliance documentation in an electronic format that can be produced upon request in a certain timeframe (i.e., 48-hours). This would work well when using a third-party inspection program as the inspector can receive documents electronically prior to completing the three year facility review. They can then confirm that the documentation is correct and consistent with the equipment that is on site.

A: Currently, owners/operators may provide records in writing or in electronic format.

Q. Interstitial Space Compliance Testing: The commentor requests that the Department clarify and provide details around their interstitial space testing requirements or consider aligning with the EPA rules which has confirmed that testing of these spaces is not the intent of secondary testing regulations.

A: The Department plans to consider this comment when revising the regulations.