



MURIEL BOWSER

MAYOR

March 20, 2023

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is the proposed resolution entitled the "Underground Storage Tanks Infractions Schedule of Fines Emergency Approval Resolution of 2023" and an accompanying emergency declaration resolution.


The proposed resolutions would approve a proposed final rulemaking that would establish a schedule of fines for violations of rules related to underground storage tanks in Title 16 (Consumers, Commercial Practices, and Infractions), Chapter 40 (DDOE Infractions) of the District of Columbia Municipal Regulations to ensure that the maintenance of underground storage tanks is undertaken in a manner that protects public health and safety and the environment.

I urge the Council to take prompt and favorable action on the enclosed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser", written over the word "Sincerely,".

Muriel Bowser


Chairman Phil Mendelson
at the request of the Mayor

1
2
3
4
5
6 A PROPOSED RESOLUTION
7
8
9

10
11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
12
13
14
15

16 To approve, on an emergency basis, the proposed final rules to establish a schedule of civil
17 infractions for violations of the Underground Storage Tank Management Act of 1990.

18
19 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
20 resolution may be cited as the “Underground Storage Tanks Infractions Schedule of Fines
21 Emergency Approval Resolution of 2023”.

22 Sec. 2. Pursuant to section 104(a)(1) of the Department of Consumer and Regulatory
23 Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official
24 Code § 2-1801.04(a)(1)), the Council approves the proposed rulemaking adopted by the
25 Department of Energy and the Environment, which was published in the *D.C. Register* on
26 December 4, 2020, at 67 DCR 14224, and the final rulemaking adopted by the Department of
27 Energy and the Environment, which was published in the D.C. Register on October 29, 2021 at
28 68 DCR 11423, to establish a schedule of civil infractions for violations of the District of
29 Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991
30 (D.C. Law 8-242; D.C. Official Code § 8-113.01 *et seq.*).

31 Sec. 3. Transmittal.

32 The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to
33 the Mayor, the Director of the Department of Energy and Environment, and the Administrator of
34 the Office of Documents and Administrative Issuances.

35 Sec. 4. Fiscal impact statement.

36 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal
37 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
38 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

39 Sec. 5. Effective date.

40 This resolution shall take effect immediately.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



BRIAN L. SCHWALB
ATTORNEY GENERAL

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

LEGAL COUNSEL DIVISION

MEMORANDUM

TO: Tommy Wells
Director
Office of Policy and Legislative Affairs

FROM: Megan D. Browder
Deputy Attorney General
Legal Counsel Division

DATE: March 13, 2023

SUBJECT: Legal Sufficiency Review – Draft “Underground Storage Tanks Infractions Schedule of Fines Approval Emergency Resolution of 2023” and Accompanying Emergency Declaration Resolution
(AE-19-754 C)

This is to Certify that this Office has reviewed the above-referenced draft legislation and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at (202) 724-5524.

A handwritten signature in black ink that reads "Megan D. Browder". The signature is written in a cursive, flowing style.

Megan D. Browder

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Underground Storage Tank Infractions

The Director of the Department of Energy and Environment (“DOEE”), pursuant to the authority set forth in Section 107 of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07); 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.*) (“UST Act”); Sections 11 and 21 of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.10 & 8-103.20); the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 *et seq.*); and Mayor’s Order 2006-61, dated June 14, 2006, hereby gives notice of the adoption of the following amendments to Section 4008 of Chapter 40 (Department of the Environment (DDOE) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infraction) of the District of Columbia Municipal Regulations (“DCMR”).

Section 10(g) of the UST Act (D.C. Official Code § 8-113.09(g)) authorizes DOEE to impose a civil fine as an alternative sanction for any violation of the UST Act or the underground storage tank regulations published at 20 DCMR Chapters 55-67 and 70 (“UST regulations”). Civil fine amounts are determined in accordance with the schedule of fines in 16 DCMR Chapter 32, which establishes classes of infractions and associated fine amounts. The class of infraction for each violation of a DOEE regulation is established in 16 DCMR Chapter 40. 16 DCMR § 4008 establishes the class of infraction for each violation of the UST Act and UST regulations.

On February 21, 2020, DOEE published a Notice of Final Rulemaking in the *D.C. Register*, at 67 DCR 1778, amending the UST regulations. The amendments incorporated new requirements of the 2015 amendments to the federal underground storage tank regulations at 40 CFR Part 280, as well as updates to other District requirements. This rulemaking amends 16 DCMR § 4008 to make the underground storage tank infractions consistent with the amendments to the UST regulations.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on December 4, 2020, at 67 DCR 14224 to update the schedule of fines in light of the amendment to the UST regulations. DOEE received no comments on the proposed rule during the thirty (30) day comment period. DOEE is now finalizing the rules with the following technical corrections:

- Typographical and grammatical errors were corrected in subsections:
 - 4008.3(c) (clarified that the responsible party must investigate a suspected release and confirm whether a release has occurred within seven days);
 - 4008.3(w) (replaced “QA/QZ Plan” with “quality assurance and quality control plan”);

- 4008.3(z) (added “and” to “beginning implementation of Corrective Action Plan prior to approval ‘and’ without meeting specified requirements for doing so”);
 - 4008.4(a) (deleted “30” and replaced with “60”);
 - 4008.6(a) (deleted “BOCA National” and replaced with “District of Columbia” and added “The District of Columbia Municipal Regulations”)
 - 4008.7(f) (revised “or” to “and” in “failure to replace metal piping that is in contact with earthen materials that does not meet the requirements of 20 DCMR §§ 5802.1 ‘and’ 5802.2, with new piping that satisfies the requirements of 20 DCMR § 5704”);
 - 4008.8(v), (x), 4008.9(f), 4008.9(y), 4008.10(t), (x), 4008.11(c), (i), (k), (l) (replaced “30 days” with “thirty (30) days”);
 - 4008.9(b) (revised sentence structure for consistency with other provisions (added “failure to”));
 - 4008.9(c) (replaced “failure to conduct an annual test” with “failure to annually test,” added “automatic line” detector, and replaced “requirements” with “instructions”);
 - 4008.9(i) (clarified that this provision applies when there is a suspected release);
 - 4008.9(n) (replaced “90 days” with “ninety (90) days”);
 - 4008.9(o) (replaced “7 days” with “within seven (7) days”);
 - 4008.9(z) (deleted “abandoned” and added “closed-in-place,” replaced “permanently” closed with “temporarily” closed);
 - 4008.10(g) (replaced “20 days” with “twenty (20) days” and replaced “Director” with “Department”);
 - 4008.10(s) (replaced “of designated” with “to ensure that all” and added “receive required training and retraining”);
 - 4008.13(u) (replaced “reduced in effectiveness” with “less effective”);
 - 4008.14(z) (deleted “begin procedures to,” deleted “at the end of 12 months,” replaced “is” with “has been,” and added “for twelve (12) months”);
 - 4008.15(h) (replaced “at end of one year of implementation” with “at the end of each year of implementation”); and
 - 4008.16(b) (revised “and” to “or” in “failure to timely notify owner by certified mail if guarantor no longer meets the requirements of the financial test of §§ 6704 or 6705 ‘or’ 6703.3”).
- Citations were added or corrected in subsections 4008.3(d) (added references to 20 DCMR §§ 5902.7 and 6004.8), 4008.3(e) (replaced reference to 20 DCMR §§ 6203.9 through 6212 with “Chapter 62”), and 4008.3(x) (added reference to 29 CFR § 1910.120).

In updating the schedule of fines, the classes of infraction for requirements in regulations that were not amended by the February 2020 final rulemaking on the UST regulations have not been altered, except that a violation of 20 DCMR § 6101.9 for failure to properly empty, clean, and fill a tank with inert material for closure-in-place has been reclassified as a Class 2 infraction to

be consistent with other similar requirements to properly empty and clean a tank prior to a change-in-service or closure.¹

In accordance with section 104(a)(1) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1)), the Mayor transmitted the proposed final rules to the Council for its review and approval on December --, 2022, pursuant to the Underground Storage Tanks Infractions Schedule of Fines Emergency Approval Resolution of 2022 (Prop. Res. 24-XXX).² The proposed final rules were approved by the Council on December --, 2022.

The Director of DOEE took final action to adopt this rulemaking on December --, 2022, and the rules shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 40, DEPARTMENT OF THE ENVIRONMENT (DDOE) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

Section 4008, UNDERGROUND STORAGE TANK INFRACTIONS, is amended to read as follows:

4008 UNDERGROUND STORAGE TANK INFRACTIONS

4008.1 In addition to §§ 4008.2, 4008.3, and 4008.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) D.C. Official Code § 8-113.09(c) (continuing work stopped by a Department order);
- (b) 20 DCMR § 5502.2 (installing an underground storage tank (UST) system listed in 20 DCMR § 5502.1(a), (b), or (c) that fails to meet specified requirements);
- (c) 20 DCMR § 5507.3 (installing an UST system with field-constructed tanks or airport hydrant system that fails to comply with the regulations);
- (d) 20 DCMR § 5507.7 (failure to upgrade an UST system with field-constructed tanks or airport hydrant system in accordance with specified requirements);

¹ 16 DCMR § 4008.13 provides that a violation of 20 DCMR § 6101.8 (failure to empty, clean, and fill tank with an inert solid material and comply with 20 DCMR §§ 5600.14 and 6101 when a tank removal variance is granted) shall be a Class 3 violation. The proposed amendments to the UST regulations would move this requirement to 20 DCMR § 6101.9.

² On October 29, 2021, a Notice of Final Rulemaking was inadvertently published in the *D.C. Register*, at 68 DCR 11423, prior to D.C. Council approval. That Notice of Final Rulemaking was rescinded by a Notice of Rescission of Final Rulemaking published in the *D.C. Register* on September 16, 2022, at 69 DCR 11279.

- (e) 20 DCMR § 5601.9 (depositing or dispensing regulated substance into a UST for which registration has been denied);
- (f) 20 DCMR § 5602.1 (failure to submit specified information and documentation as required);
- (g) 20 DCMR § 5700.1 (failure of petroleum UST system to meet specified performance standards or requirements for upgrade);
- (h) 20 DCMR § 5700.2 (failure of hazardous substance UST system installed after November 12, 1993 to meet performance standards set forth in 20 DCMR § 5702);
- (i) 20 DCMR § 5700.8 (failure of metal tanks and attached metal piping conveying regulated substances to be designed, constructed, and installed in a manner that will prevent corrosion);
- (j) 20 DCMR § 5701.1 (failure of petroleum UST to meet specified construction and material requirements);
- (k) 20 DCMR § 5701.2 (failure of petroleum steel tank to be cathodically protected as specified);
- (l) 20 DCMR § 5701.8 (failure of motor fuel dispenser system to contain under-dispenser containment as specified);
- (m) 20 DCMR § 5702.1 (failure of hazardous substance UST to meet specified construction and material requirements);
- (n) 20 DCMR § 5702.2 (failure of hazardous substance steel tank to be cathodically protected as specified);
- (o) 20 DCMR § 5703.1 (failure of heating oil UST to meet specified construction and material requirements);
- (p) 20 DCMR § 5703.2 (failure of heating oil steel tank to be cathodically protected as specified);
- (q) 20 DCMR § 5704.2 (failure of UST system piping to meet specified construction and material requirements);
- (r) 20 DCMR § 5704.3 (failure of steel UST piping to be cathodically protected as specified);
- (s) 20 DCMR § 5705.1 (failure to use spill prevention equipment);

- (t) 20 DCMR § 5705.2 (failure to ensure that a new or upgraded UST system has sufficient volume to contain all regulated substances and that transfer is continuously monitored in accordance with 20 DCMR § 5900.3);
- (u) 20 DCMR § 5800.1 (failure of petroleum UST system to comply with specified upgrade requirements, performance standards, permanent closure requirements, or corrective action requirements);
- (v) 20 DCMR § 5800.2 (failure to ensure that all components connected to an existing petroleum UST system are operating and that all inoperative components are removed);
- (w) 20 DCMR § 5800.3 (depositing a regulated substance into a petroleum UST that has not met upgrade requirements in 20 DCMR § 5800.1);
- (x) 20 DCMR § 5800.4 (failure of hazardous substance UST system to comply with specified performance standards, permanent closure requirements, or corrective action requirements);
- (y) 20 DCMR § 5803.1 (failure to comply with UST system spill and overflow prevention equipment requirements, in accordance with 20 DCMR § 5705); or
- (z) 20 DCMR § 5900.10 (failure to report, investigate, or clean up spills or overfills, in accordance with 20 DCMR Chapter 62).

4008.2

In addition to §§ 4008.1, 4008.3, and 4008.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 6000.1 (failure to provide release detection method(s) that meet the requirements of 20 DCMR § 6000);
- (b) 20 DCMR § 6000.3 (failure to comply with release detection requirements for all pressurized piping, in accordance with 20 DCMR § 6004);
- (c) 20 DCMR § 6000.5 (release detection system incapable of detecting a release from all portions of the tank and connected underground piping);
- (d) 20 DCMR § 6000.7 (failure of release detection method to meet applicable performance requirements of 20 DCMR §§ 6004 through 6013);
- (e) 20 DCMR § 6000.9 (failure of release detection method to be capable of detecting leak rate or quantity with specified probability of detection);
- (f) 20 DCMR § 6000.11 (failure to repair or replace leak detection system within 45 days in accordance with 20 DCMR Chapter 60);

- (g) 20 DCMR § 6000.13 (failure to notify Department of suspected release, in accordance with 20 DCMR Chapter 62);
- (h) 20 DCMR § 6002.1 (failure to provide release detection for a hazardous substance UST system that meets the requirements of 20 DCMR § 6002);
- (i) 20 DCMR § 6002.2 (failure of hazardous substance UST system to use secondary containment with interstitial monitoring in accord with 20 DCMR § 6011);
- (j) 20 DCMR § 6003.1 (failure to provide release detection for a petroleum UST system, in accordance with 20 DCMR § 6003);
- (k) 20 DCMR § 6003.2 (failure of release detection methods to meet requirements of 20 DCMR §§ 6005 through 6012);
- (l) 20 DCMR § 6004.2 (failure of release detection method for petroleum UST system piping to meet the requirements of 20 DCMR § 6004);
- (m) 20 DCMR § 6004.3 (failure of petroleum UST piping that conveys regulated substances under pressure to be equipped with an automatic line leak detector);
- (n) 20 DCMR § 6100.7 (failure to comply with the release detection requirements in 20 DCMR Chapter 62 when UST system is temporarily closed);
- (o) 20 DCMR § 6100.8 (failure to immediately comply with the requirements of 20 DCMR § 6100.9 and the applicable requirements of 20 DCMR Chapter 62 if a release is suspected or confirmed during the period when UST is temporarily closed);
- (p) 20 DCMR § 6101.12 (failure to begin corrective action in accordance with 20 DCMR Chapter 62 if contamination is discovered during closure assessment or by any other manner);
- (q) 20 DCMR § 6101.13 (stockpiling of contaminated soils on site or failure to properly store, treat, or dispose of soil);
- (r) 20 DCMR § 6101.14 (returning untreated contaminated soils to the excavation pit or using the soils on-site);
- (s) 20 DCMR § 6201.1 (failure to take immediate action to contain and clean up any spill or overflow of a regulated substance from an UST system);

- (t) 20 DCMR § 6201.2 (failure to immediately report to the Department and to the Fire Chief any spill or overfill where there is danger of fire or explosion);
- (u) 20 DCMR § 6201.3 (failure to immediately contain and clean up a spill or overfill of petroleum that is less than 25 gallons and to immediately notify the Department if the cleanup cannot be completed within 24 hours);
- (v) 20 DCMR § 6201.4 (failure to report to the Department within 24 hours a petroleum release that is more than 25 gallons and to begin corrective action, in accordance with the applicable provisions of 20 DCMR Chapter 62);
- (w) 20 DCMR § 6201.5 (failure to immediately report any spill or overfill of a hazardous substance to the Department, the Fire Chief, and the D.C. Homeland Security and Emergency Management Agency, immediately contain and clean up the spill or overfill, and begin corrective action in accordance with the applicable provisions of 20 DCMR Chapter 62 if the cleanup cannot be completed within 24 hours);
- (x) 20 DCMR § 6201.6 (failure to report to the National Response Center where a spill or overfill of a hazardous substance results in release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR Part 302));
- (y) 20 DCMR § 6202.1 (failure to notify the Department within 24 hours of a suspected release from an UST); or
- (z) 20 DCMR § 6202.2 (failure to notify UST owner or operator immediately and the Department within 24 hours if a release is known or if reason exists to know of or suspect a release from an UST).

4008.3

In addition to §§ 4008.1, 4008.2, and 4008.4, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 6202.4 (knowingly allowing a release from an UST system to continue without undertaking repair as soon as possible);
- (b) 20 DCMR § 6202.5 (failure to timely report to the Department and to follow procedures in 20 DCMR § 6203 for any of the conditions specified);
- (c) 20 DCMR § 6202.6 (failure of a responsible party to immediately investigate a suspected release and confirm whether a release has occurred within seven days);

- (d) 20 DCMR § 6203.1 (failure to conduct systems tests in accordance with tightness testing requirements of 20 DCMR §§ 5902.7, 6004.8, and 6007 when a release is suspected);
- (e) 20 DCMR § 6203.2 (failure to repair, replace, or upgrade an UST system and begin corrective action in accordance with 20 DCMR Chapter 62 if test results indicate a release has occurred);
- (f) 20 DCMR § 6203.4 (failure to conduct a site investigation as set forth in 20 DCMR §§ 6203.5 through 6203.7 if a release exists or is suspected based on test results or on visual or analytical data of environmental contamination);
- (g) 20 DCMR § 6203.5 (failure to test for a release where contamination is most likely to be present at an UST site);
- (h) 20 DCMR § 6203.8 (failure to perform specified initial response actions upon confirmation of a release);
- (i) 20 DCMR § 6203.10 (failure to take specified initial abatement actions);
- (j) 20 DCMR § 6203.11 (failure to remedy hazards posed by excavated or exposed contaminated soils and comply with all applicable laws and regulations if remedies include treatment or disposal of soils);
- (k) 20 DCMR § 6203.13 (failure to determine whether free product is present and begin free product removal as soon as practicable, in accordance with 20 DCMR § 6204);
- (l) 20 DCMR § 6204.1 (failure to remove measurable free product to the maximum extent practicable in accordance with schedule approved by the Department);
- (m) 20 DCMR § 6204.3 (failure to remove free product in a manner that minimizes the spread of contamination by using appropriate recovery techniques);
- (n) 20 DCMR § 6204.4 (failure to recover and dispose of free product in a manner that properly treats, discharges, recycles, or disposes of recovery byproducts in compliance with all applicable laws and regulations);
- (o) 20 DCMR § 6204.6 (failure to ensure that flammable substances are handled in a manner that will prevent fire and explosion);
- (p) 20 DCMR § 6205.1 (failure to perform Comprehensive Site Assessment in the time and manner set forth in 20 DCMR § 6205);

- (q) 20 DCMR § 6205.2 (failure to submit a Comprehensive Site Assessment in a form satisfactory to the Department within 60 days of submission of a work plan);
- (r) 20 DCMR § 6206.2 (failure to comply with specified requirements before initiating a risk-based decision-making process);
- (s) 20 DCMR § 6207.1 (failure to submit a Corrective Action Plan required by Department, according to a schedule and format established by the Department);
- (t) 20 DCMR § 6207.2 (failure to submit and modify as necessary a Corrective Action Plan that provides for adequate protection of human health and the environment);
- (u) 20 DCMR § 6207.3 (failure of Corrective Action Plan to propose corrective action option as specified);
- (v) 20 DCMR § 6207.5 (failure of Corrective Action Plan to provide for proper disposal of contaminated soils and to prohibit placement of contaminated soils back into the ground);
- (w) 20 DCMR § 6207.6 (failure to prepare, prior to any site activities, a site-specific quality assurance and quality control plan that covers all actions proposed in the Corrective Action Plan and complies with guidelines of the Department);
- (x) 20 DCMR § 6207.7 (failure to prepare and submit to the Department a site-specific Health and Safety Plan that that meets the requirements of 29 CFR § 1910.120, in conjunction with the Corrective Action Plan);
- (y) 20 DCMR § 6207.9 (beginning soil and groundwater remediation prior to approval of Corrective Action Plan without meeting specified requirements for doing so); or
- (z) 20 DCMR § 6207.10 (beginning implementation of Corrective Action Plan prior to approval of plan and without meeting specified requirements for doing so).

4008.4 In addition to §§ 4008.1, 4008.2, and 4008.3, violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 6207.11 (failure to begin implementation of approved Corrective Action Plan within 60 days or other period approved by the Department);

- (b) 20 DCMR § 6207.14 (implementing modifications to the Corrective Action Plan which have not been approved by the Department);
- (c) 20 DCMR § 6207.15 (failure to take additional corrective action responses as required by the Department);
- (d) 20 DCMR § 6300.1 (failure to provide entry to a Department inspector);
or
- (e) 20 DCMR § 6301.3 (failure to cooperate fully with inspections, monitoring, or testing, as well as requests for document submission, testing, or monitoring).

4008.5 In addition to §§ 4008.6, 4008.7, 4008.8, 4008.9, 4008.10, and 4008.11, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 5507.4 (failure to notify the Department of an UST system with field-constructed tanks or airport hydrant system);
- (b) 20 DCMR § 5507.9 (failure to inspect an UST system with field-constructed tanks or airport hydrant system as required);
- (c) 20 DCMR § 5507.10 (failure of UST system with a field-constructed tank less than or equal to fifty thousand (50,000) gallons to meet the release detection requirements of Chapter 60);
- (d) 20 DCMR § 5507.11 (failure of UST system with a field-constructed tank greater than fifty thousand (50,000) gallons to meet specified release detection requirements);
- (e) 20 DCMR § 5507.12 (failure of UST system piping associated with a field-constructed tank or airport hydrant system to meet specified release detection requirements);
- (f) 20 DCMR § 5507.13 (failure to assess the excavation zone and properly close an UST system with field-constructed tanks or airport hydrant system that was previously closed-in-place, removed, or temporarily closed, as directed);
- (g) 20 DCMR § 5600.1 (failure to submit required UST notification);
- (h) 20 DCMR § 5600.2 (failure to file timely closure notification form following permanent closure of an UST system by removal or closure-in-place);

- (i) 20 DCMR § 5600.3 (failure to properly complete required UST notification form);
- (j) 20 DCMR § 5600.5 (failure to submit an UST facility notification for each separate UST facility);
- (k) 20 DCMR § 5600.6 (failure to sign UST notification form and certify compliance with specified requirements);
- (l) 20 DCMR § 5600.7 (failure to have specified person sign the UST facility notification form);
- (m) 20 DCMR § 5600.8 (failure to provide timely notification following discovery of previously unknown UST);
- (n) 20 DCMR § 5600.9 (failure to inform UST owner or lessee of notification requirements of 20 DCMR § 5600);
- (o) 20 DCMR § 5600.10 (failure to ensure proper certification of compliance with requirements of 20 DCMR § 5801 for upgrade or modification of UST system);
- (p) 20 DCMR § 5601.7 (depositing a regulated substance into an UST without first confirming that current registration certificate is present at facility and that facility is not on prohibited delivery list);
- (q) 20 DCMR § 5601.8 (dispensing or permitting dispensing of regulated substance from an UST that has not satisfied registration requirements);
- (r) 20 DCMR § 5603.1 (failure to provide required advance written notice of each installation, removal, closure-in-place, repair, or upgrade of an UST system);
- (s) 20 DCMR § 5603.2 (failure to provide notice of the exact time and date of the installation, removal, closure-in-place, repair, or upgrade of an UST system at least 24 hours in advance to schedule site inspection);
- (t) 20 DCMR § 5603.3 (failure to provide timely notice of emergency removal or repair to Department and Fire Chief);
- (u) 20 DCMR § 5603.4 (failure to timely submit plans, design, and specifications for installation or upgrade of an UST system in accordance with 20 DCMR § 6500);
- (v) 20 DCMR § 5603.5 (failure to obtain Department approval of plans, design, and specifications before applying for a construction permit);

- (w) 20 DCMR § 5603.7 (failure to timely provide required notice of tank tightness test to Fire Chief in cases of suspected release);
- (x) 20 DCMR § 5604.1 (failure to timely provide required notice of the existence or removal of any UST to prospective buyer of real property);
- (y) 20 DCMR § 5604.2 (failure to inform prospective buyers of commercial property of prior use of property that suggests the existence of an UST of which the seller has actual knowledge); or
- (z) 20 DCMR § 5606.3 (third party inspector having a financial interest in the facility or UST system).

4008.6 In addition to §§ 4008.5, 4008.7, 4008.8, 4008.9, 4008.10, and 4008.11, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 5700.7 (failure of each UST system located within 100 feet of a subsurface transit structure to meet the requirements of the District of Columbia Fire Prevention Code, the District of Columbia Municipal Regulations, and the National Fire Protection Association 130);
- (b) 20 DCMR § 5700.10 (failure for the owner or operator of an UST that is more than 30 years old to remove the tank from the ground in accordance with 20 DCMR Chapter 61 within five (5) years of the regulations becoming effective);
- (c) 20 DCMR § 5700.11 (failure of the owner or operator of an UST that is more than 30 years old to perform a tightness test within one (1) year of the date the regulations become effective and, in case of test failure, to remove the UST within one (1) year from the date of the test);
- (d) 20 DCMR § 5701.3 (failure to operate and maintain cathodic protection system in new petroleum UST, in accordance with 20 DCMR § 5901);
- (e) 20 DCMR § 5701.4 (failure to meet requirements for design, construction, and installation of secondary containment systems in a new petroleum UST);
- (f) 20 DCMR § 5701.5 (failure, if continuous monitoring methods are not used, to test each secondary containment system every three (3) years to ensure the interstitial area is liquid-tight);
- (g) 20 DCMR § 5701.6 (failure to meet requirements for design, construction, and installation of double-walled tanks in a new petroleum UST);

- (h) 20 DCMR § 5701.7 (failure to meet requirements for design, construction, and installation of external liner systems (including vaults) in a new petroleum UST);
- (i) 20 DCMR § 5702.3 (failure to operate and maintain each cathodic protection system in a hazardous substance UST system, in accordance with 20 DCMR § 5901);
- (j) 20 DCMR § 5702.4 (failure to meet requirements for design, construction, and installation of double-walled tanks in a new hazardous substance UST);
- (k) 20 DCMR § 5703.3 (failure to operate and maintain each cathodic protection system in a new heating oil UST system in accordance with 20 DCMR § 5901);
- (l) 20 DCMR § 5703.4 (failure to meet requirements for design, construction, and installation of secondary containment systems in a new heating oil UST system);
- (m) 20 DCMR § 5703.5 (failure, if continuous monitoring methods are not used, to test each secondary containment system every three years to ensure the interstitial area is liquid-tight in a new heating oil UST system);
- (n) 20 DCMR § 5703.6 (failure to meet requirements for design, construction, and installation of double-walled tanks in a new heating oil UST system);
- (o) 20 DCMR § 5703.7 (failure to meet requirements for design, construction, and installation of external liner systems (including vaults) in a new heating oil UST system);
- (p) 20 DCMR § 5704.1 (failure of UST piping that is in contact with earthen materials to be designed, constructed, and protected from corrosion as specified);
- (q) 20 DCMR § 5704.4 (failure to operate and maintain cathodic protection system in UST piping, in accordance with 20 DCMR § 5901);
- (r) 20 DCMR § 5704.5 (failure to meet requirements for design and construction of secondary containment systems in UST piping as set forth in 20 DCMR § 5701.4);
- (s) 20 DCMR § 5705.3 (failure to use overfill prevention equipment that meets specified requirements);

- (t) 20 DCMR § 5705.4 (using flow restrictors in vent lines as the only method of overfill prevention when the overfill prevention is installed or replaced after the date the regulations become effective);
- (u) 20 DCMR § 5705.5 (failure to use an automatic shutoff valve to comply with 20 DCMR § 5705.3 in tanks that are susceptible to over-pressurization);
- (v) 20 DCMR § 5705.7 (failure of spill prevention equipment to have a minimum capacity of ten (10) gallons);
- (w) 20 DCMR § 5706.1 (failure to install an UST system as specified);
- (x) 20 DCMR § 5706.2 (failure to ensure that each UST installation is performed by or supervised by an UST System Technician as set forth in 20 DCMR Chapter 65);
- (y) 20 DCMR § 5706.3 (failure to complete all work listed in the manufacturer's installation checklist for each UST installation); or
- (z) 20 DCMR § 5706.4 (failure to submit a soil sampling report before installation and obtain inspection and approval by the Department prior to placement of backfill for completion of installation).

4008.7 In addition to §§ 4008.5, 4008.6, 4008.8, 4008.9, 4008.10, and 4008.11, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 5706.5 (failure to perform a tank tightness test upon installation of an UST system prior to its use);
- (b) 20 DCMR § 5801.5 (failure, if internal lining is the sole method of corrosion protection for an UST, to inspect the lining at least once a year for the conditions listed in 20 DCMR § 5801.4(a)-(c));
- (c) 20 DCMR § 5801.6 (failure to follow specified requirements for tank linings that have failed inspections);
- (d) 20 DCMR § 5802.1 (failure to cathodically protect metal piping that is in contact with earthen materials, in accordance with code of practice);
- (e) 20 DCMR § 5802.2 (failure to cathodically protect metal piping that is in contact with earthen materials, in accordance with requirements of 20 DCMR §§ 5704.3 and 5704.4);
- (f) 20 DCMR § 5802.3 (failure to replace metal piping that is in contact with earthen materials that does not meet the requirements of 20 DCMR §§

5802.1 and 5802.2, with new piping that satisfies the requirements of 20 DCMR § 5704);

- (g) 20 DCMR § 5804.1 (failure to perform a tank tightness test as set forth in 20 DCMR § 6007 upon completion of an UST system upgrade and prior to placing the UST system in operation);
- (h) 20 DCMR § 5900.1 (failure to ensure that releases due to spilling or overfilling do not occur and to follow an approved code of practice);
- (i) 20 DCMR § 5900.2 (failure to ensure that the available tank volume is greater than the volume of product to be transferred to the tank before each transfer is made);
- (j) 20 DCMR § 5900.3 (failure to ensure that each transfer operation is monitored constantly to prevent overfilling or spilling and is performed in accordance with the UST manufacturer's specifications);
- (k) 20 DCMR § 5900.4 (failure to hold delivery nozzles open manually where product is transferred by means of pressurized delivery);
- (l) 20 DCMR § 5900.5 (failure to install a visible and audible vent alarm device where product is transferred by means of pressurized delivery);
- (m) 20 DCMR § 5900.6 (failure to discontinue delivery where vent alarm indicates an obstruction to the vent);
- (n) 20 DCMR § 5900.7 (failure to keep spill prevention equipment clean and dry);
- (o) 20 DCMR § 5900.8 (failure to ensure that all fill lines for the UST system are clearly marked to indicate the size of tank and type of regulated substance in accordance with specified methods);
- (p) 20 DCMR § 5900.9 (marking pipes or other openings in a way that could be associated with a regulated substance if they are not used for the transfer of that substance);
- (q) 20 DCMR § 5900.11(a) (failure to comply, for UST systems in use on or before the date the UST regulations become effective, with the regulations of 20 DCMR § 5900.12 through 15 no later than October 13, 2021);
- (r) 20 DCMR § 5900.11(b) (failure to comply, for UST systems brought into use after the UST regulations become effective, with the regulations of 20 DCMR § 5900.12 through 15 upon installation);

- (s) 20 DCMR § 5900.12 (failure to test all spill prevention equipment and containment sumps once every three (3) years for liquid tightness in accordance with 20 DCMR § 5900.14);
- (t) 20 DCMR § 5900.14 (failure to conduct liquid tightness tests in accordance with one of the criteria provided in § 5900.14);
- (u) 20 DCMR § 5900.15 (failure to inspect overflow prevention equipment at least once every three (3) years to ensure that overflow equipment will activate at the level specified in 20 DCMR § 5705.3);
- (v) 20 DCMR § 5901.1 (failure of a steel tank UST system or a steel-fiberglass-reinforced plastic composite UST system with corrosion protection to comply with requirements of 20 DCMR § 5901);
- (w) 20 DCMR § 5901.2 (failure to operate and maintain each corrosion protection system to continuously provide corrosion protection);
- (x) 20 DCMR § 5901.3 (failure to have cathodic protection system inspected by a qualified cathodic protection tester within six (6) months of installation and every three (3) years thereafter);
- (y) 20 DCMR § 5901.4 (failure to conduct cathodic protection testing in accordance with criteria set forth in an approved code of practice); or
- (z) 20 DCMR § 5901.5 (failure to inspect UST system with an impressed current cathodic protection system every sixty (60) days).

4008.8 In addition to §§ 4008.5, 4008.6, 4008.7, 4008.9, 4008.10, and 4008.11, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 5901.6 (failure to maintain specified operational records of cathodic protection for an UST system, in accordance with 20 DCMR § 5602);
- (b) 20 DCMR § 5901.7 (failure to conduct annual inspection of USTs that use internal lining as the sole method of corrosion protection in accordance with 20 DCMR § 5801.5);
- (c) 20 DCMR § 5901.8 (failure to permanently close a UST that fails the annual inspection and cannot be repaired in accordance with the closure processes of 20 DCMR § 6101);
- (d) 20 DCMR § 5902.1 (failure to ensure that repairs to an UST system are made using the proper materials and techniques and that repairs will prevent releases);

- (e) 20 DCMR § 5902.2 (failure to follow a code of practice in complying with repair or replacement requirements for an UST system);
- (f) 20 DCMR § 5902.5 (failure to replace metal pipe sections or fittings that have released a regulated substance or that constitute a threat of release, in accordance with 20 DCMR § 5704);
- (g) 20 DCMR § 5902.6 (failure to replace non-corrodible or fiberglass pipes and fittings, or flexible pipes that have released a regulated substance or that constitute a threat of release, in accordance with 20 DCMR § 5704);
- (h) 20 DCMR § 5902.7 (failure to perform a tightness test in accordance with an approved code of practice within thirty (30) days of completing a repair to secondary containment or containment sumps used for interstitial monitoring and before placing the tank back in service);
- (i) 20 DCMR § 5902.8 (failure to perform a tightness test in accordance with 20 DCMR § 6007 within thirty (30) days of completing a repair to a tank or piping and before placing the tank back in service);
- (j) 20 DCMR § 5902.9 (failure to test the cathodic protection system in accordance with 20 DCMR §§ 5901.3 through 5901.5 within six (6) months following repair);
- (k) 20 DCMR § 5902.10 (failure to maintain repair records for ten (10) years, or for the remaining operating life of repaired UST, whichever is longer);
- (l) 20 DCMR § 5902.11 (failure to ensure that an UST system repair is carried out or supervised by a certified UST System Technician);
- (m) 20 DCMR § 5902.14 (failure to test or inspect spill or overfill equipment in accordance with 20 DCMR § 5900 within thirty (30) days of a repair);
- (n) 20 DCMR § 5903.1 (failure to use an UST system that is made of or lined with materials that are compatible with the substance stored in the UST system);
- (o) 20 DCMR § 5903.3 (failure to demonstrate compatibility between a UST system and the regulated substance it contains);
- (p) 20 DCMR § 5904.1 (failure to conduct a walkthrough inspection no later than October 13, 2021);
- (q) 20 DCMR § 5904.2 (failure to conduct walkthrough inspections every thirty (30) days in accordance with specified requirements);

- (r) 20 DCMR § 5904.3 (failure to conduct annual walkthrough inspections in accordance with specified requirements);
- (s) 20 DCMR § 6000.4 (failure to complete closure requirements of 20 DCMR Chapter 61 when release detection method in compliance with 20 DCMR Chapter 60 cannot be applied);
- (t) 20 DCMR § 6000.12 (failure to notify Department within twenty-four (24) hours and to comply with temporary closure requirements of 20 DCMR § 6100 if release detection system is not repaired or replaced within forty-five (45) days of improper performance);
- (u) 20 DCMR § 6000.14 (failure to operate and maintain the release detection system and test electronic and mechanical components in accordance with approved criteria);
- (v) 20 DCMR § 6002.3 (failure to check secondary containment systems for evidence of a release at least every thirty (30) days);
- (w) 20 DCMR § 6002.4 (failure to test the secondary containment system every three (3) years to ensure the interstitial area is liquid-tight, or to use continuous monitoring methods);
- (x) 20 DCMR § 6003.3 (failure to monitor tanks for releases at least once every thirty (30) days using specified methods);
- (y) 20 DCMR § 6003.6 (failure of owner or operator of a petroleum UST, excepting those exempted, to check for evidence of a release at least once every thirty (30) days using interstitial monitoring); or
- (z) 20 DCMR § 6003.7 (failure to test the secondary containment system every three (3) years to ensure the interstitial area is liquid-tight, or to use continuous monitoring methods).

4008.9 In addition to §§ 4008.5, 4008.6, 4008.7, 4008.8, 4008.10, and 4008.11, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 6004.1 (failure to regularly monitor petroleum UST system underground piping, in accordance with 20 DCMR § 6004);
- (b) 20 DCMR § 6004.4 (failure to use automatic line leak detectors that meet specified standards);

- (c) 20 DCMR § 6004.5 (failure to annually test for the proper operation of the automatic line leak detector in accordance with the manufacturer's instructions);
- (d) 20 DCMR § 6004.6 (failure to perform an annual line tightness test for underground piping that conveys regulated substances under pressure, in accordance with 20 DCMR § 6004.8, or to conduct monthly monitoring of piping, in accordance with 20 DCMR § 6004.10);
- (e) 20 DCMR § 6004.7 (failure to perform a line tightness test every three (3) years for underground piping that conveys regulated substances under suction, in accordance with 20 DCMR § 6004.8, or to conduct monthly monitoring of piping, in accordance with 20 DCMR § 6004.10);
- (f) 20 DCMR § 6004.11 (failure to check secondary containment systems on underground piping installed or replaced after February 8, 2007, for evidence of a release at least every thirty (30) days using interstitial monitoring);
- (g) 20 DCMR § 6005.3 (failure to conduct product inventory control monthly in specified manner);
- (h) 20 DCMR § 6006.1 (failure to conduct manual tank gauging in accordance with 20 DCMR § 6006);
- (i) 20 DCMR § 6006.6 (failure to follow requirements of 20 DCMR Chapter 62 for a suspected release following a specified variation in liquid level measurements);
- (j) 20 DCMR § 6013.6 (failure to comply with any conditions imposed by the Department upon approval of an alternative release detection method);
- (k) 20 DCMR § 6100.2 (failure to comply with the requirements of 20 DCMR § 6100 when an UST system is temporarily closed);
- (l) 20 DCMR § 6100.6 (failure to empty UST of product in accordance with 20 DCMR § 6100.9 during temporary closure of UST system);
- (m) 20 DCMR § 6100.7 (failure to comply with release detection requirements in accordance with 20 DCMR Chapter 60 during temporary closure of UST system);
- (n) 20 DCMR § 6100.9(a)-(c) (failure to empty UST system, open vent lines, and cap and secure all other lines, pumps, manways and ancillary equipment within ninety (90) days after an UST system is temporarily closed);

- (o) 20 DCMR § 6100.9(d) (failure to submit required contractor certification form within seven (7) days after completing requirements for temporary closure of an UST system);
- (p) 20 DCMR § 6101.1 (failure to comply with 20 DCMR § 6101 when an UST system is permanently closed or undergoes a change-in-service);
- (q) 20 DCMR § 6101.2 (failure to submit UST activity notification form no less than two (2) weeks before beginning a permanent closure or a change-in-service);
- (r) 20 DCMR § 6101.4 (failure to properly empty and clean the tank prior to each change-in-service);
- (s) 20 DCMR § 6101.5 (failure to properly empty and clean UST system prior to removing it from the ground);
- (t) 20 DCMR § 6101.6 (failure to remove from the ground an UST system that is to be closed permanently, unless the Department grants a variance pursuant to 20 DCMR § 6101.7);
- (u) 20 DCMR § 6101.9 (failure to empty, clean, and fill tank with an inert solid material and comply with 20 DCMR § 5500.05 when a tank removal variance is granted);
- (v) 20 DCMR § 6101.10 (failure to conduct a closure assessment of the excavation zone prior to permanent closure or a change-of-service of an UST system);
- (w) 20 DCMR § 6101.11 (failure to consider specified factors when selecting sample types, sample locations, and measurement methods for the closure assessment and to comply with other requirements of the Department for number of samples or location of borings or wells);
- (x) 20 DCMR § 6101.15 (failure to evaluate the excavation zone in accordance with specified requirements in the case of a release of a regulated substance);
- (y) 20 DCMR § 6101.16 (failure to submit a closure assessment report, including a closure notification form, within thirty (30) days after completing the permanent closure or change-in-service); or
- (z) 20 DCMR § 6102 (failure to assess the excavation zone and properly close an UST system that was previously closed-in-place, removed, or temporarily closed, as directed).

4008.10 In addition to §§ 4008.5, 4008.6, 4008.7, 4008.8, 4008.9, and 4008.11, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 6202.3 (failure to include required information in notification of release or suspected release);
- (b) 20 DCMR § 6203.6 (failure to consider appropriate selection factors and to comply with Departmental directives and protocols for sample types, sample locations, and measurement methods);
- (c) 20 DCMR § 6203.12 (failure to conduct initial site assessment to evaluate on-site conditions in accordance with specified requirements and any applicable protocols of the Department);
- (d) 20 DCMR § 6205.4 (failure to conduct site assessment activities in accordance with an appropriate health and safety plan and make plan available for inspection);
- (e) 20 DCMR § 6207.12 (failure to provide the Department with an opportunity to inspect the site at its request prior to implementation of the Corrective Action Plan);
- (f) 20 DCMR § 6210.8 (failure to remove all equipment, drums, and waste and ensure that all wells are properly abandoned within six (6) months following notice of no further action or case closure);
- (g) 20 DCMR § 6301.4 (failure to submit records, documents, or other information within twenty (20) days of a request, or other time frame specified by the Department);
- (h) 20 DCMR § 6500.1 (failure of any individual who performs UST system activities in the District to be a certified or to be supervised on-site by a certified individual);
- (i) 20 DCMR § 6500.2 (failure of individual performing or supervising UST installation, upgrade, retrofit, or repair to be a certified UST System Technician);
- (j) 20 DCMR § 6500.3 (failure of individual performing or supervising UST system closure-in-place or removal to be a certified UST System Technician or UST Closure Specialist);
- (k) 20 DCMR § 6500.4 (failure of individual performing a tightness test to be a certified UST System Tester);

- (l) 20 DCMR § 6500.5 (failure of an UST system owner or operator to ensure that any UST system activity is performed by, or is subject to the continuous on-site supervision of, a person certified to perform or supervise the activity under 20 DCMR Chapter 65);
- (m) 20 DCMR § 6500.7 (failure of a business that performs UST system activities in the District to be licensed by the Department and to employ individuals certified to perform each of the UST system activities for which the business is licensed);
- (n) 20 DCMR § 6500.9 (transferring an UST system certification or license);
- (o) 20 DCMR § 6502.1 (failure to designate at least one Class A, one Class B, and one Class C operator for each active UST facility);
- (p) 20 DCMR § 6502.2 (dispensing or storing a regulated substance when Class A, B, and C operators have not been designated and trained as required by 20 DCMR §§ 6502 and 6503);
- (q) 20 DCMR § 6502.6 (failure of trained operators to be readily available to respond to suspected or confirmed releases, other unusual operating conditions, emergencies, or equipment failures);
- (r) 20 DCMR § 6502.7 (failure to prominently display at the facility emergency contact information and emergency procedures for users of unmanned facilities);
- (s) 20 DCMR § 6503.1 (failure to ensure that all operators receive required training and retraining);
- (t) 20 DCMR § 6503.2 (failure of Class A and Class B operators for a petroleum UST system to complete required retraining within thirty (30) days of being notified that an UST system is out of compliance);
- (u) 20 DCMR § 6503.3 (failure of Class A operator to complete required training);
- (v) 20 DCMR § 6503.4 (failure of Class B operator to complete required training);
- (w) 20 DCMR § 6503.5 (failure of Class C operator to complete required training);
- (x) 20 DCMR § 6503.7 (failure to train a replacement Class A or B operator within thirty (30) days of the operator assuming duties);

- (y) 20 DCMR § 6503.8 (failure to train Class C operators prior to assuming duties as a Class C operator); or
- (z) 20 DCMR § 6503.9 (failure of training providers to obtain written approval from the Department prior to delivering training courses for Class A, B, and C operators).

4008.11 In addition to §§ 4008.5, 4008.6, 4008.7, 4008.8, 4008.9, 4008.10, and 4008.12, violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 6503.10 (failure to maintain documentation that designated Class A, B, and C operators have received the required training and retraining for as long as they remain designated);
- (b) 20 DCMR § 6700.8 (failure to immediately file a certification of financial responsibility for an existing UST in accordance with 20 DCMR § 5500.4);
- (c) 20 DCMR § 6700.9 (failure to file a certification of financial responsibility with the Department within thirty (30) days after installation of a new UST or changing the substance stored to petroleum);
- (d) 20 DCMR § 6700.10 (failure to demonstrate minimum required per-occurrence amount of financial responsibility for specified petroleum USTs);
- (e) 20 DCMR § 6700.11 (failure to demonstrate minimum required per-occurrence amount of financial responsibility for petroleum USTs not covered by 20 DCMR § 6700.10);
- (f) 20 DCMR § 6700.12 (failure to demonstrate minimum required annual aggregate amount of financial responsibility);
- (g) 20 DCMR § 6700.16 (failure to meet new financial responsibility requirements on anniversary of effective date of financial responsibility mechanism, following acquisition or installation of additional USTs);
- (h) 20 DCMR § 6701.1 (failure to utilize mechanism(s) listed in 20 DCMR §§ 6703 through 6710 to demonstrate financial responsibility);
- (i) 20 DCMR § 6701.6 (failure to obtain alternate assurance of financial responsibility within thirty (30) days after the owner receives notice of any condition set forth in 20 DCMR § 6701.6(a)-(d));

- (j) 20 DCMR § 6701.7 (failure to update certification of financial responsibility within thirty (30) days of change in financial assurance mechanism);
- (k) 20 DCMR § 6702.8 (failure to submit current evidence of financial responsibility within thirty (30) days after identifying an UST release required to be reported under 20 DCMR § 6201 or § 6202);
- (l) 20 DCMR § 6702.9 (failure to submit current evidence of financial responsibility within thirty (30) days after receiving notice of the incapacity of a provider of assurance under 20 DCMR § 6701.6);
- (m) 20 DCMR § 6702.10 (failure to submit evidence of financial assurance or other relevant information as required by the Department);
- (n) 20 DCMR § 6703.4 (failure to obtain alternative assurance within specified time period when no longer meeting requirements of financial tests of self-insurance set forth in 20 DCMR §§ 6704 or 6705);
- (o) 20 DCMR § 6703.5 (failure to provide reports of financial condition as required by Department or failure to timely obtain alternate assurance following notification by Department);
- (p) 20 DCMR § 6703.6 (failure to notify the Department of the failure to timely obtain alternate assurance as required under 20 DCMR §§ 6703.4 or 6703.5);
- (q) 20 DCMR § 6706.1 (failure to comply with criteria in 20 DCMR § 6706 when obtaining a guarantee to meet financial responsibility requirements of 20 DCMR § 6700);
- (r) 20 DCMR § 6707.1 (failure to comply with requirements of 20 DCMR § 6707 when obtaining liability insurance to meet financial responsibility requirements of 20 DCMR § 6700);
- (s) 20 DCMR § 6708.1 (failure to comply with requirements of 20 DCMR § 6708 when obtaining a surety or performance bond to meet financial responsibility requirements of 20 DCMR § 6700);
- (t) 20 DCMR § 6709.1 (failure to comply with requirements of 20 DCMR § 6709 when obtaining a letter of credit to meet financial responsibility requirements of 20 DCMR § 6700);
- (u) 20 DCMR § 6710.1 (failure to comply with requirements of 20 DCMR § 6710 when establishing a trust fund to meet financial responsibility requirements of 20 DCMR § 6700);

- (v) 20 DCMR § 6714.4 (failure to send a copy of each notice of cancellation or termination of financial assurance to the Department in accordance with 20 DCMR § 5500.4 at the same time that notice is sent to the owner);
- (w) 20 DCMR § 6714.5 (failure to obtain alternative financial assurance coverage within sixty (60) days after receipt of notice of cancellation or non-renewal of financial assurance);
- (x) 20 DCMR § 6714.6 (failure to submit notification and required information following the failure to obtain alternate coverage within sixty (60) days after receipt of a notice of termination);
- (y) 20 DCMR § 6715.1 (failure to provide proper and timely notification of commencement of bankruptcy proceedings and to submit appropriate forms listed in 20 DCMR §§ 6702.4 through 6702.7 documenting financial responsibility); or
- (z) 20 DCMR § 6715.5 (failure to provide notification of failure to obtain alternate coverage within thirty (30) days after notification of bankruptcy or incapacity).

4008.12 In addition to §§ 4008.13, 4008.14, 4008.15, and 4008.16, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 5502.3 (failure to maintain records demonstrating compliance for systems exempted from corrosion protection requirements);
- (b) 20 DCMR § 5601.1 (failure to register an UST in accordance with 20 DCMR § 5601);
- (c) 20 DCMR § 5601.5 (failure to renew the registration for each UST before November 30 of each calendar year);
- (d) 20 DCMR § 5601.10 (failure of seller of UST to provide required notifications);
- (e) 20 DCMR § 5602.2 (failure to provide information under 20 DCMR §§ 5602.1(b), (c), (d), and (f), 6204.7, and 6205.3 to the District Fire Chief);
- (f) 20 DCMR § 5602.3 (failure to maintain specified records and information at the UST facility);
- (g) 20 DCMR § 5602.4 (failure to maintain specified records for required period and have records immediately available for inspection);

- (h) 20 DCMR § 5602.5 (failure to keep records required under 20 DCMR § 5602.3(d) either at the UST location or at another location where the records can be viewed by a person in the District);
- (i) 20 DCMR § 5602.6 (failure to deliver permanent closure records that cannot be kept at the facility or an alternative location in the District to the Department);
- (j) 20 DCMR § 5602.7 (failure to maintain records for required period);
- (k) 20 DCMR § 5603.6 (failure to provide notice at least twenty-four hours in advance of the time and date of any tank tightness test);
- (l) 20 DCMR § 5706.6 (failure to ensure that UST System Technician completes certification of compliance on UST notification form);
- (m) 20 DCMR § 5801.1 (failure to upgrade steel tanks in accordance with an approved code of practice);
- (n) 20 DCMR § 5801.2 (failure to submit plans and obtain approval from the Department before upgrading an existing tank to stage I vapor recovery);
- (o) 20 DCMR § 5801.3 (failure to comply with specified requirements for upgrading an UST by internal lining);
- (p) 20 DCMR § 5801.4 (failure to inspect the interior of a lined tank within ten (10) years after lining or every five (5) years thereafter, in order to ensure the lining is structurally sound, free of corrosion holes, and performing in accordance with original design specifications);
- (q) 20 DCMR § 5801.7 (upgrading a tank by cathodic protection without meeting the requirements of 20 DCMR §§ 5701.2 and 5701.3, and without following specified methods for ensuring the integrity of the tank);
- (r) 20 DCMR § 5801.8 (upgrading a tank by both internal lining and cathodic protection without meeting the requirements of 20 DCMR §§ 5902, 5701.2, and 5701.3);
- (s) 20 DCMR § 5902.12 (failure to ensure that certified UST System Technician completes certification of compliance on UST notification form);
- (t) 20 DCMR § 5903.2 (failure to notify the Department at least thirty (30) days prior to changing the product stored in a UST to a regulated substance containing greater than ten percent (10%) ethanol or greater than twenty percent (20%) biodiesel);

- (u) 20 DCMR § 5903.4 (failure to maintain records of compliance with 20 DCMR §§ 5903.2 and 5903.3 when storing regulated substances);
- (v) 20 DCMR § 5904.6 (failure to prepare required records following a walkthrough inspection);
- (w) 20 DCMR § 5904.7 (failure to maintain records of walkthrough inspections for ten (10) years);
- (x) 20 DCMR § 6000.6 (failure to install, calibrate, operate, and maintain each release detection system in accordance with the manufacturer's instructions);
- (y) 20 DCMR § 6000.8 (failure to provide written performance claims before installing a release detection system); or
- (z) 20 DCMR § 6001.1 (failure to properly maintain records demonstrating compliance with 20 DCMR Chapter 60).

4008.13

In addition to §§ 4008.12, 4008.14, 4008.15, and 4008.16, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 6001.2 (failure to maintain for at least ten (10) years written performance claims for release detection systems);
- (b) 20 DCMR § 6001.3 (failure to maintain for at least ten (10) years the results of any sampling, testing, or monitoring conducted under 20 DCMR Chapter 60);
- (c) 20 DCMR § 6001.4 (failure to retain results of tank tightness testing until the next test of the UST system);
- (d) 20 DCMR § 6001.5 (failure to maintain written documentation of all calibration, maintenance, and repair of release detection equipment for at least three (3) years);
- (e) 20 DCMR § 6001.6 (failure to retain for at least ten (10) years all schedules of required calibration and maintenance provided by the release detection equipment manufacturer);
- (f) 20 DCMR § 6001.7 (failure, after October 13, 2021, of an owner or operator using groundwater or vapor monitoring to maintain records signed by a qualified professional of site assessments conducted pursuant to 20 DCMR §§ 6009.7 or 6010.7);

- (g) 20 DCMR § 6005.3 (failure to conduct product inventory control monthly in the manner specified in 20 DCMR § 6005.3(a)-(f));
- (h) 20 DCMR § 6006.3 (failure to conduct manual tank gauging weekly);
- (i) 20 DCMR § 6006.4 (failure to properly take tank liquid level measurements and record measurements on approved form);
- (j) 20 DCMR § 6006.5 (failure to use proper manual tank gauging equipment);
- (k) 20 DCMR § 6007.3 (failure to use a tank tightness test that meets specified requirements);
- (l) 20 DCMR § 6008.1 (failure to use automatic tank gauging equipment that meets requirements of 20 DCMR § 6008);
- (m) 20 DCMR § 6008.2 (failure to ensure proper installation of tank gauging probe);
- (n) 20 DCMR § 6008.3 (failure to use automatic product level monitor test that meets specified requirements);
- (o) 20 DCMR § 6008.4 (failure to install tanks horizontally without tank tilt if automatic tank gauging is used);
- (p) 20 DCMR § 6008.5 (failure to inspect automatic tank gauging system at least every thirty (30) days);
- (q) 20 DCMR § 6008.6 (failure of automatic tank gauging equipment to meet the inventory control requirements of 20 DCMR § 6005.3);
- (r) 20 DCMR § 6008.7 (failure of the owner or operator to test for loss of product using one of the provided modes);
- (s) 20 DCMR § 6009.2 (failure to use proper backfill materials);
- (t) 20 DCMR § 6009.3 (failure of stored regulated substance or tracer compound to have sufficient volatility);
- (u) 20 DCMR § 6009.4 (vapor measurement rendered inoperative or less effective due to ground water, rainfall, soil moisture, or other known interference);
- (v) 20 DCMR § 6009.5 (background contamination in the excavation zone interfering with the vapor monitoring method);

- (w) 20 DCMR § 6009.6 (failure to use vapor monitor that is properly designed and operated);
- (x) 20 DCMR § 6009.7 (failure to assess the excavation zone as required before using vapor monitoring);
- (y) 20 DCMR § 6009.8 (failure to clearly and properly mark and secure monitoring wells); or
- (z) 20 DCMR § 6010.1 (failure to test and monitor for regulated substances in the ground water or in the tank excavation zone in accordance with 20 DCMR § 6010).

4008.14 In addition to §§ 4008.12, 4008.13, 4008.15, and 4008.16, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 6010.2 (failure of the regulated substance stored to be immiscible in water and have a specific gravity of less than one);
- (b) 20 DCMR § 6010.3 (ground water more than twenty (20) feet from the ground surface or hydraulic conductivity of the soils less than one hundredth of a centimeter per second (0.01 cm/sec) if testing or monitoring for regulated substances in ground water);
- (c) 20 DCMR § 6010.4 (failure to design slotted portion of monitoring well casing to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well);
- (d) 20 DCMR § 6010.5 (failure to seal monitoring wells from the ground surface to the top of the filter pack);
- (e) 20 DCMR § 6010.6 (failure of monitoring wells or devices to intercept the excavation zone or be as close to the excavation zone as is technically feasible);
- (f) 20 DCMR § 6010.7 (failure to assess the excavation zone as required before using groundwater monitoring);
- (g) 20 DCMR § 6010.8 (failure to use continuous monitoring devices or manual methods capable of detecting at least one eighth (1/8) inch of free regulated substance);
- (h) 20 DCMR § 6010.9 (failure to clearly mark and secure each monitoring well to avoid unauthorized access or tampering);

- (i) 20 DCMR § 6011.2 (failure of an owner or operator of a UST system installed or replaced after February 8, 2007 to check for a release at least once every thirty (30) days using interstitial monitoring);
- (j) 20 DCMR § 6011.3 (failure to install an interstitial monitoring system that can detect a leak from any portion of the tank or piping system that routinely carries a regulated substance);
- (k) 20 DCMR § 6011.4 (failure to properly maintain the vacuum in vacuum monitoring);
- (l) 20 DCMR § 6011.5 (failure to follow the requirements of 20 DCMR Chapter 62 if vacuum falls below five (5) inches of mercury);
- (m) 20 DCMR § 6011.6 (failure to gain prior Department approval before re-instituting a vacuum more frequently than once every three (3) months);
- (n) 20 DCMR § 6011.7 (failure to use sampling or testing method for a double-walled UST system capable of detecting a release through the inner wall);
- (o) 20 DCMR § 6011.8 (failure to use an automated device capable of detecting a release between the inner wall and the internally fitted liner and to use a liner that is compatible with the substance stored);
- (p) 20 DCMR § 6011.9 (failure of secondary barrier within the excavation zone to meet specified requirements);
- (q) 20 DCMR § 6011.10 (failure to use sampling or testing method capable of detecting a release between the UST system and the secondary barrier within the excavation zone);
- (r) 20 DCMR § 6011.11 (use of testing or sampling method that is rendered inoperative or less effective due to ground water, rainfall, soil moisture, or other known interference);
- (s) 20 DCMR § 6011.12 (failure to assess the site for an UST system with a secondary barrier within the excavation zone to ensure that the secondary barrier is always above the groundwater and not in a twenty-five (25) year floodplain);
- (t) 20 DCMR § 6011.13 (failure to clearly mark and secure monitoring wells for each UST system with a secondary barrier within the excavation zone to avoid unauthorized access or tampering);

- (u) 20 DCMR § 6011.15 (failure to repair, upgrade, or close a leaking inner or outer tank wall or liner as specified in 20 DCMR § 6203);
- (v) 20 DCMR § 6012.2 (failure to conduct monthly statistical inventory reconciliation in accordance with 20 DCMR § 6012.2(a)-(c));
- (w) 20 DCMR § 6012.3 (failure to verify the accuracy of a statistical inventory reconciliation method in accordance with 20 DCMR §§ 6012.2 and 6000.9);
- (x) 20 DCMR § 6012.4 (failure to obtain independent third party certification that a statistical inventory reconciliation method is accurate and maintain evaluation records for ten (10) years);
- (y) 20 DCMR § 6100.5 (failure to submit temporary closure notification form at least thirty (30) days before an UST system is temporarily closed); or
- (z) 20 DCMR § 6100.10 (failure to permanently close an UST system in accordance with 20 DCMR § 6101 after an UST system has been temporarily closed for twelve (12) months).

4008.15 In addition to §§ 4008.12, 4008.13, 4008.14, and 4008.16, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 6103.1 (failure to maintain records of compliance with closure requirements in accordance with 20 DCMR § 5602);
- (b) 20 DCMR § 6103.2 (failure to properly maintain closure assessment results for at least ten (10) years after completion of permanent closure or change-in-service);
- (c) 20 DCMR § 6103.3 (failure to deliver records demonstrating compliance with 20 DCMR Chapter 61 to the Department after ten (10) years);
- (d) 20 DCMR § 6203.14 (failure to submit initial site assessment report and any applicable monthly status report within sixty (60) days after release confirmation, or failure to submit a work plan for future site activities);
- (e) 20 DCMR § 6204.7 (failure to prepare and submit a status report on the removal of any free product in accordance with 20 DCMR § 5500.4);
- (f) 20 DCMR § 6204.8 (failure to submit a status report within sixty (60) days of release confirmation and then once every quarter until the Department determines the free product removal is complete);

- (g) 20 DCMR § 6207.13 (failure to monitor, evaluate, and timely report the results of corrective action plan implementation);
- (h) 20 DCMR § 6207.16 (failure to evaluate the effectiveness of the corrective action plan at the end of each year of implementation);
- (i) 20 DCMR § 6210.2 (failure to maintain for at least three (3) years all records and reports documenting the transport and disposal of wastes generated at an UST site while the corrective action plan is being carried out);
- (j) 20 DCMR § 6500.6 (failure of certified UST System Technician, Closure Specialist, or Tester to carry and make available for inspection the identification card or certificate issued by the Department at all times while conducting the applicable UST activity);
- (k) 20 DCMR § 6500.8 (failure of business licensed to perform UST system activities to provide list of employees who are not certified but who perform supervised on-site UST activities);
- (l) 20 DCMR § 6500.10 (failure to surrender certification or license to the Department within ten (10) business days after closure or termination of a business);
- (m) 20 DCMR § 6502.3 (failure of a Class A operator to meet all requirements or duties, as provided under 20 DCMR § 6502.3(a)-(c));
- (n) 20 DCMR § 6502.4 (failure of a Class B operator to meet all requirements or duties, as provided under § 6502.4(a)-(c));
- (o) 20 DCMR § 6502.5 (failure of a Class C operator to meet all requirements or duties, as provided under § 6502.5(a)-(c));
- (p) 20 DCMR § 6502.9 (failure to maintain required list of designated operators);
- (q) 20 DCMR § 6502.10 (failure to keep a copy of the requisite documentation on site and available for inspection at the UST facility);
- (r) 20 DCMR § 6502.11 (failure to conspicuously post Class C operator and owner contact information at unstaffed facilities);
- (s) 20 DCMR § 6702.1 (failure to maintain a copy of each financial assurance mechanism until released from financial responsibility requirements under 20 DCMR § 6700.5 or § 6700.6);

- (t) 20 DCMR § 6702.2 (failure to make available to the Department upon request, records of financial assurance maintained off-site);
- (u) 20 DCMR § 6702.3 (failure to maintain a copy of the appropriate assurance instrument in the prescribed form);
- (v) 20 DCMR § 6702.4 (failure to maintain a copy of chief financial officer's letter of assurance when using a financial test of self-insurance or guarantee);
- (w) 20 DCMR § 6702.5 (failure to maintain a copy of signed standby trust fund agreement when using a guarantee, surety bond, or letter of credit);
- (x) 20 DCMR § 6702.6 (failure to maintain a copy of signed insurance policy or risk retention group coverage policy and endorsement or certificate of insurance);
- (y) 20 DCMR § 6702.7 (failure to maintain copy of certification of financial responsibility in prescribed form); or
- (z) 20 DCMR § 6706.4 (failure to properly demonstrate to the owner within one hundred twenty (120) days after the close of each financial reporting year that the guarantor meets the financial test criteria of 20 DCMR §§ 6704 or 6705).

4008.16 In addition to §§ 4008.12, 4008.13, 4008.14, and 4008.15, violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 6706.5 (failure to timely notify the owner by certified mail before cancellation or non-renewal of the guarantee if the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year);
- (b) 20 DCMR § 6706.6 (failure to timely notify owner by certified mail if guarantor no longer meets the requirements of the financial test of §§ 6704 or 6705 or 6703.3);
- (c) 20 DCMR § 6711.1 (failure of an owner using any of the financial responsibility mechanisms authorized under 20 DCMR §§ 6706, 6708, or 6709 to establish a standby trust fund when the mechanism is acquired);
- (d) 20 DCMR § 6711.2 (failure of a standby trust fund to have trustee with authority to act as a trustee and whose trust operations are regulated and examined by an agency of the federal government or the District of Columbia);

- (e) 20 DCMR § 6711.3 (failure of standby trust agreement or trust agreement to be in the prescribed form and accompanied by certification of acknowledgement in the prescribed form);
- (f) 20 DCMR § 6712.1 (failure to place funds in standby trust as required by the Department);
- (g) 20 DCMR § 6712.2 (failure to place funds in standby trust as required by the Department);
- (h) 20 DCMR § 6713.1 (failure to timely replenish the value of financial assurance or acquire another financial assurance mechanism if amount in a standby trust is reduced below full amount of coverage required);
- (i) 20 DCMR § 6714.2 (termination of guarantee, surety bond, or letter of credit prior to one hundred twenty (120) days following owner's receipt of notice of termination);
- (j) 20 DCMR § 6714.3 (termination of insurance or risk retention group coverage prior to sixty (60) days following owner's receipt of notice of termination or, in the case of non-payment of premiums or misrepresentation, prior to ten (10) days following owner or operator's receipt of notice of termination); or
- (k) 20 DCMR § 6715.2 (failure of guarantor to provide proper and timely notification to owner of bankruptcy proceeding as required under terms of the guarantee specified in 20 DCMR § 6706).

4008.17 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR § 5601.6 (failure to post a copy of the current UST registration certificate in a visible location at the facility at all times); or
- (b) Violation of any provision of the District of Columbia Underground Tank Management Act of 1990, effective March 8, 1991, as amended (D.C. Law 8-242; D.C. Official Code §§ 8-113.01 to 8-113.12), or the District of Columbia Underground Storage Tank Regulations, 20 DCMR Chapters 55-67, which is not cited elsewhere in this section, shall be a Class 4 infraction.