

Orleans Board of Health Regulations

Above Ground Fuel and Chemical Storage Tank

Regulation

Purpose

To prevent toxic/hazardous material leaking from storage tanks, which poses an immediate and serious threat to Cape Cod's sole source aquifer, surface water and public health and safety.

Preamble

The Orleans Board of Health, in collaboration with the Orleans Fire Department, has developed these regulations for the purpose of preventing toxic/hazardous material (heating oil) leaking from corroded storage tanks. Oil leaks pose an immediate and serious threat to Cape Cod's sole source aquifer, surface water and public health and safety.

An oil leak clean up from a home heating system can cost the homeowner anywhere from \$20,000 to \$50,000 and beyond. Outdoor fuel storage tanks are exposed to the elements and tend to rust from both the inside and outside. Indoor fuel storage tanks primarily rust from the inside. Unfortunately, there is no reliable testing method to determine if a tank is corroding from the inside or not. The Department of Environmental Protection recommends replacing outdoor single wall tanks after ten years and replacing indoor, single wall tanks after 30 years.

Scope

Regulating above ground storage tanks (ASTs) containing liquid fuel or toxic/hazardous material including but not limited to heating fuel for residential and commercial buildings in the Town of Orleans.

Authority

Under provisions of Chapter 111, Section 31, of the Massachusetts General Laws, the Orleans Board of Health hereby adopts the following regulations to protect groundwater and surface water from contamination with toxic/hazardous material from leaking storage tanks.

Section 1: Definitions

Above ground storage tank (AST) means the storage of toxic/hazardous materials where the tank volume and piping are above the ground surface including storage in a free-standing container within a building and/or outside.

Distributor means any wholesaler or retailer who discharges fuel or toxic/hazardous material into an underground/above ground storage tank.

Installer means any person or commercial firm that sells underground/above ground storage tanks for the purposes of storing toxic/hazardous material and/or physically places the tank in its location.

Owner means every person who:

- a. Has record title to any property on which is located an underground/above ground fuel or chemical storage tank or facility subject; or
- b. Has care, charge, or control of any such property; or
- c. Mortgagee in possession of such property.

Above Ground Fuel and Chemical Storage tank means any tank used or intended to be used to hold toxic/hazardous material in the liquid state. It includes piping to deliver said material to and from the vessel.

Toxic/hazardous materials means all liquid hydrocarbon products, including but not limited to gasoline, fuel, diesel oil, residential/commercial heating oil and any other toxic or corrosive chemicals, radioactive materials or other substances controlled as being toxic or hazardous by the Division of Hazardous Waste of the Commonwealth of Massachusetts under the provisions of MGL C.21c.

Section 2: Applicability

- 2.1 These regulations supplement State Laws or Regulations (527 CMR 1.00 Massachusetts Comprehensive Fire Safety Code); the more restrictive applies.
- 2.2 These regulations apply to owners and installers of above ground chemical storage tanks, as well as distributors of fuel and toxic/hazardous material discharged into above ground storage tanks, excluding natural and propane storage tanks.

Section 3: Installation

- 3.1 No above ground storage tank shall be installed without first obtaining a permit from the Orleans Fire Department, pursuant to M.G.L., c.148.
- 3.2 All new or replacement above ground fuel and chemical storage tanks shall be of an approved design, protected from corrosion, installed with secondary containment and an approved in-tank interstitial space monitoring system as per the State Code 527 CMR 1.00, and Section 3 of this regulation. All associated supply line(s) shall be enclosed with a continuous non-metallic sleeve and safety valve installed on the supply line in accordance with the manufacturer's instructions and per current code.
- 3.3 All increases in capacity of storage tanks, including tanks used to store residential/commercial chemicals and heating oil will require:

That the entire storage and facility including all fuel and chemical storage tanks shall be of an approved design, protected from corrosion, installed with secondary containment and an approved in-tank interstitial space monitoring system as per the State Code 527 CMR 1.00, and Section 3 of this regulation. All associated supply line(s) shall be enclosed with a continuous non-metallic sleeve

and safety valve installed on the supply line in accordance with the manufacturer's instructions and per current code.

- 3.4 On existing installations, whenever a burner, boiler, furnace, or tank is replaced, the supply line shall either be replaced or enclosed with a continuous non-metallic sleeve and a safety valve installed on the supply line in accordance with the manufacturer's instructions and per current code.
- 3.5 All installations of new, replacement, or expansions of any fuel or chemical storage tank system must be inspected by the Orleans Fire Department. A request for an inspection must be made with the Fire Department within twenty-four hours of the completion of the installation.

Section 4: Storage Tank Removal

- 4.1 No above ground fuel and chemical storage tank shall be removed without first obtaining a permit from the Orleans Fire Department, pursuant to M.G.L., c.148.
- 4.2 If at any time evidence of leakage from any above ground storage tank is discovered, that storage tank shall be removed under the supervision of a Licensed Site Professional (LSP).
- 4.3 **Indoor above ground single wall fuel and chemical storage tanks:** All existing indoor above ground single wall fuel storage tank and associated piping not meeting the design standards set forth in Section 3 of this regulation shall be removed as set forth below. If the date of installation is unknown, it shall be considered an imminent danger to public health and safety, shall be termed "FAILED" and shall be removed within eighteen (18) months after notification by the Orleans Fire Department that the tank is condemned. The burden of proof of installation is the responsibility of the property owner.

The required dates for removal are as follows:

Installed	Required date of removal of indoor above ground residential/commercial fuel or chemical storage tank
Prior to July 1, 1992	January 1, 2023
Prior to July 1, 1998	January 1, 2024
After July 1, 1998	25 Years after the date of installation

- 4.4 **Outdoor above ground single wall fuel and chemical storage tanks:** All existing outdoor above ground fuel or chemical storage tank and associated piping not meeting the design standards set forth in Section 3 of this regulation shall be removed as set forth below. If the date of installation is unknown, it shall be considered an imminent danger to public health and safety, shall be termed "FAILED," and shall be removed within eighteen (18) months after notification by the Orleans Fire Department that the tank is condemned. The burden of proof of installation is the responsibility of the property owner.

The required dates for removal are as follows:

Installed	Required date of removal of outdoor above ground residential/commercial fuel or chemical storage tank
Prior to July 1, 2008	January 1, 2023
Prior to July 1, 2013	January 1, 2024
After July 1, 2013	10 Years after the date of Installation

- 4.5 **Transfer of Property/New Construction:** Prior to the date of transfer of property, all above ground fuel and chemical storage tanks and associated piping not meeting the design standards set forth in Section 3 of this regulation shall be replaced with a double walled above ground tank with an interstitial monitoring device as described in Section 3.2 of the regulation. All associated piping shall be enclosed with a continuous non-metallic sleeve and safety valve on the supply line as described in Section 3.2 of this regulation.

A 60-day extension from the date of property transfer can be granted by the Board of Health or its designee to complete the requirements of this section. The extension will include an agreement executed by the owner, proposed buyer and the Board of Health or its designee. The extension may not exceed 60 days. If additional time is required, the process for a variance under section 9 must be followed.

- 4.6 Any person issued an order by the Orleans Fire Department to remove an above ground storage tank, under provisions of Chapter 148 of the General Laws or 527 CMR 1.00, shall, within seventy-two (72) hours, apply for a permit to remove such tank and make a good faith effort to remove the tank within the time frame specified in such order.
- 4.7 The removal of any fuel or chemical storage tank system must be inspected by the Orleans Fire Department. A request for an inspection must be made with the Fire Department within twenty-four hours of the completion of the removal.

Section 5: Abandoned Fuel or Chemical Storage Tank

- 5.1 Any person having knowledge of an underground or above ground fuel and chemical storage tank that is abandoned shall notify the Orleans Fire Department.
- 5.2 All above ground storage tanks taken out of service or no longer used for the storage of toxic/hazardous material shall be considered abandoned.
- 5.3 All abandoned above ground storage fuel and chemical tanks shall be removed within six (6) months from the date of abandonment.

Section 6: Report of Leaks or Spills

- 6.1 Any person who is aware of a release or threat of release of toxic/hazardous materials shall immediately notify the Orleans Fire Department, Orleans Health Department, and Department of Environmental Protection.
- 6.2 A significant and unaccounted for increase in the consumption of a toxic/hazardous material may be indicative of a damaged or leaking storage tank. Any owner of an underground or above ground storage tank who suspects a leak or spill shall report the suspected leak or spill to the Orleans Fire Department.
- 6.3 All toxic/hazardous material distributors shall report to the Orleans Fire Department and the owner of an above ground storage tank any significant increase in toxic/hazardous material usage, which may indicate a leak.

Section 7: Compliance

- 7.1 The provisions of these regulations are not intended to relieve an owner of his/her duty to comply with all applicable federal or state law or regulation, or other law or regulation of the Town of Orleans.

Section 8: Responsibility for costs

- 8.1 In every case, the owner shall assume the responsibility for costs incurred necessary to comply with this regulation.

Section 9: Variances

- 9.1 Variances from these regulations may be granted by the Orleans Board of Health after a hearing at which the applicant establishes the following:
 1. The enforcement thereof would do manifest injustice.
 2. The installation, operation, and maintenance of a storage tank will not adversely affect the public or private water resources. In granting a variance, the Board will take into consideration the groundwater flow, soil conditions, and depth to groundwater, size, shape, and slope of the lot and existing and known future water supplies.
- 9.2 **Process for Seeking a Variance/Local Upgrade Approval**
 1. The Board of Health shall review requests for variances as follows:
 - a. Every request for a variance shall be in writing and shall make reference to the specific provision of the Above Ground Fuel Storage Regulations for which a variance is sought, and a statement showing compliance with the provisions of Section 9.1 of these Regulations.

- b. No application for a variance shall be complete until the applicant has notified all direct abutters and abutters across the street by certified mail at his/her own expense at least ten (10) days before the Board of Health meeting at which the variance request will be on the agenda. The notification shall reference the specific section of the Above Ground Fuel Storage Regulations for which a variance is sought, a statement of compliance with the standards set forth in Section 9.1 of these Regulations and the date, time and place where the application will be discussed.
- c. It shall be the responsibility of the applicant to notify the property owner (if different than the applicant) of the request for a variance.

Section 10: Enforcement

- 10.1 This regulation shall be enforced by the Board of Health, the Health Department, the Fire Chief, or the Chief's designee.
- 10.2 Any owner violating the provisions of this regulation shall be punished as follows:
 - a. A fine of Two Hundred Fifty Dollars (\$250) shall be issued for each offense.
 - b. Each calendar day on which a violation exists shall be considered a separate offense.
- 10.3 Violations of these regulations may be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21D of Chapter 40 of the Massachusetts General Law. The disposition of fines assessed shall be subject to Section 188 of Chapter 111.

Section 11: Severability

- 11.1 In the event any of these regulations shall be held invalid, any such regulation or regulations shall be deemed to be severed from the others and struck from these rules, but the remaining regulations shall continue in full force.

ORLEANS BOARD OF HEALTH

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