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STEPHEN D. COAN
STATE FIRE MARSHAL

MEMORANDUM

TO: Heads of Fire Departments and Underground Storage Tank Regulated Community

FROM: Stephen D. Coan, State Fire Marshal
David W. Cash, Commissioner, Department of Environmental Protection

DATE: December 31, 2014

RE: Underground Storage Tank Requirements under the revised Massachusetts Fire Code after January 1, 2015 and how they intersect with MassDEP UST requirements at 310 CMR 80.00

We are issuing this memorandum to inform you that on January 1, 2015, when the revised Fire Code (527 CMR 1.00) becomes effective, the Underground Storage Tank (“UST”) regulations, 527 CMR 9.00, will be repealed. After that date, the majority of UST requirements will be found at 310 CMR 80.00, which is enforced by the Massachusetts Department of Environmental Protection (“MassDEP”). Some UST requirements will remain in the revised Fire Code and will continue to be enforced by the Department of Fire Services (“DFS”) and local fire departments. This memorandum lays out those requirements and states how they dovetail with requirements in 310 CMR 80.00, if at all.

Permits/Licenses Required for USTs

Flammable and combustible liquid storage permit and license requirements will remain under the jurisdiction of Board of Fire Prevention Regulations (“BFPR”) through the revised Fire Code. MassDEP will not issue any permits or licenses for the installation, use or maintenance of USTs. Simply stated, fire departments will continue to permit the contents, but not the container (UST).

Requirement	Issued By	Authority
Permit to keep, store, manufacture, handle flammable or combustible liquids	Local fire department	M.G.L. c. 148, §9

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Permit to remove an UST	Local fire department	M.G.L. c. 210, §1
License to keep, store, manufacture or sell any article named in M.G.L. c. 148, §9	Local licensing authority	M.G.L. c. 148, §13

What is an UST?

The BFPR uses the definition of “UST System” from the MassDEP regulations to define “UST” in the revised Fire Code (*see* 527 CMR 1.00 § 3.3.254.8). 310 CMR 80.00 defines “UST System” as: any one or combination of tanks, including, without limitation, underground pipes connected thereto, that contains regulated substance and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground. The term shall not include any of the following tanks or any pipes connected to any of the following:

- (1) Any septic tank; or
- (2) Any pipeline facility, including gathering lines, which is regulated under (a) the Natural Gas Pipeline Safety Act of 1968; or (b) the Hazardous Liquid Pipeline Safety Act of 1979; or
- (3) Any surface impoundment, pit, pond, or lagoon; or
- (4) Any storm water or waste water collection system; or
- (5) Any flow through process tank; or
- (6) Any liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or
- (7) Any storage tank situated in an underground area, including without limitation, a basement, cellar, or mineworking drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor, and all sides are accessible and visible.

General Requirements for USTs

In addition to the specific requirements listed below and the requirements at 310 CMR 80.00, UST’s that contain liquids shall comply with Chapter 21 of 527 CMR 1.00 and National Fire Protection Association Standard³⁰, Storage of Liquids in Tanks (“NFPA”). (*See* 527 CMR 1.00 §42.3.3.1)

Abandoned USTs

Pursuant to 527 CMR 1.00 §1.12.8.40.2.2, an abandoned UST with a capacity of ≤10,000 gallons and its piping shall be removed if it has been abandoned for a continuous period in excess of 12 months. In this context, ‘abandoned’ means “...without use, either filling or draw off...” This does not include an UST that has been permanently closed, or has been properly taken temporarily out-of-service and the extent of the temporarily out-of-service status has not exceeded 5 years.

Closure Requirements

General Requirements - UST's taken temporarily out-of-service, closed-in-place or removed that contain a regulated substance that is a flammable or combustible liquid shall comply with 310 CMR 80.42-80.47, 527 CMR 1.00 § 66.21.7.4.3.1 and NFPA 326.

Temporarily Out-of-Service UST's– UST's may be taken temporarily out-of-service for up to five years, provided they comply with the requirements at 527 CMR 1.00 § 66.21.7.4.3.2 and 310 CMR 80.42. No approval or permit is needed to take an UST temporarily out-of-service, but MassDEP shall be notified pursuant to 310 CMR 80.42(2).

Permanent Closure-in-Place – An UST may be closed-in-place if a registered, professional civil or structural engineer determines the UST meets the requirements in 310 CMR 80.43(3)(a). The closure shall comply with 527 CMR 1.00 § 66.21.7.4.3.3 and 310 CMR 80.43(3). An assessment shall be performed in accordance with 310 CMR 80.43(4). If the Owner or Operator obtains knowledge of a release, the Owner or Operator shall comply with the notification requirements contained in 310 CMR 40.0000, as applicable.

Removal – An UST shall be removed in accordance with 527 CMR 1.00 § 66.21.7.4.3.4 and 310 CMR 80.43(2). A permit for removal is required from the local Fire Department. Notification to MassDEP is required pursuant to 310 CMR 80.43(2)(c). An assessment shall be performed in accordance with 527 CMR 1.00 § 1.12.8.40.1.3.1 and 310 CMR 80.43(4). If “contamination” is found during the assessment the Owner shall immediately notify the Head of Fire Department and MassDEP under 527 CMR 1.00 § 1.12.8.40.1.3.2. If the Owner or Operator obtains knowledge of a release of regulated product during the assessment, the Owner or Operator shall comply with the notification requirements contained in 310 CMR 40.0000, as applicable.

Requirements for UST's that hold Specific Substances

Compressed Gases - If an UST system has underground piping containing a compressed gas, it shall comply with 527 CMR 1.00 § 63.3.1.17. If the compressed gas is considered a 'regulated substance' under M.G.L. c. 210 and 310 CMR 80.00, the facility shall also comply with 310 CMR 80.00.

Cryogenic Fluids - If an UST system contains a regulated substance that is a cryogenic fluid, it shall comply with the installation requirements of 527 CMR 1.00 § 63.4.13.2.5.2 and the requirements at 310 CMR 80.00.

Note: A municipality may have ordinances or bylaws that contain additional or more stringent UST requirements.

If you have questions about 527 CMR 1.00, please contact the Department of Fire Services Code Compliance & Enforcement Unit at (978) 567-3375 or in western Massachusetts at (413) 587-3181. If you have questions about the MassDEP regulations, please call the UST hotline at (617) 556-1035, Extension 2 or send an email to: DEP.UST@state.ma.us.