

# Proposed Q's for a CTDEEP Q&A on UST Compliance Issues

**1.Q: What does the CT DEEP COVID-19 enforcement discretion guidance issued on 4/30/2020 provide for parties complying with environmental rules?**

DEEP's Enforcement Discretion Statement

(<https://portal.ct.gov/DEEP/Enforcement/Enforcement>) provides information regarding how DEEP will use enforcement discretion in response to the COVID-19 situation. The guidance indicates that, in addition to documentation, DEEP should be contacted regarding difficulty in complying with requirements. However, for UST requirements, **it is being requested that DEEP not be contacted but rather all COVID related compliance difficulties be documented on the monthly inspection form and maintained on the site.**

**2.Q: Specifically how will the policy apply to required UST program equipment testing and compliance inspections?**

UST Owners and Operators are expected to comply with all environmental laws during this public health emergency, including testing and inspections. If extenuating circumstances associated with the COVID-19 emergency prevent a regulated entity from fully complying with UST equipment testing requirements, they must document in detail the nature of the difficulty in obtaining the testing as well as their efforts to arrange for the testing. The documentation must be maintained on-site in accordance with other UST recordkeeping requirements and be available for future inspections by DEEP staff. DEEP will not be issuing approvals connected with such compliance issues.

DEEP compliance inspections will continue, but will be modified both in scheduling and in how they are conducted in order to maintain social distancing. Specifically, DEEP will not get to every site within 3 years of the previous inspection if that inspection comes due during the COVID-19 emergency. In addition, DEEP staff will generally not be entering buildings at UST sites, but will be asking for information to be provided electronically.

**3.Q: In order to complete my UST monthly A/B certified operator inspection and equipment testing someone must go inside the facility building to test leak detection equipment and/or review records. This places me or my contractor at odds with the social distancing requirements described under the Governor's Executive Orders and emergency declarations. What do I do? How do I document my inability to complete these required tasks?**

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Monthly inspections should continue. If third party inspections are curtailed in order to maintain social distancing, such as not entering a building, the UST owner/operator should ensure that on-site personnel are instructed on how to conduct those portions of the inspection that require entry to the building. In the alternative, technology may be used (such as meeting software i.e. ZOOM) that allows the indoor portions of the inspection to be conducted. It may also be possible for owner/operators to have inspections conducted after hours in order to maintain social distancing by conducting the inspection when no customers or employees are present.

**4.Q: How will the agency review these assertions once the emergency declaration is lifted or when CTDEEP staff begin conducting compliance inspections? Could I be issued a notice of violation?**

During future compliance inspections, the DEEP inspector will review the documentation related to difficulties in getting required tests performed due to the COVID-19 situation. If good faith efforts are adequately documented to obtain the required tests, enforcement discretion can be used pursuant to the policy (<https://portal.ct.gov/DEEP/Enforcement/Enforcement>).

**5.Q: Can I choose to defer taking action under the policy if a sensor or tank alarm activates? What if I observe liquid or product in a containment sump?**

No, UST Owners and Operators are expected to comply with all environmental laws during this public health emergency. All evidence of releases or suspected releases must be reported and repaired as required.

**6.Q: Are there circumstances where no enforcement discretion will be allowed?**

Enforcement discretion will be evaluated on a case by case basis.

**7.Q: I own several stations and since I am a certified Class A or B operator I perform my own monthly inspections. Am I required to inspect and test equipment located inside the facility building or can I assert an inability to maintain social distancing? What if I routinely hire an independent contractor?**

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**8.Q: If I defer an element of an inspection or equipment test will I be asked to re-do them once the emergency declaration are lifted?**

Yes.

**9.Q: How does the guidance apply to extending deadline relief from the requirement to remove single walled UST within 30 years? What about UST that have or are seeking a 10 year useful life extension?**

There is no specific deadline which applies to only single-walled USTs. All USTs are required to be removed at the end of life expectancy, unless they have fulfilled the requirements for a 10 year extension. If circumstances associated with the COVID-19 situation impact either (1) the ability to remove a UST whose life expectancy expires during the COVID-19 situation or (2) to conduct/complete upgrades related to the 10 year extension, UST owner/operators must document in detail the nature of the difficulty in conducting/completing the required work as well as their efforts to arrange for that work. The documentation must be included on the monthly inspection checklist and be maintained on-site in accordance with other UST recordkeeping requirements. This documentation must be available for future inspections by DEEP staff.

It is important to note that any UST owner/operator seeking the 10 year extension for a federally-regulated UST must submit the required notice certifying that all conditions for obtaining that extension have been met. The required form can be found at [https://portal.ct.gov/-/media/DEEP/underground\\_storage\\_tanks/Noticealternatelifexpectancyustdoc.doc?la=en](https://portal.ct.gov/-/media/DEEP/underground_storage_tanks/Noticealternatelifexpectancyustdoc.doc?la=en) and submitted electronically to [deep.USTenforcement@ct.gov](mailto:deep.USTenforcement@ct.gov)