

FAQs About the Massachusetts Underground Storage Tank Program's Move from DFS to MassDEP

Effective July 1, 2009, responsibility for administering the tank registration and compliance inspection provisions of the Massachusetts Underground Storage Tank Program (527 CMR 9.00) will be transferred from the Massachusetts Department of Fire Services (DFS) to the Department of Environmental Protection (MassDEP). In addition, the Department of Environmental Protection will assume responsibility for the Commonwealth's inventory of underground storage tanks (established by 527 CMR 5.06).

These provisions were designed to prevent groundwater pollution from leaking underground storage tanks and to meet federal requirements established by Subtitle I of the U.S. Solid Waste Disposal Act, as amended by the U.S. Energy Policy Act of 2005. The transfer of responsibility for this program was authorized by the Massachusetts Legislature in Chapter 4 of the Acts of 2009.

Please find answers to questions that have been raised about this program transition below:

1. Forms

Q1.1. If a tank's status is unchanged, is a form required to be submitted?

No. However, effective July 1, 2009, an FP-290 must be submitted to MassDEP under the following conditions:

- *Change of Ownership, or Ownership Information.*
An owner of a UST must submit an updated FP-290 to MassDEP within 7 working days of any change in the name, address, or phone number of the UST owner or operator.
- *Installation, Replacement, Substantial Modification or Removal of a UST.*
An owner of a UST must submit an updated FP-290 to MassDEP within 30 days of the installation, replacement, substantial modification or removal of a UST.
- The mailing address for the submittal of FP-290 documents effective July 1, 2009 is

Department of Environmental Protection
Bureau of Waste Prevention – UST Program
P.O. Box 120-0165
Boston, MA 02112-0165

Q1.2. Where should Third Party Inspection Forms (FP-289) be submitted?

All third party inspection forms (FP-289) must be submitted to MassDEP within 14 days of inspection. These should also be sent to the MassDEP address above.

Q1.3. Should tank owners continue to send copies of the FP-289 and FP-290 to the local Fire Department?

Yes. Copies of all FP-289 and FP-290 forms and any supporting documents must continue to be sent to the Fire Department in the city or town in which the UST is located.

Q1.4. If MassDEP is taking over the Commonwealth's inventory of underground storage tanks, why won't FP-1 Forms (Notice of Change of Information) be submitted to Mass DEP after July 1, 2009, rather than DFS?

The FP-1 Notice of Change of Information is applicable to a range of regulations implemented by DFS that are not related to USTs, and therefore should not be used for USTs. An FP-290 should be used to document changes in information about USTs.

Q1.5. Permits for new tanks are currently issued by local Fire Departments. Will state approval also be required?

The permit review and approval process for new UST installations will continue to be administered by local Fire Departments, as in the past. Any questions concerning local review and approval of a UST should be addressed to the Fire Department in the municipality where the tank will be installed.

A fully completed FP-290, including parts 1, 2 and part 3 (copy of the local permit) must be forwarded to MassDEP within 30 days of the new tank's installation.

MassDEP and DFS have no plans to change the role of local review and permitting of USTs.

Q1.6. Who issues permits for specific materials stored in tanks?

Local Fire Departments issue these approvals and will continue to do so.

Q1.7. Municipalities are using DFS underground storage tank forms as the basis for local fees. After July 1, 2009, will these fees still be paid to local Fire Departments?

Yes. These fees will continue to be paid to local Fire Departments. MassDEP has made no provision at this time to assess fees associated with its implementation of the UST Program. Fees currently assessed by municipalities (which generally cover municipal expenses associated with UST program compliance activities) continue to be the jurisdiction of the municipality.

Q1.8. Will applications for "self-service" installations at fuel dispensing facilities (e.g., gas stations) still be submitted to DFS?

Yes. "Self-service" approvals will continue to need approval from the Office of the State Fire Marshal before equipment is installed. These approvals deal with dispensing of fuel, the fire suppression system and the concrete pad surrounding the fueling island at facilities where customers pump their own fuel.

Q1.9. Will MassDEP issue a transmittal number when forms are filed?

No. MassDEP will not be issuing transmittal numbers while the current DFS UST Program forms are being used.

Q1.10. Will MassDEP set up a procedure for submitting forms on-line through its web site?

Yes. MassDEP is planning to create forms that can be submitted on-line, but has not yet determined the schedule for developing and implementing this feature. As on-line forms are developed, MassDEP will communicate with trade associations and the regulated community to ensure that the forms and instructions are clear, and that the regulated community is trained on their use.

2. Data About Underground Storage Tanks

Q2.1. Will MassDEP develop its own database and files?

For purposes of continuity, MassDEP will continue to use DFS's UST facility identification numbers and database. Over time, MassDEP plans to merge the DFS UST database into the MassDEP database and will ultimately track all UST facilities by a MassDEP Facility Account Number. Many USTs are located at facilities that are already regulated by MassDEP and have Facility Account Numbers. MassDEP will communicate this change to the regulated community before it becomes effective.

3. Web Site

Q3.1. Will the UST database continue to be available to the public on-line?

Yes. After July 1, 2009, MassDEP's web site will provide a link to the on-line UST database (www.mass.gov/dep/toxics/ust).

Q3.2. Will above ground storage tanks (ASTs) be incorporated into the UST program?

No. There are no plans to incorporate ASTs into the Massachusetts UST program at this time.

4. Outreach About the Program Transition

Q4.1. Who will provide transition information to local Fire Departments?

DFS will continue outreach to local Fire Departments concerning the transfer of the UST Program from DFS to DEP. In addition, DFS will continue to provide local Fire Departments with outreach and training materials regarding those aspects of USTs that remain within the Fire Department's jurisdiction.

Q4.2. Who will notify registered UST owners about the upcoming program change?

MassDEP will communicate with all registered UST owners about the program changes and issues related to the operation and maintenance of USTs, including compliance with the requirements of the U.S. Energy Policy Act of 2005 and the federal UST program. A copy of the letter sent to UST owners and operators can be found at www.mass.gov/dep/toxics/ust.

Q4.3. Will trade associations receive an electronic notice they can forward to their members?

Yes. This is one way that both MassDEP and DFS will work with trade associations to help them help their members comply with UST requirements.

5. Third Party Tank Inspectors

Q5.1. Will MassDEP update the list of Third Party Inspectors who can be hired by Massachusetts UST owners?

Yes. The list of Third Party Inspectors will continue to be updated, and after July 1, 2009, it will be made available to the public via MassDEP's web site (www.mass.gov.dep/toxics/ust). DFS and MassDEP will continue to train Third Party Inspectors.

6. UST Inspections

Q6.1. Will the local Fire Department or Department of Fire Services inspect UST facilities?

Yes. Both the local fire department and/or the Department of Fire Service are still responsible for preventing fire and explosion hazards and will conduct certain inspections. Further, the local fire chief is still authorized to ask to see tank records to ensure that a tank is in compliance with program rules, and that it has been tested to determine that it is not leaking and does not present a fire or explosion hazard.

Q6.2. Will there be times when both MassDEP and the local Fire Department will be at a UST site together?

Yes. When fuel spills or a tank leaks, both agencies will continue to respond and work together, as they have in the past to ensure that fire and explosion hazards, as well as environmental issues, are mitigated.