

REVISED ABOVEGROUND STORAGE TANK RULE (2017) SUMMARY

The Vermont Department of Environmental Conservation is revising its Aboveground Storage Tank (AST) Rule to prevent avoidable releases of heating oil in both residential and commercial settings. In 2015, Vermont's Petroleum Cleanup Fund spent over \$700,000 responding to 86 releases, many of them avoidable. Not only is this trend financially unsustainable, the releases cause significant negative impacts to human health and the environment.

The revised rule, mandated by legislation passed in 2016, will improve environmental outcomes and reduce pressure on the Vermont Petroleum Cleanup Fund. The rule, which is anticipated to go into effect July 2017, will require all aboveground storage tanks to be inspected once every three years, and will require new and relocated tanks to be placed on a concrete pad or other stable foundation approved by the Department. Tanks that fail inspection must have a "do not fill" or "red tag" affixed to the tank, and be reported to the Department. Fuel distributors are not allowed to deliver fuel to a red-tagged tank until the tank has been repaired/upgraded.

Myth: All tanks must be inspected by July 1, 2017.

Fact: The new rule will require all tanks to be inspected at least once every three years. Homeowners will have three years from July 31, 2017 (until July 31, 2020) to obtain an inspection of an existing above ground storage tank. Systems must also be inspected after a new installation, after first fill of a new installation, and whenever the customer changes fuel distributor.

Myth: All tanks must be relocated to a concrete pad.

Fact: New tanks and relocated tanks must be placed on a concrete pad (or other stable foundation approved by the Department). An existing tank that fails an inspection either because its foundation is unstable, or because contact with the ground may lead to corrosion, must have the foundation fixed or upgraded to a stable one. The Rule also requires by 2030 all tanks be installed on a concrete pad.

Myth: Fuel distributors will be liable for releases from tanks that have not been inspected.

Fact: The rule does not place any additional liability on fuel distributors for releases from tanks that have not been inspected. It is the responsibility of the homeowner, not the fuel dealer, to arrange an inspection of a tank at least once every three years. Fuel distributors who deliver fuel to a red-tagged tank will potentially be liable for a release.

HIGHLIGHTS OF THE NEW RULE:

1. New tank installations, and the re-location of an existing tank, must be on a concrete pad (or other foundation as approved by the Agency). This is to minimize the risk of the tank tipping over or sinking into the ground –conditions that can lead to a release of heating fuel.
2. All tanks must be periodically inspected to ensure they are safe to fill, and there are no conditions that could possibly lead to a release. At minimum, tanks must be inspected every three years.

3. If a tank is unsafe to fill, inspectors are required to put a do not fill/red tag on the tank. The inspector will identify to the owner what repairs must be conducted in order to get the tag removed. Inspectors are required to tag a tank if one or more of the following five specific items are identified – items that could lead to a release if not corrected.
 - a. Unstable foundation – can lead to tank tip, or accelerated corrosion if in contact with soil.
 - b. Uncoated or un-sleeved piping from the tank to the appliance – unprotected piping can corrode when in contact with soil or concrete.
 - c. Unequal fill and vent pipe size – this could lead to over-pressurization of the system and cause a release.
 - d. No vent whistle – without a vent whistle, the delivery-person cannot be sure when the tank is approaching capacity – this could lead to an overflow of the tank.
 - e. Poor tank condition – excessive rust, leaks, weeps, drips. All of these are signs the tank needs to be replaced.
4. Indoor tank installations in flood areas must have measures to secure the tank in case of flooding, and similar measures are recommended (but not required) for outdoor tanks.
5. Tank inspectors who tag a tank must report the tank owner, address, and problem with the tank to the Department for posting on the Department's web page. Fuel dealers can check the list to see if new customers have a red-tag on their system. To be removed from the list, owners (or their contractor) can simply provide information and documentation to the Department that the repairs or upgrades have been made.

RULEMAKING PROCESS

The Department of Environmental Conservation has followed a formal rule-making process for adoption of the revised red tag rule. The Department presented the rule to the Inter-Agency Committee on Administrative Rules in March 2017. The Public Comment period lasted from March 15, 2017 to April 19, 2017. The Department plans to present the final revised Rule to the Legislative Committee on Administrative Rules on July 6 . The draft rule can be found at the following website:

http://dec.vermont.gov/sites/dec/files/documents/2017_2_17_AST.Rules_.2017.Revision_Draft_4.3_CLEAN.pdf

GRANT PROGRAM

The Petroleum Cleanup Fund (PCF) offers financial assistance to low income tank owners towards the removal, replacement, or upgrade of aboveground storage tanks (ASTs) and underground storage tanks (USTs) used to provide heat to a non-commercial property located in Vermont.

QUESTIONS?

For general information about the rule, please contact Marc Roy at marc.roy@vermont.gov. or Matt Moran at matt.moran@vermont.gov To apply for an AST grant, please contact Kristin Davis at kristin.davis@vermont.gov.