

**DISTRICT DEPARTMENT OF THE ENVIRONMENT
OFFICE OF ENVIRONMENTAL PROTECTION - TOXIC SUBSTANCES DIVISION
UNDERGROUND STORAGE TANK/LEAKING UNDERGROUND STORAGE TANK BRANCH**

NOTICE OF FINAL RULEMAKING

District of Columbia Underground Storage Tank Regulations

The Director of the District Department of the Environment (DDOE), pursuant to the authority set forth in the District of Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991, D.C. Law 8-242, D.C. Official Code, § 8-113.01 *et seq.* (2008 Repl.), as amended, and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of the adoption of the following rules. This final rulemaking is an amendment and restatement of selected provisions within Chapters 55 through 70 of Title 20 of the District of Columbia Municipal Regulations (DCMR) (Underground Storage Tank Regulations), published at 40 DCR 7835 (November 12, 1993), at 43 DCR 2799 (May 24, 1996) and at 46 DCR 40 (October 1, 1999).

The purpose of these amendments is to incorporate provisions of the federal Solid Waste Disposal Act (42 U.S.C. § 6991) ("SWDA"), enacted by the Underground Storage Tank Compliance Act, as part of the Energy Policy Act of 2005 (Public Law 109-58, Subtitle B, August 8, 2005) ("Energy Policy Act"). The Energy Policy Act requires that each state receiving funding under Subtitle I of the SWDA must comply with the underground storage tank requirements of the Energy Policy Act. The amendments incorporate Energy Policy Act provisions for Delivery Prohibition, Secondary Containment, Public Record and Operator Training. This rulemaking also incorporates changes to certain enforcement nomenclature in Chapter 66, and corrects a printing mistake in the October 1999 final rulemaking. The printing mistake was in Section 5705.2 and is specific to spill prevention equipment for new and upgraded underground storage tanks (USTs) that shall have a minimum capacity of five (5) gallons, instead of the ten (10) gallons incorrectly printed in the District Register. In addition, several minor modifications have been made to the UST regulations, as provided below.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on July 10, 2009 (56 DCR 5573). The 30-day comment period ended on August 10, 2009, and only one set of comments was received from Sunoco Inc. Although Sunoco's comments were considered, the Department has determined that no substantive changes to the rule were necessary, pursuant to such comments.

Sunoco's comments and the Department's responses to such comments were as follows:

- 1- **Comment:** Section 6502.9(a) requires that Class B Operators check spill prevention and overfill control equipment and corrosion protection equipment to ensure proper function and that any required systems tests are performed at appropriate intervals. Sunoco recommends changing the wording to "ensure the equipment inspections and maintenance are completed." This would allow some flexibility for sites with sacrificial anodes where the operator does not have the specialty training required to determine if that type of corrosion protection equipment is functioning properly.

- a. **Response:** The language in the new Section 6502.9(a) is consistent with already existing corrosion protection requirements for owners and operators in the Underground Storage Tank Regulations (20 DCMR § 5901). In addition, EPA's Grant Guidelines specify that operation and maintenance state requirements must include corrosion protection (U.S. Environmental Protection Agency, Office of Underground Storage Tanks, *Grant Guidelines to States for Implementing the Operator Training Provision of the Energy Policy Act of 2005*, August 2007, Page 6). Accordingly, because the language in Section 6502.9(a) is consistent with DDOE's existing regulatory provisions and with EPA's Grant Guidelines, no changes to Section 6502.9(a) will be made. The Department will address this matter in more detail in the Frequently Asked Questions, which will be posted on the Underground Storage Tank's page on DDOE's website.
- 2- **Comment:** Sections 6502.11, 6502.12 and 6503.1 allows training courses to be approved by the Director. Sunoco requests clarification that the training program could be an in-house training (i.e. one that Sunoco creates and administers), as long as the Director approves the program.
- a. **Response:** The Department will not make the changes suggested by Sunoco to Sections 6502.11, 6502.12 and 6503.1, because EPA's Grant Guidelines specify the training should be imparted by an "operator training conducted/developed by the state or by a third party that has received prior state approval" (emphasis added) (U.S. Environmental Protection Agency, Office of Underground Storage Tanks, *Grant Guidelines to States for Implementing the Operator Training Provision of the Energy Policy Act of 2005*, August 2007, Page 8).
- 3- **Comment:** The changes proposed in Section 5601.12 require the fuel delivery personnel to confirm that (a) the site has a current registration and (b) the site is not on a list of sites where delivery is prohibited. Sunoco is requesting clarification as to where the list of suspended sites will be located on DDOE's website. Sunoco would also like clarification that DDOE will be using "red tags" to indicate delivery prohibition tanks to drivers as proposed in Delivery Prohibition Guidance published on DDOE's website.
- a. **Response:** The Department has determined that no change to Section 5601.12 is required to address Sunoco's third and last comment. First, due to the changing nature of web addresses it is impractical to publish the web address for the delivery prohibition list in the Regulations. Accordingly, DDOE will provide the exact web address for the list in the Frequently Asked Questions section of the Underground Storage Tank's page on DDOE's website. DDOE will also include the web address for the list in its annual mailing of registration invoices to all underground storage tank owners in the District. Second, with regard to the color of the tags which will be used by DDOE as one of the mechanisms to implement the delivery prohibition provisions of this rule for, DDOE has decided to use a yellow tag, as opposed to a red tag, and the Delivery Prohibition Guidance will be updated to reflect this. Yellow

tags are also consistent with what other nearby states will be using. DDOE will not modify these rules to indicate the color of the tags to be used.

The Proposed Rulemaking has been revised by the Department to correct three minor grammatical mistakes in Sections 5601.9, 6501.2 and 6501.3.

The following rules will be effective upon publication of this Notice in the *D.C. Register*:

TITLE 20 DCMR (ENVIRONMENT) IS AMENDED AS FOLLOWS:

CHAPTER 55, GENERAL PROVISIONS, is amended as follows:

Sections 5501.1 and 5501.2 are amended to read:

- 5501.1 The requirements of this Subtitle shall apply to all underground storage tanks and UST systems located in the District of Columbia, except as otherwise provided in this chapter, and to each owner, operator, regulated substance delivery persons and/or companies, and other responsible or remediating party as set forth in this Subtitle.
- 5501.2 Except as provided in this Subtitle, all persons, parties, and entities listed in §5501.1, above, shall comply with the requirements of this Subtitle. Where neither an owner nor operator complies with the requirements of this Subtitle, both may be held jointly and individually liable for violations of these provisions and any penalties assessed for those violations. A responsible or remediating party may be held jointly and individually liable for violations of those provisions governing LUSTs and corrective actions and any penalties assessed for those violations.

The heading for section 5503 is amended to read:

- 5503 PARTIAL APPLICABILITY OF UST REGULATIONS TO HEATING OIL TANKS FOR CONSUMPTIVE USE ON THE PREMISES STORED

Section 5503.2 is amended to read:

- 5503.2 Owners or operators of heating oil tanks having a capacity of one-thousand-one-hundred (1,100) gallons or more shall comply only with the following:
- (a) The provisions of Chapter 56 except the requirement of §5600.7(d);
 - (b) Sections 5700.6 and 5703;
 - (c) For new heating oil tanks installed after November 12, 1993, §§ 5700.7, 5700.9 through 5700.10, 5704 through 5706;

- (d) Chapter 59; and
- (e) Tanks that are fifteen (15) years old or older, shall use one of the release detection methods set forth below, as applicable:
 - (1) Statistical Inventory Control (SIR) pursuant to §6005;
 - (2) Tank Tightness Testing, once every three (3) years, pursuant to §6007;
 - (3) Automatic Tank Gauging pursuant to §6008;
 - (4) Monthly Ground-water Monitoring pursuant to §6010;
 - (5) Continuous Interstitial Monitoring pursuant to §6011; or
 - (6) Section 6012 (Other Methods);
- (f) The provisions of Chapter 61 pertaining to closure of heating oil tanks; and
- (g) Chapter 62, except that the Director may waive or modify any requirements of Chapter 62 that are inappropriate or unduly burdensome upon consideration of the nature of the release and the degree of contamination.

Section 5505 is amended as follows:

Section 5505.2 is amended to read:

5505.2 Emergency power generator tanks, that are 15 years old or older, shall use one of the release detection methods set forth below:

- (a) Statistical Inventory Reconciliation (SIR) pursuant to §6005; or
- (b) Manual Tank Gauging pursuant to §6006; or
- (c) Automatic Tank Gauging pursuant to § 6008; or
- (d) Monthly Ground Water Monitoring pursuant to § 6010; or
- (e) Continuous Interstitial Monitoring pursuant to § 6011; or
- (f) §6012 (Other Methods).

Section 5505.3 is renumbered as section 5505.4 and a new section 5505.3 is added to read as follows:

5505.3 New or replaced emergency power generator tank systems, including systems replaced in accordance with the requirements of §§ 5902.5, 5902.6, 5902.7 and 5902.13, including all piping, shall be constructed to include secondary containment and interstitial monitoring as set forth in §§ 5701.4, 5701.5, and 5701.6.

CHAPTER 56, TANK NOTIFICATION AND REGISTRATION, RECORDKEEPING, REPORTS, AND NOTICES, is amended as follows:

Section 5600.7 is amended to read:

5600.7 The owner or operator of an UST system shall sign the notification form required under this section and shall certify compliance with the following requirements except as provided in § 5503.2:

- (a) Section 5700.1;
- (b) Sections 5706.2; 5706.4 through 5706.6;
- (c) Sections 5701.2, 5701.3, 5702.2, 5702.3, 5703.2, 5703.3, 5704.3 and 5704.4;
- (d) Chapter 60; and
- (e) Chapter 67.

Section 5601 is amended as follows:

Sections 5601.3, 5601.9, 5601.11 and 5601.12 are amended to read:

5601.3 An owner of a tank that is brought into use after November 12, 1993, shall register the tank and shall pay the prescribed registration fee before depositing a regulated substance into the tank, except as provided in §§ 5601.1 and 5601.7, and accept deposit of a regulated substance for the purposes of testing the tank or providing an initial “hold-down” load to ballast the tank.

5601.9 The annual registration fee shall be six hundred and fifty dollars (\$650) for each tank having a capacity of over ten thousand (10,000) gallons; three-hundred and ninety dollars (\$390) for each petroleum tank having a capacity of ten-thousand (10,000) gallons or less; and one hundred and thirty dollars (\$130) for each home heating oil tank having a capacity of ten-thousand (10,000) gallons or less.

5601.11 A copy of the current registration certificate shall be posted in a visible location at the facility at all times.

5601.12 No person shall deposit a regulated substance into an UST, without first confirming that the facility is a currently registered facility, and that the facility has not been found to be in violation of these regulations by:

- (a) Ensuring that a current certificate of registration is present at the facility; and

- (b) Ensuring that the facility is not on the list of facilities at which delivery of a regulated substance has been prohibited by the Director.

Section 5605.1 is amended to read:

5605.1 The Director shall charge fees for the following oversight activities as set forth herein:

- (a) Review of plans and specifications and performing site inspections for UST installations shall be two hundred dollars (\$200.00) per tank; and
- (b) Performing site inspections and review of reports related to UST abandonment shall be two hundred dollars (\$200.00) per tank;

A new section 5607 is added to read:

5607 PUBLIC RECORD INFORMATION

5607.1 The District will, no later than December 31 of each year, make information available to the public regarding:

- (a) Percent of overall regulatory compliance within the District, and numbers of underground storage tanks, facilities, and inspections; and
- (b) Confirmed releases from underground storage tanks within the District, and sources and causes of releases.

5607.2 The public record will be posted or downloadable from the District Department of the Environment's website. Provisions will be made available for those who request information, but do not have electronic access.

CHAPTER 57, NEW TANK PERFORMANCE STANDARDS, is amended as follows:

A new section 5701.7 is added to read:

5701.7 All new motor fuel dispenser systems shall contain under-dispenser containment.

- (a) Under-dispenser containment shall be designed, constructed and installed to prevent leaks from the dispenser from reaching soil or groundwater. Such containment must:
 - (1) Be liquid-tight on its sides, bottom, and at any penetrations;
 - (2) Be compatible with the substance conveyed by the piping; and

- (3) Allow for visual inspection and access to the components in the containment system and/or be monitored to detect a failure of the containment system.

Section 5703.4 is amended to read:

- 5703.4 Secondary containment systems shall be designed, constructed, and installed to do the following:
- (a) Contain regulated substances released from the tank system until they are detected and removed;
 - (b) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and
 - (c) In accordance with § 6003.5, check for evidence of a release at least every thirty (30) days.

Section 5704.5 is amended to read:

- 5704.5 Except as provided in § 5704.7, underground piping for hazardous substance USTs, and pressurized underground piping and non-safe suction piping for all petroleum USTs, shall be equipped with secondary containment features that are designed and constructed in compliance with the requirements of § 5701.4 of this chapter.
- (a) Suction piping that does not comply with the requirements of § 6004.8 (a) through (e), shall be considered non-safe suction piping.

Section 5705.2 is amended to read:

- 5705.2 The spill prevention equipment shall have a minimum capacity of five (5) gallons.

CHAPTER 59, OPERATION AND MAINTENANCE OF UNDERGROUND STORAGE TANKS, is amended as follows:

The heading for section 5902 is amended to read:

5902 REPAIR OR REPLACEMENT OF UST SYSTEMS

Section 5902 is amended as follows:

Section 5902.6 is amended to read:

- 5902.6 Fiberglass pipes and fittings that have released a regulated substance as a result of damage, or appear to have incurred sufficient damage to constitute a threat of a

release shall be replaced in accordance with §5704 and the manufacturer's specifications.

A new section 5902.13 is added to read:

5902.13 A repair that involves removing and putting back in 100 % of the piping, excluding connectors, connected to a single underground tank is considered to be a replacement.

CHAPTER 60, RELEASE DETECTION, is amended as follows:

Section 6000.14 is amended to read:

6000.14 When a release detection method operated in accordance with the performance standards of §§ 6004 through 6012 indicates that a release may have occurred, the owner or operator shall notify the Director, in accordance with the provisions of Chapter 62.

Section 6003 is amended as follows:

Section 6003.5 is renumbered as section 6003.6, and a new section 6003.5 is added to read:

6003.5 New or replaced underground storage tank systems, including systems replaced in accordance with the requirements of §§ 5902.5, 5902.6, 5902.7 and 5902.13, shall be constructed to include secondary containment and interstitial monitoring as set forth in §§5701.4, 5701.5, and 5701.6.

Section 6003.6 is amended to read:

6003.6 Secondary containment systems on underground tanks installed or replaced after February 8, 2007 shall be checked for evidence of a release at least once every thirty (30) days using interstitial monitoring.

Section 6004 is amended as follows:

Section 6004.5 is amended to read:

6004.5 Underground piping that conveys regulated substances under pressure shall have an annual line tightness test conducted in accordance with §6004.7 or have monthly monitoring conducted in accordance with §6004.9.

A new section 6004.10 is added to read:

6004.10 Secondary containment systems on underground piping installed or replaced after

February 8, 2007 shall be checked for evidence of a release at least once every thirty (30) days using interstitial monitoring.

Section 6011 is amended as follows:

Section 6011.1 is amended to read:

6011.1 Interstitial monitoring between an UST system and a secondary barrier immediately around or beneath the UST system may be used, but only if the system is designed, constructed, and installed to detect a leak from any portion of the tank or piping that routinely contains product and also meets the requirements of this section which are applicable to the particular UST system.

A new section 6011.9 is added to read:

6011.9 Interstitial monitoring shall be used to check for evidence of a release at least once every thirty (30) days on secondary containment systems on underground tanks and piping installed or replaced after February 8, 2007.

CHAPTER 63, RIGHT OF ENTRY FOR INSPECTIONS MONITORING, TESTING AND CORRECTIVE ACTION, is amended as follows:

Section 6301.4 is amended to read:

6301.4 When requiring the owner, operator or a responsible party to take action pursuant to the Act or this Subtitle, the Director may issue a Directive, which shall advise the owner, operator or a responsible party of the action he or she is required to take and shall state the time period within which the action must be performed, or may take other enforcement actions pursuant to Chapter 66.

Section 6302.5 is amended to read:

6302.5 Except as provided in §6302.4, the written notice of intention to begin corrective action shall contain the following information:

- (a) The name and address of the owner of the property;
- (b) The name and address of the owner or operator or other responsible party to whom the notice is directed;
- (c) A statement of the authority pursuant to which the director is taking the corrective action;
- (d) A brief summary of the corrective actions to be taken and the conditions in need of correction;

- (e) A description of the location where work will take place, including both street address, and lot and square numbers or, where there are no lot and square numbers, the parcel number;
- (f) Notice of any applicable hearing rights to which the owner or operator is entitled under the Act or under Chapter 66, if such a notice has not already been served;
- (g) A statement that the Director will pursue cost recovery against the responsible party for all corrective action costs and related expenses;
- (h) The name, position, office address, and phone number of the employee issuing the notice and the name and phone number of the appropriate contact person within the Department; and
- (i) The signature of the Program Manager of the Toxic Substances Division, Environmental Protection Administration, or other designated representative of the Director.

CHAPTER 65, LICENSING AND CERTIFICATION OF TANK INSTALLERS, REMOVERS, TESTERS, AND OPERATORS, is amended as follows:

The heading of Chapter 65 is amended to read:

**CHAPTER 65 LICENSING AND CERTIFICATION OF TANK INSTALLERS,
REMOVERS, TESTERS, AND OPERATOR TRAINING
REQUIREMENTS**

Section 6500 is amended as follows:

Section 6500.5 is amended to read:

6500.5 Each UST System Technician, UST Closure Specialist and UST System Tester who provides his or her services for UST system installation, upgrade, retrofit, repair, or permanent closure in the District of Columbia shall be certified to perform UST system activities by the Director in accordance with the provisions of this chapter and licensed to do business in the District of Columbia.

A new section 6500.10 is added to read:

6500.10 An owner of any active regulated UST system in the District shall designate at least one Class A, one Class B, and one Class C operator for each active UST facility, and all designated classes shall comply with the requirements of § 6502.

Section 6501 is amended as follows:

Sections 6501.1, 6501.2, 6501.3, 6501.4, and 6501.6, are amended to read:

- 6501.1 The Director shall certify to perform UST System activities as set forth in §6500 in the District of Columbia, any individuals who satisfy the following requirements:
- (a) Show evidence of having satisfactory completion of a recognized training program in the UST System activity(ies) for which the applicant seeks certification;
 - (b) Submission of a completed application and payment of the initial application fee of \$200.00 in the form of a check made payable to the D.C. Treasurer;
 - (c) Possess a current OSHA certification; and
 - (d) Satisfactory completion of a test upon their knowledge in the technical area in which they seek certification as well as the District's statutes and regulations pertaining to USTs.
- 6501.2 The Director shall certify businesses that wish to perform UST System activities in the District of Columbia, as set forth in §6500, provided they satisfy the following requirements:
- (a) Submission of a completed application and payment of the initial application fee of \$350.00 in the form of a check made payable to the D.C. Treasurer;
 - (b) Demonstrate, to the satisfaction of the Director, that the business is qualified to perform the UST System activities for which it seeks certification;
 - (c) Demonstrate, to the satisfaction of the Director, that the business employs at least one individual who has expertise and is certified in the District in each of the UST System activities the business will offer;
 - (d) Possess a current OSHA certification; and
 - (e) Possess a valid, current District of Columbia business license for the business in which certification is sought.
- 6501.3 The Director may recognize individuals or businesses that are certified by neighboring states and so certify, to perform UST System activities as set forth in § 6500, individuals or businesses that satisfy the requirements of this section:
- (a) Possess a current valid certification as a UST System Technician, Closer

Specialist or Tester, or an equivalent certification category as determined by the Director, issued by either of the states of Virginia, West Virginia, Maryland, Delaware, or Pennsylvania;

- (b) Are currently in good standing in each of the states, named in §6501.3(a), for which it holds a certification;
- (c) Possess a current OSHA certification;
- (d) Possess a valid, current District of Columbia business license for the business in which certification is sought;
- (e) Demonstrate, to the satisfaction of the Director, a knowledge of the provisions of this Subtitle; and
- (f) Submit a completed application form and pay an initial application fee of \$150.00 for individuals or \$250 for businesses.

6501.4 An applicant certified in one of the states in §6501.3(a) may be tested by the Director to verify the knowledge of the provisions of this subtitle or shall submit the following documents or information with the application for certification:

- (a) A letter or statement from the state official or office in which the individual or business is currently certified stating that the individual or business is currently in good standing in that state;
- (b) A list of additional states in which the individual or business is certified and/or licensed as a UST System Technician, Closer Specialist or Tester, or an equivalent certification category;
- (c) A copy of the current OSHA certification;
- (d) A copy of a valid, current District of Columbia business license for the business in which certification is sought;
- (e) Submission of an initial application fee of \$100 for individual or \$250 for business by check or money order made payable to the D.C. Treasurer; and
- (f) Evidence of possession of the District of Columbia UST regulation and its amendments.

6501.6 The initial certification issued by the Director shall be valid for no more than one (1) year from date of issue. The Certification may be renewed annually for a fee of \$100 for individuals or \$150 for businesses upon presentation of the expiring certification or renewed bi-annually for a fee of \$200 for individuals, or \$300 for

businesses, upon presentation of the expiring certification.

A new section 6502 is added to read:

6502 OPERATOR TRAINING

- 6502.1 An owner of any active regulated UST system in the District shall designate at least one Class A, one Class B, and one Class C operator for each active UST facility.
- 6502.2 A facility may not dispense or store a regulated substance after August 8, 2012, unless operators have been designated and trained as required in this Section.
- 6502.3 Trained operators shall be readily available to respond to suspected or confirmed releases, other unusual operating conditions, emergencies and equipment failures as follows:
- (a) Either the Class A or the Class B operator shall be available for immediate telephone consultation at all times when a facility is in operation;
 - (b) A Class A or B operator shall be on-site at the UST facility within 24 hours of being contacted;
 - (c) For manned facilities, a Class C operator shall be on-site whenever the facility is in operation; and
 - (d) For unmanned facilities, a Class C operator shall be available for immediate telephone consultation and shall be able to be on-site within 2 hours of being contacted.
- 6502.4 Emergency contact information shall be prominently displayed at the facility. Emergency procedures for users of unmanned facilities shall also be prominently posted at the facility.
- 6502.5 Designated operators shall successfully complete required initial training under this Section by August 8, 2012.
- 6502.6 An operator may be designated as more than one class of operator.
- 6502.7 All operators designated as Class A and/or Class B for a petroleum UST system that has been determined to be out of compliance with a requirement or standard in this Subtitle shall, at a minimum, be required to repeat the training applicable to the area(s) with which the UST system has not complied. Operators shall complete the required retraining within a reasonable time, not to exceed sixty (60) days of being notified that the UST system is out of compliance.

- 6502.8 A Class A operator has primary responsibility to operate and maintain the UST system and facility. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements. In general, a Class A operator focuses on the broader aspects of the statutory and regulatory requirements and standards necessary to properly operate and maintain the UST system and facility. Class A operators shall:
- (a) Ensure that UST systems are properly installed and expeditiously repaired and that records of UST financial responsibility, system installation, modification and repair are retained and made available to the Director;
 - (b) Be familiar with training requirements for each class of operator and may provide required training for Class C operators; and
 - (c) Prepare facility procedures for Class B and C operators.
- 6502.9 A Class B operator implements applicable UST system regulatory requirements and standards in the field or at the UST facility. A Class B operator oversees and implements the day-to-day aspects of operations, maintenance, and recordkeeping for the UST(s) at one or more facilities as stated in this regulation. Class B operators shall:
- (a) Check spill prevention and overfill control equipment and corrosion protection equipment to ensure proper function and that any required system tests are performed at appropriate intervals;
 - (b) Ensure release detection equipment is operational, release detection is performed at proper intervals and release detection records are retained and made available to the Director; and
 - (c) Shall be familiar with all aspects of Class B and Class C operator responsibilities and may provide required training for Class C operators.
- 6502.10 A Class C operator is the first line of response to events indicating an emergency condition. A Class C operator is responsible for responding to alarms or other indications of emergencies caused by a spill or release from a UST system and equipment failures. The Class C operator notifies the Class A or B operator and appropriate emergency responders when necessary. There may be more than one Class C operator at a UST facility. Class C operators shall:
- (a) Control or monitor the dispensing and sale of regulated substances; and
 - (b) After August 8, 2012, follow written instructions or procedures on how to respond to alarms or releases provided by the Class A or Class B operators and made visible at manned UST facilities, and shall be readily available

for unmanned facilities for persons performing the duties of the Class C operator.

6502.11 Class A operators shall successfully complete a training course approved by the Director that includes a general knowledge of UST system requirements. At the completion of the training course, the operator shall be able to demonstrate knowledge and be able to make informed decisions regarding compliance and ensuring that appropriate persons are fulfilling operation, maintenance and recordkeeping requirements and standards, including the following:

- (a) Spill and overfill prevention;
- (b) Release detection and related reporting requirements;
- (c) Corrosion protection;
- (d) Emergency response;
- (e) Product and equipment compatibility;
- (f) Financial responsibility;
- (g) Notification and UST registration requirements;
- (h) Temporary and permanent UST closure requirements; and
- (i) Class B, and C operator training requirements.

6502.12 Class B operators shall successfully complete a training course approved by the Director that includes in-depth understanding of operation and maintenance aspects of UST systems and related regulatory requirements. Training shall provide specific information pertaining to the components of UST systems, materials of construction, methods of release detection, and release prevention applied to UST systems and components. Training and knowledge shall address the operation and maintenance requirements of this regulation including the following:

- (a) Spill and overfill prevention;
- (b) Release detection and related reporting requirements;
- (c) Corrosion protection;
- (d) Emergency response;
- (e) Product and equipment compatibility;

(f) Report and recordkeeping requirements; and

(g) Class C operator training requirements.

- 6502.13 At a minimum, training provided by the Class A or B operator shall enable the Class C operator to take action in response to emergencies or alarms caused by spills or releases from a UST system. Training shall include written instructions or procedures for the Class C operator to follow and to provide notification necessary in the event of emergency conditions. After the initial training, Class C operators shall be briefed by the Class A or B operator on these instructions or procedures at least annually (every 12 months).
- 6502.14 Successful completion of training for Class A and B operators means attendance for the entire training course and demonstration of knowledge of the course material as follows:
- (a) Receipt of a passing grade (80% or higher) on an examination containing material presented in the training course; or demonstration to the trainer at the conclusion of on-site training, through practical (hands-on) application, of operation and maintenance checks of UST equipment, including performance of release detection at the UST facility; and
- (b) Receipt of a training certificate by an approved trainer upon verification of successful completion of training course.
- 6502.15 Class A or Class B operators may meet the operator training requirements of this Section by presenting proof of successful completion of Class A and Class B operator training from another State, in accordance with regulatory standards consistent with 40 CFR Part 280 and with Title 20 Chapter 65 of the District of Columbia Municipal Regulations (20 DCMR Chapter 65).
- 6502.16 An owner shall ensure that all Class A, B, and C operators are trained no later than August 8, 2012.
- 6502.17 When a Class A or B operator is replaced, a new operator shall be trained within 30 days of assuming duties for that class of operator.
- 6502.18 Class C operators shall be trained before assuming duties of a Class C operator.
- 6502.19 The owner of an underground storage tank shall maintain a list of designated operators. The list shall represent the current Class A, B, and C operators for the petroleum storage facilities and shall include:
- (a) The name of each operator, class of operation designated and the date each operator successfully completed training; and

- (b) For Class A and B operators that are not permanently on-site or who are assigned to more than one facility, emergency telephone numbers to contact the operators.

6502.20 A copy of the following documentation shall be on-site, and readily available for inspection at the facility:

- (a) Certificates of training for Class A and B operators;
- (b) A copy of the facility list of Class A, B, and C operators; and
- (c) Class C operator instructions or procedures.

6502.21 Class C operator and owner contact information, including names and telephone numbers and any emergency information, shall be conspicuously posted at unmanned facilities.

A new section 6503 is added to read:

6503 APPROVAL OF TRAINING PROGRAMS FOR OPERATOR TRAINING

6503.1 All training providers shall have obtained written approval from the Director prior to delivering the training course in the District of Columbia for Class A and B Operators, pursuant to Section 6502. Approval of the training course shall be at the discretion of the Director. Delivery of operator training prior to obtaining the Director's approval shall be subject to enforcement action in accordance with these regulations.

CHAPTER 66, ENFORCEMENT PROCEDURES, is amended as follows:

Section 6601.3 is renumbered as Section 6601.4, and a new Section 6601.3 is added to read:

6601.3 A Directive issued pursuant to § 6301.4 may serve as a notice of violation or threatened violation, provided it meets the requirements of this section.

Section 6606.7 is amended to read:

6606.7 Any situation or activity, related to underground storage tanks regulated by this Subtitle, that is conducted in violation of these regulations or that endangers or causes damage to public health or the environment shall warrant a prohibition on delivery of product through issuance of an immediate cease and desist order, including but not limited to:

- (a) An accumulation of toxic, flammable or explosive vapors in a structure, sewer or excavation;

- (b) Floating free product on surface or ground water;
- (c) Potential for migration of release to surface waters or other sensitive environmental receptors;
- (d) An open pit or excavation that is not secured properly during or left in place after corrective action;
- (e) Anything which may cause potential exposure of humans, plants or animals to hazardous substances; or
- (f) Missing or inoperable spill prevention, overfill protection, release detection, or corrosion protection required equipment or material.

Section 6608.1 is amended to read:

6608.1 Penalties for failure to comply with a final compliance order, a final cease and desist order, or a final suspension, revocation or denial order shall be in accordance with D.C. Code §§ 8-113.09(d) through (g).

Section 6610.1 is amended to read:

6610.1 In any instance where a civil fine, penalty or fee has been established pursuant to the "Civil Infractions Act" (D.C. Law 6-42, D.C. Code § 2-1801.01 *et seq.*) and the "Civil Infractions Regulations" (16 DCMR § 3651) promulgated pursuant thereto, the civil fine, penalty or fee may be imposed as an alternative sanction to the penalties set forth in D.C. Code §§ 8-113.09(d) through (g).

CHAPTER 70, DEFINITIONS, IS AMENDED AS FOLLOWS:

The following definitions are added to read:

Class A operator - This operator has primary responsibility to operate and maintain the UST system and facility. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements. In general, this person focuses on the broader aspects of the statutory and regulatory requirements and standards necessary to properly operate and maintain the UST system and facility.

Class B operator - This operator implements applicable UST system regulatory requirements and standards in the field or at the UST facility. This operator oversees and implements the day-to-day aspects of operations, maintenance, and recordkeeping for the USTs at one or more facilities.

Class C operator - This operator is the first line of response to events indicating an emergency condition. This person is responsible for responding to alarms or other indications of emergencies caused by a spill or release from a UST system and equipment failures. The Class C operator notifies the Class A or B operator and appropriate emergency responders when necessary.

Secondary Containment – A release prevention and release detection system for an underground tank and/or piping. The release prevention part of secondary containment is an underground tank and/or piping having an inner and outer barrier. Between these two barriers is a space for monitoring. The release detection part of secondary containment is a method of monitoring the space between the inner and outer barriers for a leak or release of regulated substances from the underground tank and/or piping (called interstitial monitoring). Interstitial monitoring must meet the release detection requirements in 20 DCMR §6011.

Suction Piping - Underground piping that conveys regulated substances under suction. Release detection is required and must be conducted in accordance with 20 DCMR §6004.6 except for suction piping that is designed and constructed to meet the following standards:

- (a) The below-grade piping operates at less than atmospheric pressure;
- (b) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;
- (c) Only one check valve is included in each suction line;
- (d) The check valve is located directly below and as close as practical to the suction pump; and
- (e) A method is provided that allows compliance with paragraphs (b)(2) (ii)–(iv) of this section to be readily determined.

All suction piping not meeting the definitions of (a) through (e) would be considered “nonsafe suction piping”.

Under-Dispenser Containment (UDC) – Containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater. Such containment must:

- (a) Be liquid-tight on its sides, bottom, and at any penetrations;
- (b) Be compatible with the substance conveyed by the piping; and
- (c) Allow for visual inspection and access to the components in the containment system and/or be monitored.

UST Closure Specialist – Person performing the oversight of UST System closures including but not limited to tank removal, abandonment, inspection, review and submittal of closure

report. Person shall also possess a current UST System Technician certification with the District's UST Program.

UST System Technician – Person responsible for conducting or providing continuous on-site supervision of the installation, upgrade, repair, retrofit, abandonment or removal of UST tanks.

UST System Tester – Person conducting or providing continuous on-site supervision of UST tank tightness testing.

The following definitions are amended to read:

Department - the District Department of the Environment.

Director - the Director of the District Department of the Environment or the Director's designee.

Environmentally sensitive receptors — wetlands, wildlife breeding and wintering areas for species of concern, habitats for endangered plant and animal species, and Federal and local parks. For purposes of the District of Columbia UST risk-based corrective action program, groundwater and surface waters shall be treated as receptors when preparing exposure or risk assessments.

Program Manager - Program Manager of the Underground Storage Tank Branch of the Department of the Environment or the Program Manager's designee.

UST Branch – the District Department of the Environment, Toxic Substances Division, Underground Storage Tank Branch.

UST system or tank system – Either an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, or any combination thereof.