FINAL PROPOSED RULE # 24-P12

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Aboveground Storage Tank Rules

Julia S. Moore , on 5/20/2024
(signature) (date)

Printed Name and Title:
Julia S. Moore, Secretary, Agency of Natural Resources

RECEIVED BY: _____

- ☐ Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Analysis
- ☐ Environmental Impact Analysis
- ☐ Strategy for Maximizing Public Input
- ☐ Scientific Information Statement (if applicable)
- ☐ Incorporated by Reference Statement (if applicable)
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Annotated text (Clearly marking changes from previous rule)
- ☐ ICAR Minutes
- ☐ Copy of Comments
- ☐ Responsiveness Summary

1. TITLE OF RULE FILING:
Aboveground Storage Tank Rules

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE
24P012

3. ADOPTING AGENCY:
Agency of Natural Resources - Dept. of Environmental Conservation (ANR-DEC)

4. PRIMARY CONTACT PERSON:
(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Anna Bourakovsky

Agency: ANR- DEC

Mailing Address: 1 National Life Drive, Davis 1, Montpelier, VT 05620

Telephone: 802-477-2981 Fax:

E-Mail: anna.bourakovsky@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:
https://dec.vermont.gov/waste-management/storage-tanks

5. SECONDARY CONTACT PERSON:
(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Matthew Chapman

Agency: ANR- DEC

Mailing Address: 1 National Life Drive, Davis 1, Montpelier, VT 05620

Telephone: 802-249-4393 Fax:

E-Mail: matt.chapman@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:
(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

10 V.S.A. section 1929a(c) (Sec. 1 of Act No. 76 of 2016)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:
10 V.S.A. sections 1929a (a) and (c) require that the Agency of Natural Resources adopt rules to address installation and inspection of aboveground storage tanks.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (**150 WORDS OR LESS**):

This rule is required by 10 V.S.A. section 1929a(c). The existing rule sets tank design and installation standards, tank inspection requirements, and protocols for reporting and managing noncompliant tanks. The proposed amended rule includes additional requirements for new tank system installations, adds phased in installation requirements for existing tank system, and proposes a new yellow tag provision for addressing noncompliant tanks by allowing limited fuel deliveries to noncompliant tanks that do not pose an immediate threat to the environment. Although continued operation of noncompliant tanks is potentially problematic, an immediate prohibition of further deliveries of fuel oil (i.e., red tagging) is a major concern, as existing rules jeopardize the health and safety of Vermont residents that rely on oil heat. Additionally, the

proposed amended rules provide additional rule applicability clarifications and new technical definitions and modify the tank inspection interval from 3 to 4 years.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The current rule contains requirements to inspect tank systems and requires the tank inspector to red-tag tanks which do not comply with established standards; red-tags prohibit fuel oil deliveries to noncompliant tanks and thus reduce the potential of an environmental release of petroleum. While this approach has required many sub-standard tanks to be upgraded or replaced, it has also caused severe hardship to people with limited resources who depend on their oil heating systems for heat and hot water. Additionally, immediate replacements of noncompliant tanks may not be feasible due to weather conditions and/or staff availability. The revised rule would allow more flexibility and identify those noncompliance items which do not typically exhibit an immediate threat of a petroleum release; additional time will be allowed for addressing such noncompliance items, thus allowing the residents to retain their ability to heat their homes while they wait for upgrades/replacements.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

Vermont Law (10 V.S.A. 6603) specifically authorizes the Agency to adopt and amend rules to implement requirements in 10 V.S.A. chapter 159 pertaining to the standards of AST design, proper installation, and tank inspection. This proposed amended rule includes necessary revisions to inspection standards and tank installation standards. These proposed revisions, along with the existing provision of the rule, are designed to ensure uniform standards for tank installations, alterations, and inspections in a manner that is protective of human health and the environment, while also addressing the health and safety of Vermont residents that rely on oil as their only source of home heating.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Any person who owns an aboveground storage tank will be affected by this rule. Information obtained from the Vermont Fuel Dealers Association indicates that over 150,000 aboveground storage tanks are in use in Vermont. Fuel suppliers and certified tank inspectors will also be affected by this rule, as they are required to ensure that the aboveground storage tank systems of their customers are inspected routinely. Fuel suppliers and other entities that conduct tank inspections are required to report certain noncompliance to the State and are prohibited from filling noncompliant tanks.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

Negative economic impacts may include higher tank installation/upgrade/repair costs to tank owners; higher costs may result from more stringent installation standards for new systems and more stringent phased in standards for existing systems. Lower income Vermonters will continue to be eligible for financial assistance to help offset the costs of tank replacements and repairs. Positive economic impacts of these revisions include lower costs to the fuel industry due to changes in inspection frequency; positive impacts to both fuel tank owners and fuel suppliers resulting from the new yellow tag provision that will allow more flexibility in the timeline for replacement or repair of noncompliant tanks; and potentially significant economic benefits to both tank owners and the State due to the potential reduction of the quantity and severity of petroleum spills resulting from more stringent tank installation standards. All fuel oil spills require extensive and often expensive cleanup efforts.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 4/16/2024

Time: 06:00 PM

Street Address: Dill Building, 2178 Airport Rd. Berlin, VT
Zip Code: 05641
URL for Virtual:

Date:
Time: _____ AM
Street Address:
Zip Code:
URL for Virtual:

Date:
Time: _____ AM
Street Address:
Zip Code:
URL for Virtual:

Date:
Time: _____ AM
Street Address:
Zip Code:
URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):
04/24/2024

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

aboveground tanks
fuel oil tanks
heating oil tanks
tank inspections
oil heat

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:
   Aboveground Storage Tank Rules
2. ADOPTING AGENCY:
   Agency of Natural Resources - Dept. of Environmental Conservation (ANR-DEC)
3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

   - **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
   - **NEW RULE** - A rule that did not previously exist even under a different name.
   - **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

   This filing is **AN AMENDMENT OF AN EXISTING RULE .**

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

   17-047, Vermont Aboveground Storage Tank Rules, 08/15/2017

State of Vermont
Agency of Administration
109 State Street
Montpelier, VT 05609-0201
www.aoa.vermont.gov

[phone] 802-828-3322

Kristin L. Clouser, Secretary

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: February 23, 2024, virtually via Microsoft Teams
Members Present: Chair Sean Brown, Jennifer Mojo, John Kessler, Diane Sherman, Michael Obuchowski, Nicole Dubuque, Jared Adler (voted on the 1st two rules only then exited meeting at 1:55 PM), Natalie Weill (did not vote)
Minutes By: Melissa Mazza-Paquette

- 1:01 p.m. meeting called to order, welcome and introduction of newest Committee member Natalie Weill who will begin voting at the next ICAR meeting.
- Review and approval of minutes from the January 8, 2024 meeting.
- No additions/deletions to agenda.
- No public comments made.
- Presentation of Proposed Rules on pages 2-7 to follow.
  1) Aboveground Storage Tank Rules, Agency of Natural Resources, Department of Environmental Conservation, page 2
  2) Unused Drug Repository Rule, Agency of Human Services, Department of Health, page 3
  3) Improved Tracking of Workplace Injuries and Illnesses, Vermont Department of Labor, page 4
  4) Reportable and Communicable Diseases Rule, Agency of Human Services, Department of Health, page 5
  5) Rule 3.300 Disconnection of Residential Gas, Electric and Water Service, Vermont Public Utility Commission, page 6
  6) Rule 3.400 Disconnection of Cable Television Service and Non-Residential Electric, Gas and Water Service, Vermont Public Utility Commission, page 7
- Other business:
  - Diane will create draft public guidance for the Committee's review at a future meeting to aid those filing proposed rules.
- Next scheduled meeting is Monday, March 11, 2024 at 2:00 p.m.
- 3:02 p.m. meeting adjourned.

Proposed Rule: Aboveground Storage Tank Rules, Agency of Natural Resources, Department of Environmental Conservation

Presented By: Anna Bourakovsky and Andrew Youngs

Motion made to accept the rule by Sean Brown, seconded by Diane Sherman, and passed unanimously except for Jen Mojo who abstained, with the following recommendations:

1. Submit an updated rule that highlights changes noted at the beginning of the meeting distinguishing between new and existing installations *(received after the ICAR 02/23/24 meeting)*.
2. Proposed Filing – Coversheet:
    a. #8: Reword to include the full scope of changes including the strict requirements, etc.
    b. #12: Provide an executive summary to align with the Economic Impact Analysis.
3. Public Input:
    a. #3: Provide additional upcoming outreach such as the towns and the newsletter process referenced during the meeting.

        Note from the Teams chat from the office of the Secretary of State: "Just as an fyi, the APA Portal at https://secure.vermont.gov/SOS/rules/ does include a subscription tool where users may choose from multiple criteria and will be notified of any postings matching their selected criteria."

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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1. TITLE OF RULE FILING:

   Aboveground Storage Tank Rules

2. ADOPTING AGENCY:

   Agency of Natural Resources - Dept. of Environmental Conservation (ANR-DEC)

3. CATEGORY OF AFFECTED PARTIES:

   LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

   Owners of aboveground storage tanks (ASTs) storing petroleum products (includes homeowners, business owners, and a few government entities) may be potentially affected. Owners of ASTs may be affected by higher installation costs and additional repair costs associated with new installation standards and required

periodic tank inspections. More stringent installation and tank maintenance standards will likely lead to a reduction in fuel releases to homes and properties, which will reduce the costs associated with petroleum clean-up activities for both the impacted home owners and the State. Additional economic benefits to tank owners that are associated with the revised rules include a new provision that will allow for a more flexible timeline for repairs and replacements of certain noncompliant tanks.

Fuel suppliers and tank inspectors will likely be impacted by the proposed rules. Fuel suppliers will need to ensure appropriate staffing levels to complete required tank inspections and ensure tank repairs and replacements are completed as required; tank inspection frequency is being extended from three to four years, which will benefit fuel suppliers/tank inspectors. The proposed rules will benefit companies that install tanks and deliver fuel by allowing more flexibility in the timeline of required tank repairs and replacement for certain noncompliant tanks, allowing for the continuation of fuel deliveries.

Marinas will be required to install secondary containment systems for all ASTs by 2030. There will be associated new costs with completing this work; however, potential releases from such ASTs will be contained, significantly reducing the cleanup costs associated with petroleum releases to soil and waterbodies.

The Agency of Natural Resources (ANR) will be impacted by these proposed revisions. Revised installation and inspection requirements are expected to result in fewer and less serious releases of petroleum products from AST systems; a reduction in quantity and severity of releases will benefit ANR by reducing the amount of state funding that will be required for clean-up and remediation activities, as claims to the State Petroleum Cleanup Fund will likely decrease.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

This rule is expected to have no measurable impact on public education and schools.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

   N/A

6. IMPACT ON SMALL BUSINESSES:
   INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

   Some buildings housing small businesses are heated with fuel oil that is stored in aboveground tanks. This rule will have a similar impact on small businesses as it does on residences that rely on petroleum-based heat; refer to the response to question 1 of this section.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

   Small businesses that use petroleum fuel stored in ASTs are subject to these rules in the same way that residential home owners are. A petroleum release from a tank at a small business poses the same risk to human health and the environment as a tank located at any other structure.

8. COMPARISON:
   COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:
   This rule is required by statute, so having no rule on the subject is not an option. The Agency of Natural Resources has worked hard to minimize the burden on all affected parties, while still providing an adequate level of environmental protection.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
The Agency has worked closely with the Vermont Fuel Dealers Association and its members to minimize the burden on the fuel dealer industry, who will be most affected by this rule. There is widespread consensus that the provisions contained in the proposed rule will not cause excessive burdens to the fuel dealer industry.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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1. TITLE OF RULE FILING:

   Aboveground Storage Tank Rules

2. ADOPTING AGENCY:

   Agency of Natural Resources - Dept. of Environmental Conservation (ANR-DEC)

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
   Heating buildings in winter is a significant source of greenhouse gases in Vermont; this rule will not have a measurable effect on emissions from existing oil burning equipment. This rule is likely to further reduce the prevalence and severity of heating fuel releases to the environment. Cleanup activities associated with petroleum releases are often energy intensive due to the types of processes used; for example, the most common way to treat soil that has been contaminated by petroleum is thermal desorption,

which involves heating the soil to ensure combustion of the oil contaminants. While essential for environmental cleanup of petroleum spills, this process generates substantial amounts of greenhouse gases. By reducing the amount and severity of petroleum spills, this rule is expected to have an overall reduction of greenhouses gases associated with cleanup and site remediation.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
   The proposed rule includes more stringent installation standards for tanks located at marinas and in flood-prone areas and therefore is expected to reduce the amount of petroleum products that have the potential to enters Vermont's waterways.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
   The proposed rule includes more stringent installation and maintenance standards for all Vermont ASTs and is expected to reduce the frequency and severity of tank failures and the associated releases of petroleum to land.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
   This rule will have no measurable effect on recreation in the state.

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
   Please refer to response #3. By reducing the amount and severity of petroleum spills, this rule is expected to have an overall reduction of greenhouse gases associated with cleanup and site remediation.

8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
   The rule is expected to have no measurable effect on Vermont's wildlife and native plant communities.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
   The ANR spill response program maintains a database of statewide petroleum spills, including those associated with failed ASTs. Program staff have reviewed the

available information regarding common AST-related releases and have identified and addressed those tank standards which contribute to petroleum releases throughout the state. Staff members have also worked closely with experts in the fuel oil industry on ensuring that the proposed rules are reasonable and will continue to decrease the prevalence and severity of petroleum releases.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

   Aboveground Storage Tank Rules

2. ADOPTING AGENCY:

   Agency of Natural Resources - Dept. of Environmental Conservation (ANR-DEC)

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

   The Agency of Natural Resources worked closely with the Vermont Fuel Dealers Association (VFDA) throughout the development of these revisions to ensure that the proposed rule changes are achievable and the additional requirements that the fuel dealer industry will be subject to are reasonable. The Agency provided draft proposed rules to the VFDA and its members and solicited comments and suggestions from them as the Agency worked on revising the tank inspection and installation standards. The Agency reviewed all received comments and has incorporated many of them into the proposed rule revisions. Additionally, the Agency developed and provided two in-person presentations to VFDA members in May 2023 and February 2024; those attending the presentations had an opportunity to ask questions, voice concerns, and provide general feedback to the Agency. In addition to seeking input from VFDA and its members, the Agency plans to prepare a written notice on proposed revisions

and instructions on public comment participation and distribute the notice to town clerks across Vermont; the Agency will encourage each town clerk to then share this information with towns' residents through town websites and/or by posting information on the towns' public bulletin boards, if available. Information on rule revisions and public comment process will also be shared with the members of the Underground Storage Tank (UST) regulated community, via email distribution lists maintained by the Hazardous Materials Program. Information about rule revision and public comment participation will also be posted on the DEC social media channels.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

   Vermont Fuel Dealers Association, independent oil tank contractors, fuel distributors, human service agencies.

RESPONSE TO COMMENTS
ABOVEGROUND STORAGE TANK RULES
(Proposed Rule 24P012)

The Vermont Agency of Natural Resources (Agency) proposed for public comment revised Aboveground Storage Tank (AST) Rules on March 8, 2024. The comment period remained open through April 24, 2024, and a public hearing was held in Berlin, Vermont, on April 16, 2024.

During the public comment period, the Agency received written comments from 4 (four) interested parties; complete comments are attached for review as an Appendix to this response. No oral comments on the proposed rule were made at the April 16, 2024, public hearing.

Martin Dole submitted the following comment on March 21, 2024:

> I am emailing about the new storage tank rules. I do not feel it is fair to not grand father existing structures. I had an issue when selling my first house years ago because the state did not grandfather the contractor signing off on waste water permits. I feel these rules should be for any new construction or replacements moving forward. As home owners replace existing tanks then the new rules should take affect. The system for red tagging oil tanks I feel is flawed. There is no standards to say how a tank is red flagged that I am aware of. I believe this needs to be addressed also. I appreciate your time with this email.

Agency Response to Martin Dole comment: The purpose of the AST Rules is to protect the environment and public health from petroleum releases from ASTs. The majority of petroleum releases reported to the Agency are from existing tanks, not from new installations. Older tanks are especially prone to rusting, which increases the likelihood of a petroleum release due to pinhole leaks in the body of the tank. Required periodic tank inspections serve to identify compromised tanks, prohibit the delivery of fuel, and eliminate the risk of a release. Exempting existing tanks from the AST rules, especially the inspection standards, will significantly increase the prevalence and severity of petroleum releases in the state. This will significantly increase cleanup costs to the state's Petroleum Cleanup Fund (PCF), and it will negatively impact private residents, as releases in the home can be disruptive to everyday life and harmful to human health. When comparing the six years since the implementation of tank inspection standards in August 2017 to the six years preceding these standards, there has been a significant decrease in both releases from ASTs (30%) and state expenditures for petroleum cleanup due to AST releases (46%) (Legislative Report, 36th Annual Petroleum Cleanup Fund (PCF) Report, January 15, 2024). Therefore, the Agency is not modifying the proposed rules to exempt existing AST systems from the requirements of the AST Rules.

The current (2017) AST rules provide clear standards for red tagging ASTs in section **§ 9-306;** the proposed rules include red tag standards in section **§ 9-305.** Additionally, tank inspectors are required to provide each tank owner with a completed tank inspection checklist following each tank inspection, regardless of whether the tank passed or failed the inspection. Each checklist identifies the areas of tank noncompliance resulting in the red tag. Inspectors are required to use a checklist form developed and issued by the Agency and report all noncompliance to a public

database. Examples of inspection forms may be accessed on the Agency website: https://dec.vermont.gov/waste-management/storage-tanks/aboveground-storage-tanks-asts/asts-heating.

Additionally, the Agency recognizes that tanks installed prior to the development of these Rules may not be equipped with all of the components that are required by current tank installation standards. Therefore, the Rules already make clear distinctions between requirements applicable to existing installations versus new installations, and many of the tank installation standards for new tank systems are not applicable for existing tanks. For the purposes of tank inspections, under current AST (2017) rules the only items for which an existing tank can be designated as noncompliant and red tagged include: excessive rust or pitting/leaking/dripping; lack of a stable foundation; unprotected (not coated to prevent corrosion/damage) buried fuel lines; lack of functional overfill alarm; and improperly sized vent/fill lines. By comparison, new tank installations are currently subject to 12 individual installation requirements.

Matt Cota on behalf of Vermont Fuel Dealers Association (VFDA) submitted the following comment on April 10, 2024:

> We've paid multiple claims where a tank was filled when the tank was offline for maintenance or replacement and the fill-pipe wasn't tagged/blocked. It should be a rule that if you disconnect the tank from the fill pipe or are maintaining the furnace in such a way that oil could flow through the tank and into an open system, the fill pipe be blocked.

Agency Response to VFDA comment: In response to the comment, the Agency is amending **§ 9-303(c)(6)** to add the following language (underlined): Unused openings in all aboveground storage tank systems shall be fully and permanently closed or plugged. Threaded pipe plugs may be used to close openings to comply with this provision. Openings in aboveground storage tank systems that are temporarily taken out of service for maintenance or any other reason shall be plugged or tagged out to indicate the tank is out of service and the fuel carrier shall be notified that the tank cannot receive deliveries.

Vermont Fuel Dealers Association (VFDA) submitted the following comment on April 10, 2024:

> One of the proposed regulations requires the fuel dealer to know if a tank is in a flood zone or flood-prone area. Finding the flood zone for a property is possible using the FEMA website. But all properties are found on the flood map, and I believe all properties are designated a flood zone. It's what those zones mean that matters. You cannot leave it at "flood zone". However, flood-prone, is not, to my knowledge, an accepted definition with criteria that would allow a dealer to know if they should, or should not, install a tank at that location. You can't use a term that has no actual meaning to hold someone accountable.

Alyssa Sabetto, Senior Planner at the Windham Regional Commission, submitted the following comment on April 16, 2024:

Installation contractors/firms should be required to review mapping or have a system in place to know ahead of time what locations/job sites are in the floodplain. These contractors need training and/or a tool developed for their specific use to be able to make that determination. Perhaps using flood hazard mapping on the ANR Atlas, or perhaps there can be a simplified tool developed for them to cross check addresses for floodplain overlap. The contractors themselves, and property owners, generally do not have the expertise to determine if a property is in the floodplain/river corridor. Contractors should *not* be relying on home/business owners to be aware of this, or even be honest about it necessarily. There should be a standardized way for contractors/companies to be able to make this check before going to job sites, so that going into a job they are aware that they do or do not need to abide by the flood installation standards. I think that this check should be required for any site visit, whether it's an installation or an inspection – that would enable retrofit for existing tanks in addition to when new tanks are set.

Agency Response to VFDA and Windham Regional Commission comments: To determine whether an AST installation location falls within or outside a flood prone area, the Agency uses the definition of "**flood hazard area**" under **10 V.S.A. § 752.** Section **§ 9-304(a)** of the revised AST rules states: "In addition to meeting the requirements of **§§ 9-302 and 9-303**, all new tanks located in a flood hazard area as defined in **10 V.S.A. § 752** shall meet the following to prevent tank floating and to prevent releases in high water or flooding conditions:..." **10 V.S.A. § 752** defines "flood hazard area" as having the same meaning as "areas of special flood hazard" under **44 Code of Federal Regulations** (C.F.R.) **§ 59.1; C.F.R. § 59.1** defines "area of special flood hazard" as "the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1–30, AE, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1–30, VE, or V."

To further clarify the flood-prone area requirements, the Agency has added a new definition of "flood prone area" to subchapter 2 of the proposed rules to clarify that for the purpose of these Rules, the meaning of flood prone area is synonymous with the state's definition of flood hazard area. The new definition is as follows: **"Flood prone area"** means any area that is susceptible to flooding by any source and is adjacent to lakes, streams and rivers that are prone to recurring flooding. For the purposes of this Rule, flood prone area shall have the same meaning as "flood hazard area" under **10 V.S.A. § 752."**

FEMA Map Service Center (MSC) (https://msc.fema.gov/) and the ANR Natural Resources Atlas (http://anrmaps.vermont.gov/websites/anra5/) provide maps of areas that fall within the special flood hazard area designations. FEMA MSC and/or ANR Atlas should be used for making accurate flood hazard zone determinations; the responsibility of making this determination will fall on the individual/company that is installing the AST. Agency installation checklists (required for each new installation) have been revised to include the required information regarding tank installation requirements in flood prone areas. The routine checklist used at periodic inspections of existing ASTs (required every 4 years) has also been revised to include questions related to flood prone areas. Tank installers will be required to certify that each new installation is

compliant with all tank installation standards, including installation standards for flood prone areas.

Agency staff are developing written guidance for tank installers to aide them in making determinations of whether installation locations fall within flood hazard areas; all guidance will be available on the Agency website and will be provided to the Vermont Fuel Dealers Association for distribution to individual fuel companies. The Agency is also looking into opportunities to develop training videos on how to use mapping resources that are publicly available. Agency staff will be available to assist individual installers with making these determinations on an as-needed basis.

Additionally, any residential dwellings that are approved for the Petroleum Cleanup Fund (PCF) Financial Assistance Program for tank replacement will be screened using FEMA Map Service Center or ANR Atlas by Agency staff at the time of application review; applications from residencies that fall within the federal flood hazard areas will be identified and communicated to the tank installers, and installation per flood prone area standards will be required prior to release of state funds.

Elise Shanbacker, Addison Housing Works submitted the following comment on April 12, 2024:

> The health and safety of our economically disadvantaged communities as well as our waterways is of paramount importance to all Vermonters. Fuel oil spills and leaks from above-ground storage tanks (ASTs) is a source of contamination the state is committed to addressing, and a health hazard for those who live near leaking ASTs.
> It is admirable that the Agency of Natural Resources provides financial assistance for those who need to replace ASTs that do not meet safety standards for preventing leaks. However, the current system for accessing this assistance unintentionally excludes many residents of Manufactured Housing Communities (MHCs).
>
> Under current rules, the system is designed so that fuel dealers are the primary mechanism for identifying noncompliant ASTs via "red-tagging", and owners are incentivized to addressed such ASTs because dealers will not fill their tanks if they don't.
>
> This makes sense in theory; however, in practice, this system does not work for most low-income residents of MHCs. Residents whose ASTs do not pass inspection simply resort to filling their tanks themselves from five-gallon containers, bypassing the rules and resulting in potentially more spillage and leaks. Even though they may be eligible for financial assistance to replace their tanks, they may not be aware of the program, or they may not be able to provide the cost estimate and income verification that the program requires.
>
> This can be a major problem for MHCs, their residents, and the state's waterways. Addison Housing Works (AHW) conducts lot inspections annually and since 2022 has identified approximately 75 resident-owned ASTs that need to be replaced due to red tagging, evidence of significant rust, or other failure. This represents about 20% of the

ASTs in our MHCs. In that same time period, we have identified three with active leaks or spillage. One has cost the Petroleum Cleanup Fund (PCF) over $30,000 to remediate to date an amount that would have covered at least 10 replacements that could have prevented the issue from happening in the first place.

We recommend that ANR consider streamlining the AST replacement process for residents of MHCs by making them categorically eligible for financial assistance. Furthermore, a process whereby ANR contracts directly with trusted vendors to replace ASTs (including slabs and roofs) would have the greatest impact on eradicating this problem.

Categorical eligibility for MHC residents makes sense, especially for nonprofit and cooperatively owned parks, because:

- **The vast majority of MHC residents are low-income**, especially those who do not access fuel through a dealer. In nonprofit parks, most residents income qualify at the time they move into the park. Income studies show that median income in parks is about half of area median income.
- State investment in replacing tanks for higher income residents still has **benefits to the entire low-income community** by preventing environmental hazards and supporting environmental justice.
- **Income verification is a significant barrier** and may not be any more accurate than a self-certification given the unreported nature of much low-wage work. Even if the state were to coordinate with the Department of Taxes, while this would be an improvement, it might still be a deterrent to residents who have a low degree of trust in the system and may be unwilling to release their tax information.

ANR contracting directly for replacement also makes sense and has promising precedent within the Agency:

- **Finding a contractor to provide an estimate is a significant barrier**. Many residents drop out at this stage in the process, as many contractors are unwilling to do work in MHCs.
- **ANR has used this model very successfully in the Healthy Homes program,** which contracts directly with engineering firms to provide Preliminary Engineering Reports so that low-capacity nonprofits and coops don't have to navigate the complex world of civil engineering RFPs and RFQs.

Updating the Financial Assistance for Tank Removal Program will help hundreds more low-income residents of environmentally vulnerable communities replace risky ASTs that threaten to impact the quality of our groundwater, rivers, and lakes. It may also save money from the Petroleum Cleanup Fund in the long run.

Agency Response to Addison Housing Works: The AST Rules do not address Agency funding opportunities for replacement of noncompliant tanks. The funding for such replacements is through the state's Petroleum Cleanup Fund (PCF). Therefore, the Agency is not making any changes to the regulatory text of the proposed AST Rules.

The Agency has considered the comments and will explore making internal improvements to the current financial assistance process to better serve Vermont's economically disadvantaged communities.

Finally, the Agency made the following technical clarifications and corrections in the final proposed rule.

- ***§ 9-303(c)(2)*** has been modified to include the following underlined language: *Overfill alarm. Any aboveground storage tank system that receives pressurized deliveries shall be equipped with an operational overfill vent alarm or "whistle" with a vent pipe that terminates near the fill pipe. Vent pipes shall terminate not more than 12 feet from the fill pipe and at a point visible from the fill port.*

- The following language: "Visit the Agency website for guidance on making flood hazard area determinations" and the URL for the for the ANR Natural Resource Atlas has been added to the Note section proceeding **§ 9-304(a)(2)**.

- **§ 9-305(e)(1)** has been modified to include the following underlined language: *Inspectors shall utilize an inspection checklist for performing each aboveground storage tank system inspection. The checklist shall be on the current form provided by the Secretary with the form effective date of July 2024 or later, or pre-approved by the Secretary and shall be used by the inspector to document the age and condition of the aboveground storage tank system as of the time of the inspection. The checklist shall document any issues identified in the inspection which indicate an actual or suspected release of fuel and any noncompliance with the requirements and standards of **§ 9-305(c)** and shall include measures recommended by the inspector that are necessary to return the aboveground storage tank system to compliance.*

  The modification to the language was made to clarify that an updated checklist consistent with the requirements in the revised rules must be used; previously issued Agency checklists will no longer be accepted as an official inspection record as they will contain incomplete regulatory requirements.

- A new definition of "Flood Prone Area" has been added to Subchapter 2 of the Rules.

- A correction to the definition of "Secondary Containment System" has been made in Subchapter 2 of the Rules.

- A correction has been made to the citation listed in **§ 9-307(b);** the correct citation should have referenced **Subchapter 3** of the Vermont Investigation and Remediation of Contaminated Properties Rule (IRule), and not **§ 9-301(c)** of the AST Rules.

- A clarification has been made to the citation listed in **§ 9-307(c)**; the citation has been modified to state that only bulk storage tank facilities sited after 2011 are subject to the requirements of **§ 9-307(c)**.

- Technical changes and minor corrections to improve readability and grammar.

From: smdbad
To: Bourakovsky, Anna
Subject: Storage Tanks
Date: Thursday, March 21, 2024 9:37:21 AM

I am emailing about the new storage tank rules. I do not feel it is fair to not grand father existing structures. I had an issue when selling my first house years ago because the state did not grandfather the contractor signing off on waste water permits. I feel these rules should be for any new construction or replacements moving forward. As home owners replace existing tanks then the new rules should take affect. The system for red tagging oil tanks I feel is flawed. There is no standards to say how a tank is red flagged that I am aware of. I believe this needs to be addressed also. I appreciate your time with this email.

Thank you

Martin Dole

From: Matt with MeadowHill
To: Bourakovsky, Anna
Subject: Re: any AST Comments so far?
Date: Wednesday, April 10, 2024 3:18:14 PM

Just two....

One of the proposed regulations requires the fuel dealer to know if a tank is in a flood zone or flood-prone area. Finding the flood zone for a property is possible using the FEMA website. But all properties are found on the flood map, and I believe all properties are designated a flood zone. It's what those zones mean that matters. You cannot leave it at "flood zone". However, flood-prone, is not, to my knowledge, an accepted definition with criteria that would allow a dealer to know if they should, or should not, install a tank at that location. You can't use a term that has no actual meaning to hold someone accountable.

2) We've paid multiple claims where a tank was filled when the tank was offline for maintenance or replacement and the fill-pipe wasn't tagged/blocked. It should be a rule that if you disconnect the tank from the fill pipe or are maintaining the furnace in such a way that oil could flow through the tank and into an open system, the fill pipe be blocked.

Matt Cota
Meadow Hill
802-318-2190

From: Alyssa Sabetto
To: Bourakovsky, Anna
Subject: Comment on above ground storage tanks rule
Date: Tuesday, April 16, 2024 11:44:33 AM

Hi Anna,

A comment on the proposed AST rules:

Installation contractors/firms should be required to review mapping or have a system in place to know ahead of time what locations/job sites are in the floodplain. These contractors need training and/or a tool developed for their specific use to be able to make that determination. Perhaps using flood hazard mapping on the ANR Atlas, or perhaps there can be a simplified tool developed for them to cross check addresses for floodplain overlap. The contractors themselves, and property owners, generally do not have the expertise to determine if a property is in the floodplain/river corridor. Contractors should *not* be relying on home/business owners to be aware of this, or even be honest about it necessarily. There should be a standardized way for contractors/companies to be able to make this check before going to job sites, so that going into a job they are aware that they do or do not need to abide by the flood installation standards. I think that this check should be required for any site visit, whether its an installation or an inspection – that would enable retrofit for existing tanks in addition to when new tanks are set.

Please reach out if clarification on this comment is helpful.

Thank you,

Alyssa Sabetto, CFM
Senior Planner
Windham Regional Commission
139 Main Street, Suite 505 | Brattleboro, VT 05301
802-257-4547 ext 113 | asabetto@windhamregional.org
www.windhamregional.org

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April 12, 2024

Re: Proposed Revisions to Vermont Aboveground Storage Tank (AST) Rules - Public Comment

To Whom It May Concern:

The health and safety of our economically disadvantaged communities as well as our waterways is of paramount importance to all Vermonters. Fuel oil spills and leaks from above-ground storage tanks (ASTs) is a source of contamination the state is committed to addressing, and a health hazard for those who live near leaking ASTs.

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This makes sense in theory; however, in practice, this system does not work for most low-income residents of MHCs. Residents whose ASTs do not pass inspection simply resort to filling their tanks themselves from five-gallon containers, bypassing the rules and resulting in potentially more spillage and leaks. Even though they may be eligible for financial assistance to replace their tanks, they may not be aware of the program, or they may not be able to provide the cost estimate and income verification that the program requires.

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Updating the Financial Assistance for Tank Removal Program will help hundreds more low-income residents of environmentally vulnerable communities replace risky ASTs that threaten to impact the quality of our groundwater, rivers, and lakes. It may also save money from the Petroleum Cleanup Fund in the long run.

Sincerely,

Elise Shanbacker
Addison Housing Works

Annotated text

STATE OF VERMONT
Agency of Natural Resources

Aboveground Storage Tank Rules

Effective date: AUGUST 1, 2024

VERMONT
Environmental Conservation

Waste Management and Prevention Division
Department of Environmental Conservation
One National Life Drive, Davis 1
Montpelier, VT 05620-3704
(802) 828-1138

Copies of these rules and other information are available at the Vermont Storage Tank Program website at:

http://dec.vermont.gov/waste-management/storage-tanks

ABOVEGROUND STORAGE TANK RULES
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Subchapter 1: GENERAL PROVISIONS

§ 9-101 AUTHORITY

These rules are adopted by the Secretary of the Agency of Natural Resources pursuant to the authority granted by **10 V.S.A. Chapter 59 Section 1929a** and **10 V.S.A. Chapter 159.**

§ 9-102 PURPOSE AND APPLICABILITY

These rules are intended to protect public health and the environment by establishing standards for the design, installation, and inspection of aboveground storage tank systems used to store any of the following petroleum products: gasoline, diesel, kerosene, used oil, or heating oil.

~~(1) Establishing standards for the design, installation, and inspection of all aboveground storage tank systems; and~~

~~(2) Establishing standards for the design, installation, and inspection of all bulk storage tank systems.~~

§ 9-103 RELEASE PROHIBITION; REPORTING; EMERGENCY RESPONSE

(a) Release prohibition. The release of hazardous materials, including from spills or tank overflows, into the surface or groundwater, or onto the land of the State is prohibited.

(b) Releases and suspected releases. Any person required by **10 V.S.A. § 6617** shall immediately report a release or suspected release that meets any of the following criteria to the Secretary:

(1) A release of any petroleum product that exceeds 2 gallons;

(2) A release of any petroleum product that is less than or equal to 2 gallons and poses a potential or actual threat to human health or the environment;

(3) A release of any hazardous material other than petroleum; or

(4) A suspected release of hazardous material as indicated by the following:

(A) ~~(i)~~ An unusual loss of product from the aboveground storage tank;

(B) ~~(ii)~~ Strong petroleum vapors present in the vicinity of the aboveground storage tank; or

(C) ~~(iii)~~ Other environmental conditions present in the vicinity of the tank, the facility, or off the facility site that indicate that a release may have occurred (e.g., dead vegetation around the tank system).

Note: Reporting under this subsection shall be directed to:

Monday through Friday, 7:45 AM to 4:30 PM:
Waste Management & Prevention Division at (802) 828-1138.

~~At all other times~~Anytime: Division of Emergency Management ~~and Homeland Security~~ at (800) 641-5005.

Note: Under the Federal Water Pollution Control Act, certain spills of oil and/or hazardous substances are prohibited and shall be reported pursuant to the requirements of **40 CFR Part 110 / Discharge of Oil**. Certain spills of hazardous substances shall also be reported pursuant to CERCLA. In both cases, the National Response Center shall be notified at (800) 424-8802.

(c) Site investigation; corrective actions. Any person responsible for a release or suspected releases pursuant to **10 V.S.A. § 6615** shall perform an investigation and corrective action measures to address the release in accordance with **10 V.S.A. § 6615b** and any other regulations and procedures adopted by the Agency for the investigation and clean-up of contaminated properties.

(d) Emergency response.

(1) Notwithstanding the requirements of **subsection (c) of this section**, the Secretary may require an emergency response when the Secretary determines that a release may cause an immediate and serious threat of harm to human health or the environment.

(2) When undertaking emergency responses pursuant to this subsection, notification to the potentially responsible party pursuant to **10 V.S.A. § 1283** in advance of undertaking an emergency response is not required, unless:

(A) The Secretary determines that there is need for additional investigation of the release to determine the impact to sensitive receptors and to human health and that it is appropriate for the potentially responsible party to conduct the investigation; or

(B) The Secretary determines that an additional response is necessary to address short-term impacts to sensitive receptors and impacts to human health, and that it is appropriate for the potentially responsible party to conduct the additional response.

(3) The Secretary shall conduct or direct the potentially responsible party to conduct a limited site investigation to determine if the release requires further site investigation or corrective action. As used in this subsection, "limited site investigation" means the steps the Secretary deems necessary to determine whether additional site investigation or corrective action is necessary to respond to the release.

§ 9-104 SEVERABILITY

The provisions of these rules shall be severable. If any provision of these rules is invalid or if any application of these rules to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

§ 9-105 INCORPORATION BY REFERENCE

When reference is made herein to CFR titles, their parts, subparts, or sections, the reference is to titles of the Code of Federal Regulations as they existed on the effective date of these rules.

§ 9-106 VARIANCES

(a) The Secretary may grant a variance for one or more of the specific provisions of these rules provided that the person requesting the variance can demonstrate to the satisfaction of the Secretary that compliance with the rules from which the variance is sought would produce serious hardship without equal or greater benefits to the public and the proposed new or alternative technology, method, or application (e.g. equipment, designs, practices or methods) will protect human health and the environment in a manner that is at least equivalent to the regulatory provision(s) for which a variance is sought.

(b) Requests for a variance shall be made in writing. Such requests shall identify the manner in which the proposal varies from the provisions of these rules, and the basis for finding that the proposal provides a level of protection as required in **§ 9-106(a)**. The Secretary may require that additional information be submitted by the person requesting the variance.

(c) In granting a variance the Secretary may impose specific conditions necessary to assure a level of protection of human health and the environment at least equivalent to that provided under these rules.

(d) The Secretary may grant a variance for a particular class or category of innovative or alternative technology in accordance with the requirements of this section.

Subchapter 2: DEFINITIONS

All terms not defined herein shall have the meaning given them in **10 V.S.A. chapter 59**:

~~**"Aboveground storage tank"** means any tank, other than an underground storage tank, used to store any of the following petroleum products: gasoline, diesel, kerosene, used oil, or heating oil.~~

"Aboveground storage tank system" means the above-ground storage tank and all associated piping, vent and fill pipes, vent alarm and whistle, fuel filter and shut-off valves, that is used to store any of the following petroleum products: gasoline, diesel, kerosene, used oil, or heating oil. For the purposes of these rules, mobile and semi-mobile skid tanks are not included in this definition of aboveground storage tank system.

"**Agency**" means the Vermont Agency of Natural Resources.

"**Biodiesel**" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, or designated B100.

"Bulk storage tank facility" means any facility:

(1) that stores heating fuel or motor fuel in an aboveground tank system and the ~~principle~~principal purpose of the storage is:

(A) in the case of heating fuel, for distribution to a fuel carrier for further distribution to consumer homes, ~~and~~ or

(B) in the case of motor fuel, for distribution to a person selling motor fuel~~for sale~~ to consumers;

(2) with a total aboveground storage capacity of greater than 1,320 gallons; and

(3) that is stationary and located at a fixed location.

"Bulk storage tank" means any petroleum aboveground ~~petroleum~~ storage tank system with a capacity greater than 1,320 Gallons. ~~at a facility required to have a Spill Prevention Control and Countermeasure (SPCC) Plan pursuant to 40 CFR § 112.~~

"Carrier" means a person who transports and transfers heating fuel, motor fuel, or used oil from a bulk liquid transport vehicle to an aboveground storage tank system.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et. seq., as amended (also known as "Superfund").

"Compatible" means that two or more substances maintain their respective physical and chemical properties upon contact with one another under conditions encountered within or around an aboveground storage tank system for the design life of that system.

"**Existing tank**" means an aboveground storage tank system installed before the effective date of these rules (August 1, 2024).

"Facility" means all contiguous land, structures, other appurtenances, and improvements on the land where an aboveground storage tank system is located.

"**Flood prone area"** means any area that is susceptible to flooding by any source and is adjacent to lakes, streams and rivers that are prone to recurring flooding. For the purposes of these rule, flood prone area shall have the same meaning as "flood hazard area" under **10 V.S.A. § 752.**

"Hazardous material" means all petroleum and toxic, corrosive, or other chemicals and related sludge included in any of the following:

(a) Any substance defined in **CERCLA § 101(14)**;

(b) Petroleum, including crude oil or any fraction thereof;

(c) Hazardous waste, as defined in **10 V.S.A. chapter 159** and the Vermont Hazardous Waste Management Regulations; or

(d) A chemical or substance that, when released, poses a risk to human health or the environment or other living organisms and that is listed by the Secretary by rule.

Note: "Hazardous material" does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, state and local laws and regulations and according to manufacturers' instructions. Nothing in this subsection shall affect the authority granted and the limitations imposed by **10 V.S.A. § 6608a**.

"Heating fuel" means heating oil, kerosene, or other dyed diesel fuel that is typically used to heat a structure and not used to propel a motor vehicle ~~and which is typically used to heat a structure~~. "Heating fuel" includes any blend of petroleum and biodiesel used to heat a structure.

"In Service" means a condition in which an aboveground storage tank system remains connected to a heating source and stores heating fuel that is required by the heating unit~~,~~ or remains connected to a distribution system for a motor fuel tank. This definition applies to systems that use an alternative fuel (e.g., wood) as a primary heat source, and utilize heating fuel as a backup heating source. This definition also applies to aboveground storage tank systems~~tanks~~ at bulk storage tank facilities that store fuel for distribution.

"Interstitial space" means the space between the primary and secondary barriers of a ~~secondarily contained~~secondarily contained system (e.g., the interstitial space of a double-walled tank is the space between the two walls of the tank).

"Liquid-tight" means impervious to the passage of water and/or regulated liquid substance.

"Marina" means a shoreline property that:

(1) contains a dock or basin to provide secure moorings for pleasure or commercial boats; and

(2) that has an associated fueling dock or aboveground storage tank.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No.1 or No. 2 diesel fuel, or any blend containing diesel fuel, or any grade of gasohol, or any other regulated substance typically used in the operation of an engine. "Motor fuel" includes any blend of petroleum and biodiesel used to propel a vehicle.

~~**"New installation"** means the installation of a tank or tank system on or after the effective date of these rules. This term shall include the installation of a tank that is reused or used to replace an existing tank.~~

"**New tank**" means an aboveground storage tank system installed on or after the effective date of these rules (August 1, 2024). This term shall include the installation of a tank that is reused or used to replace an existing tank.

"NFPA" means the National Fire Protection Association.

"NORA" means the National Oilheat Research Alliance.

"Out-of-service" means a condition in which an aboveground storage tank system is disconnected from a heating source or distribution system or is not in service~~, and the liquid level in the tank has been lowered to the extent that no more than 1 inch of residue, or 0.3 percent by weight of the total capacity of the aboveground storage tank, remains in the tank~~.

"Owner" means any person who owns an aboveground storage tank system.

"Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont, or any agency, department or subdivision of the State, federal agency, or any other legal or commercial entity.

"Pipe" or "Piping" means a conduit made of a petroleum-compatible material used to convey petroleum to and from an aboveground storage tank system.

"Public water system" means any system or combination of systems owned or controlled by a person that provides drinking water through pipes or other constructed conveyances to the public and that has at least 15 service connections or serves an average of at least 25 individuals daily for at least 60 days out of the year. A "public water system" includes all collection, treatment, storage, and distribution facilities under the control of the water supplier and used primarily in connection with the system. "Public water system" shall also mean any part of a system that does not provide drinking water, if use of such a part could affect the quality or quantity of the drinking water supplied by the system. "Public water system" shall also mean a system that bottles drinking water for public distribution and sale.

"Public community water system" means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Public non-transient, non-community (NTNC) water system" means a public water system that is not a public community water system and that regularly serves at least 25 of the same persons daily for more than six months per year. Examples: schools, factories, office buildings.

"Public transient, non-community (TNC) water system" means a public non-community water system that is not a non-transient, non-community system. Examples: restaurants, motels, campgrounds.

"**Red Tag**" means a visible tag that specifies that an aboveground storage tank system is noncompliant and shall not be filled with petroleum products.

"Release" means any means any intentional or unintentional action or omission resulting in spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an aboveground storage tank into groundwater, surface water, or onto the lands in the State, or into waters outside the jurisdiction of the State when damage may result to the public health, lands, waters, or natural resources within the jurisdiction of the State. ~~or soils.~~

"**Residential**" means, for the purposes of these rules, a building or structure where one or more person(s) live, whether year-round, seasonally, or temporarily. Examples of a residence include, but are not limited to single family dwellings, duplexes, apartment buildings, mobile home parks, dorms, residential condominiums, and residential accessory units. A residence may include a commercial operation if the commercial operation is owned or operated by an occupant that resides in the same building.

"Secondary containment system" means a liquid-tight physical barrier that is either:

(a) a double-walled tank that is designed to:

(1) ~~(i)~~ contain any regulated substance that leaks from the primary containment barrier of an aboveground storage tank system; and

(2) ~~(ii)~~ allows access to the interstitial space for monitoring and maintenance; or

(b) a single-walled tank system within an ~~or~~ enclosure that is designed to contain at least 110 percent of the storage capacity of the tank.

"Secretary" means the Secretary of the Vermont Agency of Natural Resources or the Secretary's duly authorized representative.

"Sensitive receptor" means any natural or human-constructed feature which may be adversely affected when contacted by a regulated substance. Examples of sensitive receptors include public or potable water supplies, surface waters, wetlands, sensitive ecological areas, outdoor and indoor air, and enclosed spaces such as basements, sewers, and utility corridors.

"**Skid Tank**" means a container with foundations attached (portable or semiportable containers with suitable steel "runners" or "skids" and popularly known in the industry as "skid tanks") and are used to store any of the following petroleum products: gasoline, diesel, kerosene, used oil, or heating oil. For the purposes of these rules, skid tanks that are mobile or semi-mobile are not included in the definition of "aboveground storage tank system."~~.~~ Skid tanks that are not used for mobile or semi-mobile use or are not moved from their original footprint within six months are not included in this definition of "skid tank" and are considered aboveground storage tank systems that are subject to regulation under this rule.

"Structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof.

"Used Oil" means any petroleum product that has been refined from crude oil (in whole or in part), or any synthetic oil that has been used and as a result of such use is contaminated by physical or chemical impurities. Used oil is a free-flowing liquid at standard temperature and pressure and has a flash point of greater than 100 degrees (F). Used oil includes oils used as lubricants, heat transfer fluids, hydraulic fluids, and for other similar uses, but does not include materials derived from crude or synthetic oils that are fuels (e.g., gasoline, jet fuel and diesel fuel), or as cleaning agents or solvents (e.g., naphtha or mineral spirits). Used oil is subject to regulations under subchapter 8 of the Vermont Hazardous Waste Management Regulations (VHWMR).

"**Yellow Tag**" means a visible tag affixed to an aboveground storage tank system that permits a temporary and conditional use of a noncompliant aboveground storage tank system located on and used to serve a residential property.

Subchapter 3: DESIGN, INSTALLATION, AND INSPECTION STANDARDS FOR ABOVEGROUND STORAGE TANK SYSTEMS

§ 9-301 APPLICABILITY

With the exception of tanks defined as bulk storage tanks in these rules, ~~This subchapter~~ **§§ 9-302 through 9-306** applies to all aboveground storage ~~tanks and~~ tank systems. **§ 9-307** applies only to bulk storage tank facilities and bulk storage tanks.

§ 9-302 GENERAL REQUIREMENTS

All new ~~aboveground storage~~ tanks shall be made of or lined with materials that are compatible with the substance(s) stored in them and shall be constructed as per one of the following designs:

(1) Single-walled tank not less than 12-gauge in thickness in its entirety in accordance with Section 7.2.7 (Design Standards) of NFPA Part 31, effective January 1, 2020~~December 4, 2015~~, as amended;

(2) Double-bottom steel tanks with end-cover protection and interstitial space monitoring;

~~(2)~~(3) Double-wall tanks with polyethylene or other plastic polymer inner wall and metallic outer wall.

~~(3)~~(4) Double-wall non-metallic tank; or

~~(4)~~(5) Single-walled non-metallic tank for inside use only.

Note: All tanks at public buildings (as defined in **20 V.S.A., § 2730**), including aboveground LP Gas tanks; over 2,000 gallons ~~water~~ liquid capacity; or with an aggregate capacity over 4,000 gallons; and aboveground flammable and combustible liquid tanks, shall~~must~~ have a permit from the Vermont Division of Fire Safety. Tank permit applications are available online at www.firesafety.vermont.gov, or can be obtained by contacting any office of the Vermont Division of Fire Safety.

~~§ 9-303 TANK AND PIPING DESIGN STANDARDS~~

~~(a) All new installations shall be designed and constructed in accordance with Section 7.2.7 (Design Standards) of NFPA Part 31, effective December 4, 2015, as amended. For new installations, all tank fill and vent piping shall be designed and constructed in accordance with Section 8.2.1.1 (Acceptable Piping) of NFPA Part 31, effective December 4, 2015, as amended.~~

~~(b) Tanks with legs longer than 14 inches are prohibited unless such tank is approved by the Secretary in writing prior to the tank's installation.~~

~~(c) Unused openings in all tanks shall be fully and permanently closed or plugged. Threaded pipe plugs may be used to close openings to comply with this provision.~~

§ 9-3034 TANK SYSTEM DESIGN, INSTALLATION AND ALTERATION STANDARDS

(a) Specifications. Installation and alteration of all aboveground storage tank systems shall be performed in accordance with one of the following methods:

(1) NFPA 1 Uniform Fire Code (IFC); or

(2) NFPA Parts 30 & 31; or

(3) A similar method approved in writing by the Secretary.

(b) Design. All new tanks shall be designed and constructed in accordance with Section 7.2.7 (Design Standards) of NFPA Part 31, effective January 1, 2020, as amended. For new tanks, all tank fill and vent piping shall be designed and constructed in accordance with Section 8.2.1.1 (Acceptable Piping) of NFPA Part 31, effective January 1, 2020, as amended. Tank fill and vent piping shall have male or female threaded ends that comply with a recognized thread specification, or press-connect ends listed to Underwriters Laboratories (UL) 180 Standard for Combustible Liquid Tank Accessories. Press-connect fittings shall be installed in accordance with the manufacturer's specifications with a tool recommended by the manufacturer.

(c) Aboveground Storage Tank System Installation. All aboveground storage tank systems shall comply with the provisions of this subsection, as follows:

(1) Tank Foundation.

(A) All aboveground storage tank systems shall be located on a stable foundation, such as a concrete pad, that is adequate to prevent the tank from tipping over. A stable foundation shall mean the tank is free-standing, measurements taken on the tank's length and width dimensions show the absence of the tank tilting; and there is no evidence of tank subsidence (i.e., no contact between the tank or tank legs and the ground surface).

(B) All new tanks shall be installed on a foundation that is made of a single continuous pad or bolted slabs made of concrete and is constructed to be at least 4 inches in depth and sized to have a footprint that exceeds the length and width dimensions of the tank by a factor of 10 percent (see Note below for example). A foundation of alternative material or size may be utilized with prior written approval by the Secretary.

Note: For a 275-gallon tank with dimensions of 44 inches (height) by 27 inches (width) by 60 inches (length), the foundation footprint shall measure at least 4 inches deep and 30 inches (width) by 66 inches (length).

(2) Overfill alarm. Any aboveground storage tank system that receives pressurized deliveries shall be equipped with an operational overfill vent alarm or "whistle" with a vent pipe that terminates near the fill pipe. Vent pipes shall terminate not more than 12 feet from the fill pipe and at a point visible from the fill port.

(3) Shutoff valve. Any new aboveground storage tank system with a fuel line attached to the bottom portion of the tank shall be equipped with an accessible shutoff valve located within 12 inches of the fuel outlet of the tank system. Any new aboveground storage tank system which draws a regulated substance from the top of the tank system shall be equipped with a shutoff valve before the filter. The valve shall be a positive shutoff valve designed solely for the purpose of shutting off the supply of heating fuel, motor fuel, or used oil.

(4) Fill and vent pipe.

(A) All aboveground storage tank systems shall have fill and vent pipes with a minimal inside diameter of 1¼ inches and that terminate outside the structure. The fill pipe shall be fitted with a liquid-tight cap and the vent pipe shall have a weatherproof and insect-proof cap. Fill and vent pipes shall be made from metallic material; PVC or other non-metallic materials are prohibited.

(B) All new tanks shall have fill and vent piping constructed in accordance with **§ 9-303(b)**. The fill pipe shall be fitted with a liquid-tight cap and the vent pipe shall have a weatherproof and insect-proof cap.

(5) The aboveground storage tank system vent pipe shall be sized in accordance with the corresponding NFPA minimum diameter of tank vent opening.

(6) Unused openings in all aboveground storage tank systems shall be fully and permanently closed or plugged. Threaded pipe plugs may be used to close openings to comply with this provision. Openings in aboveground storage tanks systems that are temporarily taken out of service for maintenance or any other reason shall be plugged or tagged out to indicate the tank is out of service and the fuel carrier shall be notified that the tank cannot receive deliveries.

(7) All new tanks shall be equipped with a device to gauge fuel volume.

(8) Piping and fuel lines.

(A) All existing tanks with piping and fuel lines that are buried underground, including in concrete flooring, shall be installed with a plastic coating or a continuous protective sleeve made of a non-corrodible material. The protective sleeve shall start and terminate aboveground. Fittings shall not be installed underground in any piping, coating, or sleeve.

(B) All new tanks with piping and fuel lines in direct contact with earthen materials or concrete shall be installed with a plastic coating and sleeved with crush resistant conduit that is in a continuously protective sleeve made of non-corrodible material. Fittings shall not be installed underground in any piping, coating, or sleeve. Having unprotected pipe or piping buried or in direct contact with earthen materials or concrete is prohibited.

(9) For aboveground tank systems located inside a structure, the tank shall be located on the lowest floor of the structure unless the installation meets an exception recognized by a method in **§ 9-303(a)**.

(10) All new tanks located outside a structure shall be protected from physical damage caused by snow or ice. Compliance with this subsection shall require location of an aboveground storage tank system either:

(A) on the gable end of a structure or away from the structure;

(B) in a secondary containment structure that is installed in accordance with **9-303(f)**;

(C) in or under a shelter or enclosure with a roof; or

(D) in accordance with another method approved by the Secretary.

(11) Any aboveground storage tank system that includes more than one storage tank shall have, for each individual tank, a separate fill pipe, a separate fuel volume gauge, a separate vent pipe, and a separate vent alarm, each of which comply with the requirements of this section. The separate vents may be plumbed or manifolded together inside the building and tied into one outlet vent pipe that goes to the outside of the structure, provided that:

(A) the outlet pipe is at least one pipe size larger than the largest individual vent pipe connected thereto; and

(B) the point of connection between two or more vent pipes shall not be lower than the top of the fill pipe opening on the tank.

(12) Any new tank shall have tank legs that are no longer than 14 inches, unless approved by the Secretary in writing prior to the tank's installation.

~~(b) Tank systems in a structure. All tank systems located inside a structure shall comply with the provisions of this subsection, as follows:~~

~~(1) The tank shall be located on the lowest floor of the structure unless the installation meets an exception recognized by a method in § 9-304(a) of this section.~~

~~(2) The tank shall be equipped with an accessible shutoff valve located within 12 inches of the fuel outlet of the tank. The valve shall be a positive shutoff valve designed solely for the purpose of shutting off the supply of heating fuel, motor fuel, or used oil.~~

~~(3) The tank shall be equipped with a vent line that terminates outside the structure.~~

~~(4) The tank shall be equipped with a vent alarm or "whistle" that terminates near the fill pipe. Vent pipes shall terminate not more than 12 feet from the fill pipe and at a point visible from the fill port.~~

~~(5) The fill pipe and the vent pipe shall be sized at least 1 1/4 inches in diameter and terminate outside the structure. All new installations shall also be equipped with fill and vent piping constructed in accordance with **§ 9-303(a) of these rules**. The fill pipe shall have a liquid tight cap and the vent pipe shall have a weatherproof and insect proof cap.~~

~~(6) The tank vent pipe shall be sized in accordance with the corresponding NFPA minimum diameter of tank vent opening.~~

~~(7) The tank shall be equipped with a device to gauge fuel volume.~~

~~(8) All piping installed below grade shall be installed with a plastic coating or a continuous protective sleeve made of a non-corrodible material to prevent corrosion. The protective sleeve shall start and terminate aboveground. For all new installations, all piping below grade shall be installed with a plastic coating and a continuous protective sleeve made of non-corrodible material. Fittings shall not be installed below grade in any piping, coating, or sleeve. Directly burying unprotected piping into the ground is prohibited.~~

~~(9) All tanks shall be installed on a stable foundation, such as a concrete pad, that is adequate to prevent the tank from tipping over. For all new installations, the foundation shall be made of concrete, be at least 4 inches in depth, and be sized to have a footprint that exceeds the length and width dimensions of the tank by a factor of 10 percent (see Note below for example). A foundation of alternative material and/or size may be utilized with prior written approval by the Secretary.~~

~~Note: For a 275 gallon tank with dimensions of 44 inches (height) by 27 inches (width) by 60 inches (length), the foundation footprint shall measure at least 4 inches deep and 30 inches (width) by 66 inches (length).~~

~~(10) A tank system that includes more than one storage tank shall have, for each individual tank, a separate fill pipe, a separate fuel volume gauge, a separate vent pipe, and a separate vent alarm, each of which comply with the requirements of this section. The separate vents may be plumbed or manifolded together inside the building and tied into one outlet vent pipe that goes to the outside of the structure, provided that:~~

~~(A) the outlet pipe is at least one pipe size larger than the largest individual vent pipe connected thereto; and~~

~~(B) the point of connection between two or more vent pipes shall not be lower than the top of the fill pipe opening.~~

~~(c) Tank systems outside a structure. All tank system located outside of a structure shall comply with the provisions of this subsection, as follows:~~

~~(1) The tank system shall be protected from physical damage caused by snow or ice. Compliance with this subsection shall require location of a tank system:~~

~~(A) on the gable end of a structure;~~

~~(B) in a secondary containment structure that is installed in accordance with **subsection (f) of this section**;~~

~~(C) in or under a shelter or enclosure with a roof; or~~

~~(D) in accordance with another method approved by the Secretary.~~

~~(2) All tanks shall be installed on a stable foundation, such as a concrete pad, that is adequate to prevent the tank from tipping over. For all new installations, the foundation shall be made of concrete, be at least 4 inches in depth, and be sized to have a footprint that exceeds the length and width dimensions of the tank by a factor of 10 percent (see Note below for example). A foundation of alternative material and/or size may be utilized with prior written approval by the Secretary.~~

~~**Note:** For a 275-gallon tank with dimensions of 44 inches (height) by 27 inches (width) by 60 inches (length), the foundation footprint shall measure at least 4 inches deep and 30 inches (width) by 66 inches (length).~~

~~(3) The tank shall be equipped with an accessible shutoff valve located within 12 inches of the fuel outlet of the tank. The valve shall be a positive shutoff valve designed solely for the purpose of shutting off the supply of heating fuel, motor fuel, or used oil.~~

~~(4) All piping installed below grade shall be installed with a plastic coating or a continuous protective sleeve made of a non-corrodible material to prevent corrosion. The protective sleeve shall start and terminate aboveground. For all new installations, all piping below grade shall be installed with a plastic coating and a continuous protective sleeve made of non-corrodible material. Fittings shall not be installed below grade in any piping, coating, or a sleeve. Directly burying unprotected piping into the ground is prohibited.~~

~~(5) A tank system that includes more than one storage tank shall have, for each individual tank, a separate fill pipe, separate fuel volume gauge, separate vent pipe, and a separate alarm, each of which comply with the requirements of this section. The separate vents may be plumbed or manifolded together outside the building and tied into to a common outlet vent pipe, provided that:~~

~~(A) the outlet pipe is at least one pipe size larger than the largest individual vent pipe connected thereto; and~~

~~(B) the point of connection between two or more vent pipes shall not be lower than the top of the fill pipe opening.~~

~~(6) The tank shall be equipped with a vent alarm or "whistle" that terminates near the fill pipe. Vent pipes shall terminate not more than 12 feet from the fill pipe and at a point visible from the fill port.~~

~~(7) The fill pipe and the vent pipe shall be sized at least 1 1/4 inches in diameter and terminate outside the structure. All new installations shall also be equipped with fill and vent piping constructed in accordance with **§ 9-303(a) of these rules**. The fill pipe shall have a liquid-tight cap and the vent pipe shall have a weatherproof and insect proof cap.~~

~~(8) The tank vent pipe shall be sized in accordance with the corresponding NFPA minimum diameter of tank vent opening.~~

~~(9) The tank shall be equipped with a device to gauge fuel volume.~~

(d) Date of installation. ~~All new installations (tanks and tank systems installed on or after the effective date of these rules)~~ All aboveground tanks and tank systems installed on or after August 15, 2017, shall be visibly identified with the date of tank installation. The visible identification shall be in the form of a tag, sticker, or other marker that is permanently affixed to the tank and that clearly identifies the date of installation of the tank system. The tag or sticker shall be located on the tank such that it is clearly visible and unobstructed from view.

(e) Tank systems at marinas. All aboveground storage tank systems located at marinas shall be installed and shall be operated in accordance with the Petroleum Equipment Institute's Publication PEI/RP 1000-09: **"Recommended Practices for the Installation of Marina Fueling Systems."** All new ~~installations~~ tanks at marinas shall also employ secondary containment consistent with **§ 9-303(f). ~~subdivision (f) of this section.~~**

(f) Secondary containment systems.

(1) Applicability. Secondary containment systems shall be required for all new ~~installations~~ tanks at marinas. Secondary containment systems may also be utilized as a method of compliance with **§ 9-303(c)(10). ~~subdivision (c)(1) of this section.~~**

(2) Requirements for installation and construction. Secondary containment systems shall be installed and constructed in accordance with manufacturer instructions and specifications.

~~(g) Tank Foundations. As of July 1, 2030, all tanks that are existing as of the effective date of these rules shall be located on a stable foundation that is adequate to prevent the tank from tipping over. The foundation shall be made of concrete, and be constructed to be at least 4 inches in depth, and sized to have a footprint that exceeds the length and width dimensions of the tank by a factor of 10 percent. A foundation of alternative material and/or size may be utilized with prior written approval by the Secretary.~~

(g) Additional requirements for existing aboveground storage tank systems.

(1) Tank foundations. Not later than July 1, 2030, all aboveground storage tank systems shall comply with requirements of **§ 9-303(c)(1)(B).**

(2) Fill and vent pipes. Not later than July 1, 2030, all aboveground storage tank systems shall have tank fill and vent pipes constructed in compliance with requirements of **§ 9-303(c)(4)(B)**.

(3) Tank piping and fuel lines. Not later than July 1, 2030, all aboveground storage tank systems where tank piping and fuel lines have direct contact with earthen materials or concrete shall comply with the requirements of **§ 9-303(c)(8)(B)**.

(4) Tank legs. Not later than July 1, 2030, all aboveground storage tank systems shall comply with the requirements **§ 9-303(c)(12)**. A request for exemption from this requirement may be submitted to the Secretary in writing and will be considered on a case-by-case basis.

(5) Tanks located outside a structure. Not later than July 1, 2030, all aboveground storage tank systems located outside a structure shall comply with the requirements of **§ 9-303(c)(10)**.

(6) Tanks located in flood prone areas. Not later than July 1, 2030, all aboveground storage tank systems located in flood prone areas shall comply with the requirements of **§ 9-304**.

(7) Tanks located at marinas. Not later than July 1, 2030, all aboveground storage tank systems located at marinas shall comply with the secondary containment requirements of **§ 9-303(f)**.

§ 9-3045 INSTALLATION OF TANK SYSTEMS IN FLOOD PRONE AREAS

(a) In addition to meeting the requirements of **§§ 9-302 and, 9-303, ~~and 9-304 of these rules~~**, all new ~~installations~~ tanks located in a flood hazard area as defined in **10 V.S.A. § 752** shall meet the following to prevent tank floating and to prevent releases in high water or flooding conditions:

(1) Tanks located inside a structure:

(A) The tank vent pipe shall be of sufficient length to extend above the level of a projected flood.

(B) The tank shall be anchored to the concrete pad or alternative foundation that has been approved by the Secretary through the use of one of the following methods:

(i) Foot flanges. For tanks with pipe legs on a foundation, foot flanges with threaded ends shall be connected to ~~mating~~ compatible pipe ends. Each foot flange shall be secured to the supporting surface with concrete bolts or screws;

(ii) Concrete anchors. For tanks with saddles or pipe legs for new surfaces in combination with hold-down straps, concrete anchors with a means for attaching the strap end shall be cast into the supporting surface. The anchors shall be positioned at +/- 4 inches~~"~~ of the tank support centerline and +/- 4 inches~~"~~ of the tank width or diameter centerline;

(iii) Earth augers. For tanks with saddles or pipe legs for undersized pads in combination with hold-down straps, earth augers with a means for attaching the strap end shall be installed under the concrete slab. The augers shall be positioned at +/- 4 inches~~"~~ of the tank support centerline and +/- 4 inches~~"~~ of the tank width or diameter centerline; or

(iv) Any other method recommended by the tank manufacturer or tank installer that is based on the tank installation type, supporting surface, and other appropriate considerations.

(C) Hold-down straps used with a concrete anchor or earth auger methods specified in ~~subsections~~ **§§ 9-304(a)(1)(B)(ii) or 9-304(a)(1)(B)(iii)** ~~**of this subsection**~~ shall have a means at each end to connect to fixed attachment points and shall have a means to tighten the strap (e.g., a turnbuckle). Straps shall be positioned over the tank at the anchor points~~,~~ but shall not interfere with used openings.

(2) Tanks located outside a structure. ~~Where possible, n~~New tanks ~~installations~~ located outside a structure shall comply with the criteria for aboveground storage tank ~~tanks~~ systems located inside a structure listed above in ~~**subsection**~~ **§§ 9-304(a)(1)(A) through 9-304(a)(1)(C)** to prevent product loss and damage to the tank system. An exemption from this requirement may be requested from the Secretary and shall be approved on a case-by-case basis.

Note: Information pertaining to flood hazard areas and projected flood levels can be found at the FEMA Map Service Center (Flood Insurance Rate Maps) – https://msc.fema.gov.

These maps can also be found on the ANR Natural Resources Atlas - https://anrmaps.vermont.gov/websites/anra5/. Visit the Agency website for guidance on making flood hazard area determinations.

Note: Where applicable, the Agency encourages contractors and other parties to refer to the **National Oilheat Research Alliance (NORA) Recommended Practice for Home Heating Oil Tank Flood Resistance** for guidance on the construction of anchoring systems and other work to aboveground storage tank systems located within a flood hazard area.

§ 9-3056 INSPECTION OF TANK SYSTEMS

(a) Applicability. With the exception of tank systems used for storing used oil, ~~As of the effective date of these rules,~~ all storage tank systems shall be inspected by the fuel carrier ~~at least once during every three-year period~~ in accordance with the requirements of this section.

(b) Frequency of inspections. ~~A~~n aboveground storage tank system shall be inspected at the following times, ~~where applicable~~:

(1) Immediately after the installation of a new tank ~~system installation~~ but prior to the initial delivery of fuel;

(2) Immediately after initial delivery of fuel to a new ~~the~~ tank ~~system~~;

(3) Prior to the initial delivery of fuel to the aboveground storage tank system when the tank owner switches fuel carriers;

(4) If not otherwise required under **§ 9-305(b)(1), 9-305(b)(2), or 9-305(b)(3)** ~~**subdivisions (1), (2), or (3) of this subsection**~~, the aboveground storage tank system shall be inspected once every four~~three~~ years; and

(5) Upon removal of a tank system under **§ 9-3067** ~~**of these rules**~~.

(c) Inspection standards. ~~Tank~~ Aboveground storage tank systems shall be visually~~visibly~~ inspected for compliance with the following standards:

(1) ~~All applicable t~~Tank foundation requirements of **§ 9-303(c)(1).** ~~**§ 9-304(b)(9)** for tanks located in a structure, and of **§ 9-304(c)(2)** for tanks located outside a structure. A tank foundation shall be determined to be stable under these provisions if all the following conditions are present:~~

~~(A) the tank is free-standing;~~

~~(B) measurements taken on the tank's length and width dimensions show the absence of the tank tilting, taking into account any industry-accepted design or installation specifications; and~~

~~(C) there is no evidence of tank subsidence (i.e., no contact between the tank or tank legs and the ground surface).~~

(2) ~~All applicable below-grade P~~piping and fuel lines requirements of **§ 9-303(c)(8).** ~~**9-304(b)(8)** for tanks located in a structure, and of **§ 9-304(c)(4)** for tanks located outside a structure.~~

(3) The overfill vent alarm or whistle requirements of **§ 9-303(c)(2).** ~~**9-304(b)(4)** for tanks located in a structure, and of **§ 9-304(c)(6)** for tanks located outside a structure.~~

(4) ~~All applicable t~~Tank vent and fill pipe size, design, and capping requirements of **§§ 9-303(c)(4) and 9-303(c)(5).** ~~**§ 9-304(b)(5)** and **§ 9-304(b)(6)** for tanks located in a structure, and of **§ 9-304(c)(7)** and **§ 9-304(c)(8)** for tanks located outside a structure;~~

(5) The entirety of the tank surface and tank legs are free of any cracks and of significant corrosion or pitting, rust, and spores; tank is free of dents or bulges visibly impacting tank seams; and all tank fuel filter, fittings, and valves are free of drips or leaks and any other sign of an actual or suspected release of hazardous material.

(6) All unused openings are fully and permanently closed or plugged, in accordance with **§ 9-303(c)(6).**

(7) The shutoff valve requirements of **§ 9-303(c)(3).** ~~**9-304(b)(2)** for tanks located in a structure, and of **§ 9-304(c)(3)** for tanks located outside a structure.~~

~~(8) There are no unused openings in the tanks (all unused openings are fully and permanently closed or plugged).~~

~~(9)~~(8) The requirements of **§ 9-303(~~b~~c)(12)** for tank leg length.

~~(10)~~(9) The aboveground storage tank system is equipped with a device to gauge fuel volume in accordance with **§ 9-303(c)(7). ~~304(c)(9).~~**

~~(11)~~(10) For aboveground storage tank systems ~~tanks~~ located outside a structure, ~~:~~ the requirements of **§ 9-303(c)(10)~~304(c)(1)~~** (for protection from damage from snow and ice).

(11) For aboveground storage tank systems located inside a structure, the requirements of **§ 9-303(c)(9)** (installation on lowest floor of structure).

(12) For aboveground storage tank systems that include more than one storage tank, requirements of **§ 9-303(c)(11)**.

(13) For aboveground storage tank systems located in flood prone areas, requirements of **§ 9-304(a)**.

(14) For aboveground storage tanks systems located at marinas, requirements of **§ 9-303(e)**.

(d) Inspectors. Inspections of aboveground storage tank systems shall be conducted by an inspector that maintains one of the following:

(1) a NORA Gold, Bronze, or Silver certification;

(2) a Vermont Oilheat Certificate of Fitness; ~~or~~

(3) a certificate of completion from an Oilheat Tank Seminar, which has been approved by NORA; or~~.~~

(4) other training may be requested in lieu of §§ **9-305(d)(1) through 9-305(d)(3)** and shall be reviewed and approved by the Secretary on a case-by-case basis.

(e) Inspection checklist and photo documentation of noncompliance.

(1) Inspectors shall utilize an inspection checklist for performing each aboveground storage tank system inspection. The checklist shall be on the current ~~a~~ form provided by the Secretary with the form effective date of August 2024 or later, or pre-approved by the Secretary and shall be used by the inspector to document the age and condition of the aboveground storage tank system as of the time of the inspection. The checklist shall document any issues identified in the inspection which indicate an actual or suspected release of fuel and any noncompliance with the requirements and standards of **§ 9-3056(c) ~~of these rules~~**, and shall include measures recommended by the inspector that are necessary to return the aboveground storage tank system to compliance.

(2) Within five business days of the date of inspection, t~~T~~he tank inspector shall provide a copy of the inspection checklist completed in accordance with **~~subdivision~~ § 9-305(e)(1) ~~of this subsection~~** to the tank owner ~~within two business days of the date of inspection~~.

(3) For aboveground storage tank system determined to be noncompliant per **§ 9-305(f)(1)(B)**, the tank inspector shall photo document all noncompliant tank components.

(f) Non-compliant tanks.

~~(f)~~(1) Existing tanks. If ~~a~~ an aboveground storage tank system is determined to be non-compliant with the standards of **§§ 9-3056(c)(1) through 9-305(c)(65) ~~of these rules~~**, the inspector shall include such results in the inspection checklist and take the following measures:

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~~(1)~~(A) Red Tag. The inspector shall immediately affix a "Do Not Fill" red tag ~~or other visible designation~~ onto the aboveground storage tank system to indicate that the tank system is noncompliant with the requirements and standards of **§§ 9-3056(c)(1) through 9-305(c)(65)** ~~of these rules~~ and shall not be filled. A red tag ~~or other visible designation~~ shall be affixed to the tank and the tank fill port~~,~~ and shall be clearly visible and unobstructed from view.

(B) Yellow Tag. The tank inspector may affix a "Conditional Fill" yellow tag in lieu of a red tag if the reason for noncompliance with the requirements and standards of **§§ 9-305(c)(1) through (c)(6)** does not constitute an immediate threat of a release of a petroleum product. The yellow tag shall be affixed to the tank and the tank fill port and shall be clearly visible and unobstructed from view.

(i) A yellow tag may be used only for noncompliance with the following aboveground storage tank system inspection standards:

I. Tank piping which is in contact with earthen materials or concrete is coated or sleeved to protect against corrosion and damage, per standards of **§ 9-305(c)(2)**.

II. For aboveground storage tank systems located outside a structure, the vent line is equipped with an operational overfill vent alarm or whistle, per standards listed in **§ 9-305(c)(3)**. Aboveground storage tank systems located indoors and lacking an operational vent alarm or whistle shall not be yellow tagged.

III. Fill and vent diameter is a minimum 1 ¼ inches, per standards of **§ 9-305(c)(4)**.

IV. The aboveground storage tank system is free of visible dents and bulges; the tank has no evidence of leak at the fill or vent pipe, and the tank and tank legs are free of moderate rust and pitting.

(C) Affixing a yellow tag to any aboveground storage tank system found out of compliance with any items other than those listed in **§§ 9-305(f)(1)(B)(i)(I) though 9-305(f)(1)(B)(i)(IV)** is prohibited.

(D) Aboveground storage tank systems with yellow tags may only be filled per conditions specified in **§ 9-305(i)**.

(E) All yellow tags installed leading up to or during the current heating season will expire on the first day of May. Yellow tags shall not be renewed.

(F) Upon the expiration of the yellow tag, the aboveground storage tank system is noncompliant with the requirements and standards of **§§ 9-305~~(c)~~(c)(1) through 9-305(c)(6)** and may not be filled. Filling an aboveground storage tank system with an expired yellow tag is prohibited.

~~(A)~~(G) Yellow tags are applicable only to tanks located on and serving a residential property. Application of a yellow tag to a tank used for non-residential purposes is prohibited.

(2) New tanks. If a new tank is determined to be noncompliant with any standard of **§ 9-305(c)**, the inspector shall include such results in the inspection checklist and shall immediately affix a "Do Not Fill" red tag onto the new tank. A red tag shall be affixed to the tank and the tank fill port and shall be clearly visible and unobstructed from view.

~~(2)~~(3) Within ~~two~~ five ~~working~~ business days of the date of the inspection resulting in a red or yellow tag, the inspector shall enter the following information into the Secretary's database for tracking aboveground storage tank compliance:

(A) Name of the aboveground storage tank system owner;

(B) Location of the aboveground storage tank system (physical address and city);

(C) Capacity of aboveground storage tank system inspected;

(D) Name, company, and contact information of technician that performed the inspection of the aboveground storage tank system;

(E) The date of inspection and date of application of the red or yellow tag ~~or other visible designation~~;

(F) Reason for non-compliance; ~~and~~

(G) Measures recommended by inspector to address noncompliance; and~~.~~

(H) For aboveground storage tank systems that have been affixed with a yellow tag, a written explanation documenting the grounds for being granted a yellow tag.

Note: The Secretary's database for aboveground storage tanks is located at: https://anrweb.vt.gov/DEC/ERT/AST.aspx

(g) Return to compliance; removal of visible designation. ~~A red tag or other visible designation required to be affixed to a tank under this section may be removed if the results of a follow-up inspection demonstrate that the measures taken to address the identified noncompliance are sufficient to bring the tank and tank system into compliance with §§ 9-306(c)(1) through (c)(5) of these rules.~~

(1) Existing tanks. A red or yellow tag required to be affixed to an aboveground storage tank system under this section may be removed if the results of a follow-up inspection demonstrate that the measures taken to address the identified noncompliance are sufficient to bring the tank system into compliance with **§§ 9-305(c)(1) through 9-305(c)(6)**.

(2) New tanks. A red tag required to be affixed to an aboveground storage tank system under this section may be removed if the results of a follow-up inspection demonstrate that the measures taken to address the identified noncompliance are sufficient to bring tank system into compliance with **§§ 9-305(c)**.

(h) Prohibition of fuel delivery. No person shall deliver fuel to an aboveground storage tank system which has an affixed "Do Not Fill" red tag and/or has been reported to the State AST Red Tag database~~been visibly designated as noncompliant with the requirements of these rules~~. No person shall deliver fuel to an aboveground tank system that has not been inspected per **§ 9-305(a)**.

(i) Conditional fuel delivery. Fuel may be delivered to an aboveground storage tank system that has an affixed yellow tag only under the following conditions:

(1) Maximum of 100 gallons per delivery; and

~~(1)~~(2) Fuel delivery at slow fill speed.

~~(i)~~(j) Recordkeeping requirements. Inspectors shall retain copies of all completed ~~all~~ inspection checklists per **§ 9-305(e)(1)**, photo documentation per **§ 9-305(e)(3)**, and other records used to document aboveground storage tank system compliance in accordance with this section for a period of four ~~three~~ years. Copies of inspection checklists, photo documentation, and other records maintained under this provision shall be made available to the Agency upon request.

§ 9-306~~7~~ PROPER REMOVAL OF TANK SYSTEMS

(a) During the installation of an aboveground storage tank system, the installer shall ensure that the existing aboveground storage tank system is taken out~~-~~of~~-~~service and removed in accordance with one of the following methods:

(1) NFPA 1 Uniform Fire Code (IFC);

(2) NFPA Parts 30 & 31; or,

(3) A similar method approved in writing by the Secretary.

(b) Removal of out-of-service aboveground storage tank systems.

(1) Any aboveground storage tank system including all piping, that is out-of-service for more than one year shall be removed ~~by the owner and the owner shall remove all piping at the same time~~. For tank systems located in a structure, the fill pipe to the tank system shall be fully and permanently removed from the structure to prevent delivery to a disconnected system. The removed tank and piping shall be properly disposed of unless reused in accordance with **§ 9-306(c)** ~~subsection (c) of this section~~.

(2) During the removal of an aboveground storage tank system, the ~~facility~~ tank system location shall be inspected for an actual or suspected release of the substance stored in the tank system. The inspection shall include any aboveground, subsurface or other areas where contamination is likely to exist. If an actual release or suspected release is discovered, the owner ~~or carrier~~ shall comply with the requirements of **§ 9-103** ~~of these rules~~.

(3) If the owner of any aboveground storage tank system that serves a structure converts the type of fuel used for the structure ~~from fuel oil or kerosene to natural gas~~ so that the structure is no longer served for any purpose by the aboveground storage tank system, the owner shall have the aboveground storage tank system ~~used to store fuel oil or kerosene~~ and any fill pipes removed at the same time as the heating type conversion in accordance with this section.

(c) Reuse of tank systems. Any aboveground storage tank system taken out of service shall be rendered unusable unless the tank system is inspected pursuant to **§ 9-3056** ~~of these rules~~ and is found to be in sound condition and otherwise compliant with these rules, in which case, the tank system may be put back in service.

(d) Upon written request, the Secretary may conditionally approve ~~allow~~ an aboveground storage tank system that meets the standards of **§ 9-302**, **§ 9-303**, ~~**§ 9-304**~~, and with **§ 9-3045** (when a tank is located in a flood prone area), and the inspection requirements of **§ 9-3056**, to remain out-of-service for more than one year. ~~The Secretary may condition approval under this section.~~

(e) When installing a replacement tank system, the fuel in the tank being replaced shall not be pumped into the replacement tank unless the tank being replaced is leaking or is likely to cause a release ~~in the near future~~. The fuel in the tank being replaced shall either be burned by the heating system prior to tank replacement or, if pumped into the replacement tank, shall be treated with a fuel conditioner that contains the following components: stabilizer (to keep fuel fresh during summer storage), dispersant (to arrest moisture and pre-existing sedimentation), corrosion inhibitor (to protect the storage tank and remainder of the fuel system) and metal deactivator (to protect against fuel blackening from contact with yellow metals).

Note: Unused fuel in tanks that are replaced that is not burned prior to new tank installation or is not treated by a fuel conditioner shall be managed in accordance with the Vermont Hazardous Waste Management Regulations.

§ 9-3078 ADDITIONAL REQUIREMENTS FOR BULK STORAGE TANK FACILITIES

(a) Prior to a new installation of an aboveground storage tank system at a bulk storage tank facility, the installer shall submit a **Vermont Aboveground Storage Tank Registration Form** (provided by the Secretary) completed in accordance with the form's instructions. Installers of aboveground storage tank systems at more than one bulk storage facility location shall file a separate form for each location.

Note: An installer may register multiple ~~several~~ aboveground storage tank systems at one location using one form.

(b) At the time a tank is taken out-of-service at a bulk storage tank facility, the owner shall conduct a site investigation consistent with the requirements of **Subchapter 3 § 9-301(c)** ~~of these rules~~ of the Vermont Investigation and Remediation of Contaminated Properties Rule (IRule).

(c) No aboveground bulk storage facility sited after 2011 shall be located:

(1) Within the Source Protection Area of a public community water system or public non-transient, non-community (NTNC) water system using a groundwater source;

(2) Within Zone 1 or Zone 2 of a Source Protection Area of a public community water system or NTNC water system using a surface water source except that the Secretary may, on a case-by-case basis, make a determination that an aboveground storage tank may be sited in the Zone 2 of a source protection area of a water system using a surface water source;

(3) Within 200 feet of a public transient, non-community (TNC) water system source;

(4) Within 100 feet of any private drinking water supply source;

(5) Within 25 feet of any public water distribution line; or

(6) In any area designated as a Class I or Class II groundwater zone.

CLEAN COPY

STATE OF VERMONT
Agency of Natural Resources

Aboveground Storage Tank Rules

Effective date: AUGUST 1, 2024

VERMONT
Environmental Conservation

Waste Management and Prevention Division
Department of Environmental Conservation
One National Life Drive, Davis 1
Montpelier, VT 05620-3704
(802) 828-1138

Copies of these rules and other information are available at the Vermont Storage Tank Program website at:

http://dec.vermont.gov/waste-management/storage-tanks

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Subchapter 1: GENERAL PROVISIONS

§ 9-101 AUTHORITY

These rules are adopted by the Secretary of the Agency of Natural Resources pursuant to the authority granted by **10 V.S.A. Chapter 59 Section 1929a** and **10 V.S.A. Chapter 159.**

§ 9-102 PURPOSE AND APPLICABILITY

These rules are intended to protect public health and the environment by establishing standards for the design, installation, and inspection of aboveground storage tank systems used to store any of the following petroleum products: gasoline, diesel, kerosene, used oil, or heating oil.

§ 9-103 RELEASE PROHIBITION; REPORTING; EMERGENCY RESPONSE

(a) Release prohibition. The release of hazardous materials, including from spills or tank overflows, into the surface or groundwater, or onto the land of the State is prohibited.

(b) Releases and suspected releases. Any person required by **10 V.S.A. § 6617** shall immediately report a release or suspected release that meets any of the following criteria to the Secretary:

(1) A release of any petroleum product that exceeds 2 gallons;

(2) A release of any petroleum product that is less than or equal to 2 gallons and poses a potential or actual threat to human health or the environment;

(3) A release of any hazardous material other than petroleum; or

(4) A suspected release of hazardous material as indicated by the following:

(A) An unusual loss of product from the aboveground storage tank;

(B) Strong petroleum vapors present in the vicinity of the aboveground storage tank; or

(C) Other environmental conditions present in the vicinity of the tank, the facility, or off the facility site that indicate that a release may have occurred (e.g., dead vegetation around the tank system).

Note: Reporting under this subsection shall be directed to:

Monday through Friday, 7:45 AM to 4:30 PM:
Waste Management & Prevention Division at (802) 828-1138.

Anytime: Division of Emergency Management at (800) 641-5005.

Note: Under the Federal Water Pollution Control Act, certain spills of oil and/or hazardous substances are prohibited and shall be reported pursuant to the requirements of **40 CFR Part 110 / Discharge of Oil**. Certain spills of hazardous substances shall also be reported pursuant to CERCLA. In both cases, the National Response Center shall be notified at (800) 424-8802.

(c) Site investigation; corrective actions. Any person responsible for a release or suspected releases pursuant to **10 V.S.A. § 6615** shall perform an investigation and corrective action measures to address the release in accordance with **10 V.S.A. § 6615b** and any other regulations and procedures adopted by the Agency for the investigation and clean-up of contaminated properties.

(d) Emergency response.

(1) Notwithstanding the requirements of **subsection (c) of this section**, the Secretary may require an emergency response when the Secretary determines that a release may cause an immediate and serious threat of harm to human health or the environment.

(2) When undertaking emergency responses pursuant to this subsection, notification to the potentially responsible party pursuant to **10 V.S.A. § 1283** in advance of undertaking an emergency response is not required, unless:

(A) The Secretary determines that there is need for additional investigation of the release to determine the impact to sensitive receptors and to human health and that it is appropriate for the potentially responsible party to conduct the investigation; or

(B) The Secretary determines that an additional response is necessary to address short-term impacts to sensitive receptors and impacts to human health, and that it is appropriate for the potentially responsible party to conduct the additional response.

(3) The Secretary shall conduct or direct the potentially responsible party to conduct a limited site investigation to determine if the release requires further site investigation or corrective action. As

used in this subsection, "limited site investigation" means the steps the Secretary deems necessary to determine whether additional site investigation or corrective action is necessary to respond to the release.

§ 9-104 SEVERABILITY

The provisions of these rules shall be severable. If any provision of these rules is invalid or if any application of these rules to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

§ 9-105 INCORPORATION BY REFERENCE

When reference is made herein to CFR titles, their parts, subparts, or sections, the reference is to titles of the Code of Federal Regulations as they existed on the effective date of these rules.

§ 9-106 VARIANCES

(a) The Secretary may grant a variance for one or more of the specific provisions of these rules provided that the person requesting the variance can demonstrate to the satisfaction of the Secretary that compliance with the rules from which the variance is sought would produce serious hardship without equal or greater benefits to the public and the proposed new or alternative technology, method, or application (e.g. equipment, designs, practices or methods) will protect human health and the environment in a manner that is at least equivalent to the regulatory provision(s) for which a variance is sought.

(b) Requests for a variance shall be made in writing. Such requests shall identify the manner in which the proposal varies from the provisions of these rules, and the basis for finding that the proposal provides a level of protection as required in **§ 9-106(a)**. The Secretary may require that additional information be submitted by the person requesting the variance.

(c) In granting a variance the Secretary may impose specific conditions necessary to assure a level of protection of human health and the environment at least equivalent to that provided under these rules.

(d) The Secretary may grant a variance for a particular class or category of

innovative or alternative technology in accordance with the requirements of this section.

Subchapter 2: DEFINITIONS

All terms not defined herein shall have the meaning given them in **10 V.S.A. chapter 59**:

"Aboveground storage tank system" means the aboveground storage tank and all associated piping, vent and fill pipes, vent alarm and whistle, fuel filter and shut-off valves, that is used to store any of the following petroleum products: gasoline, diesel, kerosene, used oil, or heating oil. For the purposes of these rules, mobile and semi-mobile skid tanks are not included in this definition of aboveground storage tank system.

"**Agency**" means the Vermont Agency of Natural Resources.

"**Biodiesel**" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, or designated B100.

"Bulk storage tank facility" means any facility:

(1) that stores heating fuel or motor fuel in an aboveground tank system and the principal purpose of the storage is:

(A) in the case of heating fuel, for distribution to a fuel carrier for further distribution to consumer homes, or

(B) in the case of motor fuel, for distribution to a person selling motor fuel to consumers;

(2) with a total aboveground storage capacity of greater than 1,320 gallons; and

(3) that is stationary and located at a fixed location.

"Bulk storage tank" means any petroleum aboveground storage tank system with a capacity greater than 1,320 Gallons.

"Carrier" means a person who transports and transfers heating fuel, motor fuel, or used oil from a bulk liquid transport vehicle to an aboveground storage tank system.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et. seq., as amended (also known as "Superfund").

"Compatible" means that two or more substances maintain their respective physical and chemical properties upon contact with one another under

conditions encountered within or around an aboveground storage tank system for the design life of that system.

"**Existing tank**" means an aboveground storage tank system installed before the effective date of these rules (August 1, 2024).

"Facility" means all contiguous land, structures, other appurtenances, and improvements on the land where an aboveground storage tank system is located.

"**Flood prone area**" means any area that is susceptible to flooding by any source and is adjacent to lakes, streams and rivers that are prone to recurring flooding. For the purposes of these rules, flood prone area shall have the same meaning as "flood hazard area" under **10 V.S.A. § 752.**

"Hazardous material" means all petroleum and toxic, corrosive, or other chemicals and related sludge included in any of the following:

(a) Any substance defined in **CERCLA § 101(14)**;

(b) Petroleum, including crude oil or any fraction thereof;

(c) Hazardous waste, as defined in **10 V.S.A. chapter 159** and the Vermont Hazardous Waste Management Regulations; or

(d) A chemical or substance that, when released, poses a risk to human health or the environment or other living organisms and that is listed by the Secretary by rule.

Note: "Hazardous material" does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, state and local laws and regulations and according to manufacturers' instructions. Nothing in this subsection shall affect the authority granted and the limitations imposed by **10 V.S.A. § 6608a.**

"Heating fuel" means heating oil, kerosene, or other dyed diesel fuel that is typically used to heat a structure and not used to propel a motor vehicle. "Heating fuel" includes any blend of petroleum and biodiesel used to heat a structure.

"In Service" means a condition in which an aboveground storage tank system remains connected to a heating source and stores heating fuel that is required by the heating unit or remains connected to a distribution system for a motor fuel tank. This definition applies to systems that use an alternative fuel (e.g., wood) as a primary heat source, and utilize heating fuel

as a backup heating source. This definition also applies to aboveground storage tank systems at bulk storage tank facilities that store fuel for distribution.

"Interstitial space" means the space between the primary and secondary barriers of a secondarily contained system (e.g., the interstitial space of a double-walled tank is the space between the two walls of the tank).

"Liquid-tight" means impervious to the passage of water and/or regulated liquid substance.

"Marina" means a shoreline property that:

(1) contains a dock or basin to provide secure moorings for pleasure or commercial boats; and

(2) that has an associated fueling dock or aboveground storage tank.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No.1 or No. 2 diesel fuel, or any blend containing diesel fuel, or any grade of gasohol, or any other regulated substance typically used in the operation of an engine. "Motor fuel" includes any blend of petroleum and biodiesel used to propel a vehicle.

"**New tank**" means an aboveground storage tank system installed on or after the effective date of these rules (August 1, 2024). This term shall include the installation of a tank that is reused or used to replace an existing tank.

"NFPA" means the National Fire Protection Association.

"NORA" means the National Oilheat Research Alliance.

"Out-of-service" means a condition in which an aboveground storage tank system is disconnected from a heating source or distribution system or is not in service.

"Owner" means any person who owns an aboveground storage tank system.

"Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont, or any agency, department or subdivision of the State, federal agency, or any other legal or commercial entity.

"Pipe" or "Piping" means a conduit made of a petroleum-compatible material used to convey petroleum to and from an aboveground storage tank system.

"Public water system" means any system or combination of systems owned or controlled by a person that provides drinking water through pipes or other constructed conveyances to the public and that has at least 15 service connections or serves an average of at least 25 individuals daily for at least 60 days out of the year. A "public water system" includes all collection, treatment, storage, and distribution facilities under the control of the water supplier and used primarily in connection with the system. "Public water system" shall also mean any part of a system that does not provide drinking water, if use of such a part could affect the quality or quantity of the drinking water supplied by the system. "Public water system" shall also mean a system that bottles drinking water for public distribution and sale.

"Public community water system" means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Public non-transient, non-community (NTNC) water system" means a public water system that is not a public community water system and that regularly serves at least 25 of the same persons daily for more than six months per year. Examples: schools, factories, office buildings.

"Public transient, non-community (TNC) water system" means a public non-community water system that is not a non-transient, non-community system. Examples: restaurants, motels, campgrounds.

"**Red Tag**" means a visible tag that specifies that an aboveground storage tank system is noncompliant and shall not be filled with petroleum products.

"Release" means any means any intentional or unintentional action or omission resulting in spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an aboveground storage tank into groundwater, surface water, or onto the lands in the State, or into waters outside the jurisdiction of the State when damage may result to the public health, lands, waters, or natural resources within the jurisdiction of the State.

"**Residential**" means, for the purposes of these rules, a building or structure where one or more person(s) live, whether year-round, seasonally, or temporarily. Examples of a residence include, but are not limited to single family dwellings, duplexes, apartment buildings, mobile home parks, dorms, residential condominiums, and residential accessory units. A residence may include a commercial operation if the commercial operation is owned or operated by an occupant that resides in the same building.

"Secondary containment system" means a liquid-tight physical barrier that is either:

(a) a double-walled tank that is designed to:

(1) contain any regulated substance that leaks from the primary containment barrier of an aboveground storage tank system; and

(2) allows access to the interstitial space for monitoring and maintenance; or

(b) a single-walled tank system within an enclosure that is designed to contain at least 110 percent of the storage capacity of the tank.

"Secretary" means the Secretary of the Vermont Agency of Natural Resources or the Secretary's duly authorized representative.

"Sensitive receptor" means any natural or human-constructed feature which may be adversely affected when contacted by a regulated substance. Examples of sensitive receptors include public or potable water supplies, surface waters, wetlands, sensitive ecological areas, outdoor and indoor air, and enclosed spaces such as basements, sewers, and utility corridors.

"**Skid Tank**" means a container with foundations attached (portable or semiportable containers with suitable steel "runners" or "skids" and popularly known in the industry as "skid tanks") used to store any of the following petroleum products: gasoline, diesel, kerosene, used oil, or heating oil. For the purposes of these rules, skid tanks that are mobile or semi-mobile are not included in the definition of "aboveground storage tank system." Skid tanks that are not used for mobile or semi-mobile use or are not moved from their original footprint within six months are not included in this definition of "skid tank" and are considered aboveground storage tank systems that are subject to regulation under this rule.

"Structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof.

"Used Oil" means any petroleum product that has been refined from crude oil (in whole or in part), or any synthetic oil that has been used and as a result of such use is contaminated by physical or chemical impurities. Used oil is a free-flowing liquid at standard temperature and pressure and has a flash point of greater than 100 degrees (F). Used oil includes oils used as lubricants, heat transfer fluids, hydraulic fluids, and for other similar uses, but does not include materials derived from crude or synthetic oils that are fuels (e.g., gasoline, jet fuel and diesel fuel), or as cleaning agents or solvents (e.g., naphtha or mineral spirits). Used oil is subject to regulations under subchapter 8 of the Vermont Hazardous Waste Management Regulations (VHWMR).

"**Yellow Tag**" means a visible tag affixed to an aboveground storage tank system that permits a temporary and conditional use of a noncompliant aboveground storage tank system located on and used to serve a residential property.

Subchapter 3: DESIGN, INSTALLATION, AND INSPECTION STANDARDS FOR ABOVEGROUND STORAGE TANK SYSTEMS

§ 9-301 APPLICABILITY

With the exception of tanks defined as bulk storage tanks in these rules, **§§ 9-302 through 9-306** applies to all aboveground storage tank systems. **§ 9-307** applies only to bulk storage tank facilities and bulk storage tanks.

§ 9-302 GENERAL REQUIREMENTS

All new tanks shall be made of or lined with materials that are compatible with the substance(s) stored in them and shall be constructed as per one of the following designs:

(1) Single-walled tank not less than 12-gauge in thickness in its entirety in accordance with Section 7.2.7 (Design Standards) of NFPA Part 31, effective January 1, 2020, as amended;

(2) Double-bottom steel tanks with end-cover protection and interstitial space monitoring;

(3) Double-wall tanks with polyethylene or other plastic polymer inner wall and metallic outer wall.

(4) Double-wall non-metallic tank; or

(5) Single-walled non-metallic tank for inside use only.

Note: All tanks at public buildings (as defined in **20 V.S.A., § 2730**), including aboveground LP Gas tanks; over 2,000 gallons liquid capacity; or with an aggregate capacity over 4,000 gallons; and aboveground flammable and combustible liquid tanks, shall have a permit from the Vermont Division of Fire Safety. Tank permit applications are available online at www.firesafety.vermont.gov, or can be obtained by contacting any office of the Vermont Division of Fire Safety.

§ 9-303 TANK SYSTEM DESIGN, INSTALLATION AND ALTERATION STANDARDS

(a) Specifications. Installation and alteration of all aboveground storage tank systems shall be performed in accordance with one of the following methods:

(1) NFPA 1 Uniform Fire Code (IFC); or

(2) NFPA Parts 30 & 31; or

(3) A similar method approved in writing by the Secretary.

(b) Design. All new tanks shall be designed and constructed in accordance with Section 7.2.7 (Design Standards) of NFPA Part 31, effective January 1, 2020, as amended. For new tanks, all tank fill and vent piping shall be designed and constructed in accordance with Section 8.2.1.1 (Acceptable Piping) of NFPA Part 31, effective January 1, 2020, as amended. Tank fill and vent piping shall have male or female threaded ends that comply with a recognized thread specification, or press-connect ends listed to Underwriters Laboratories (UL) 180 Standard for Combustible Liquid Tank Accessories. Press-connect fittings shall be installed in accordance with the manufacturer's specifications with a tool recommended by the manufacturer.

(c) Aboveground Storage Tank System Installation. All aboveground storage tank systems shall comply with the provisions of this subsection, as follows:

(1) Tank Foundation.

(A) All aboveground storage tank systems shall be located on a stable foundation, such as a concrete pad, that is adequate to prevent the tank from tipping over. A stable foundation shall mean the tank is free-standing, measurements taken on the tank's length and width dimensions show the absence of the tank tilting; and there is no evidence of tank subsidence (i.e., no contact between the tank or tank legs and the ground surface).

(B) All new tanks shall be installed on a foundation that is made of a single continuous pad or bolted slabs made of concrete and is constructed to be at least 4 inches in depth and sized to have a footprint that exceeds the length and width dimensions of the tank by a factor of 10 percent (see Note below for example). A foundation of alternative material or size may be utilized with prior written approval by the Secretary.

Note: For a 275-gallon tank with dimensions of 44 inches (height) by 27 inches (width) by 60 inches (length), the foundation footprint shall measure at least 4 inches deep and 30 inches (width) by 66 inches (length).

(2) Overfill alarm. Any aboveground storage tank system that receives

pressurized deliveries shall be equipped with an operational overfill vent alarm or "whistle" with a vent pipe that terminates near the fill pipe. Vent pipes shall terminate not more than 12 feet from the fill pipe and at a point visible from the fill port.

(3) Shutoff valve. Any new aboveground storage tank system with a fuel line attached to the bottom portion of the tank shall be equipped with an accessible shutoff valve located within 12 inches of the fuel outlet of the tank system. Any new aboveground storage tank system which draws a regulated substance from the top of the tank system shall be equipped with a shutoff valve before the filter. The valve shall be a positive shutoff valve designed solely for the purpose of shutting off the supply of heating fuel, motor fuel, or used oil.

(4) Fill and vent pipe.

(A) All aboveground storage tank systems shall have fill and vent pipes with a minimal inside diameter of 1¼ inches and that terminate outside the structure. The fill pipe shall be fitted with a liquid-tight cap and the vent pipe shall have a weatherproof and insect-proof cap. Fill and vent pipes shall be made from metallic material; PVC or other non-metallic materials are prohibited.

(B) All new tanks shall have fill and vent piping constructed in accordance with **§ 9-303(b)**. The fill pipe shall be fitted with a liquid-tight cap and the vent pipe shall have a weatherproof and insect-proof cap.

(5) The aboveground storage tank system vent pipe shall be sized in accordance with the corresponding NFPA minimum diameter of tank vent opening.

(6) Unused openings in all aboveground storage tank systems shall be fully and permanently closed or plugged. Threaded pipe plugs may be used to close openings to comply with this provision. Openings in aboveground storage tank systems that are temporarily taken out of service for maintenance or any other reason shall be plugged or tagged out to indicate the tank is out of service and the fuel carrier shall be notified that the tank cannot receive deliveries.

(7) All new tanks shall be equipped with a device to gauge fuel volume.

(8) Piping and fuel lines.

(A) All existing tanks with piping and fuel lines that are buried underground, including in concrete flooring, shall be installed with a plastic coating or a continuous protective sleeve made of a non-corrodible material. The protective sleeve shall start and terminate aboveground. Fittings shall not be installed underground in any piping, coating, or sleeve.

(B) All new tanks with piping and fuel lines in direct contact with earthen materials or concrete shall be installed with a plastic coating and sleeved with crush resistant conduit that is in a continuously protective sleeve made of non-corrodible material. Fittings shall not be installed underground in any piping, coating, or sleeve. Having unprotected pipe or piping buried or in direct contact with earthen materials or concrete is prohibited.

(9) For aboveground tank systems located inside a structure, the tank shall be located on the lowest floor of the structure unless the installation meets an exception recognized by a method in **§ 9-303(a)**.

(10) All new tanks located outside a structure shall be protected from physical damage caused by snow or ice. Compliance with this subsection shall require location of an aboveground storage tank system either:

(A) on the gable end of a structure or away from the structure;

(B) in a secondary containment structure that is installed in accordance with **9-303(f)**;

(C) in or under a shelter or enclosure with a roof; or

(D) in accordance with another method approved by the Secretary.

(11) Any aboveground storage tank system that includes more than one storage tank shall have, for each individual tank, a separate fill pipe, a separate fuel volume gauge, a separate vent pipe, and a separate vent alarm, each of which comply with the requirements of this section. The separate vents may be plumbed or manifolded together inside the building and tied into one outlet vent pipe that goes to the outside of the structure, provided that:

(A) the outlet pipe is at least one pipe size larger than the largest individual vent pipe connected thereto; and

(B) the point of connection between two or more vent pipes shall not be lower than the top of the fill pipe opening on the tank.

(12) Any new tank shall have tank legs that are no longer than 14 inches, unless approved by the Secretary in writing prior to the tank's installation.

(d) Date of installation. All aboveground tanks and tank systems installed on or after August 15, 2017, shall be visibly identified with the date of tank installation. The visible identification shall be in the form of a tag, sticker, or other marker that is permanently affixed to the tank and that clearly identifies the date of installation of the tank system. The tag or sticker shall be located on the tank such that it is clearly visible and unobstructed from view.

(e) Tank systems at marinas. All aboveground storage tank systems located at marinas shall be installed and shall be operated in accordance with the Petroleum Equipment Institute's Publication PEI/RP 1000-09: **"Recommended Practices for the Installation of Marina Fueling Systems."** All new tanks at marinas shall also employ secondary containment consistent with **§ 9-303(f)**.

(f) Secondary containment systems.

(1) Applicability. Secondary containment systems shall be required for all new tanks at marinas. Secondary containment systems may also be utilized as a method of compliance with **§ 9-303(c)(10)**.

(2) Requirements for installation and construction. Secondary containment systems shall be installed and constructed in accordance with manufacturer instructions and specifications.

(g) Additional requirements for existing aboveground storage tank systems.

(1) Tank foundations. Not later than July 1, 2030, all aboveground storage tank systems shall comply with requirements of **§ 9-303(c)(1)(B)**.

(2) Fill and vent pipes. Not later than July 1, 2030, all aboveground storage tank systems shall have tank fill and vent pipes constructed in compliance with requirements of **§ 9-303(c)(4)(B)**.

(3) Tank piping and fuel lines. Not later than July 1, 2030, all aboveground storage tank systems where tank piping and fuel lines have direct contact with earthen materials or concrete shall comply

with the requirements of **§ 9-303(c)(8)(B)**.

(4) Tank legs. Not later than July 1, 2030, all aboveground storage tank systems shall comply with the requirements **§ 9-303(c)(12)**. A request for exemption from this requirement may be submitted to the Secretary in writing and will be considered on a case-by-case basis.

(5) Tanks located outside a structure. Not later than July 1, 2030, all aboveground storage tank systems located outside a structure shall comply with the requirements of **§ 9-303(c)(10)**.

(6) Tanks located in flood prone areas. Not later than July 1, 2030, all aboveground storage tank systems located in flood prone areas shall comply with the requirements of **§ 9-304**.

(7) Tanks located at marinas. Not later than July 1, 2030, all aboveground storage tank systems located at marinas shall comply with the secondary containment requirements of **§ 9-303(f)**.

§ 9-304 INSTALLATION OF TANK SYSTEMS IN FLOOD PRONE AREAS

(a) In addition to meeting the requirements of **§§ 9-302 and 9-303**, all new tanks located in a flood hazard area as defined in **10 V.S.A. § 752** shall meet the following to prevent tank floating and to prevent releases in high water or flooding conditions:

(1) Tanks located inside a structure:

(A) The tank vent pipe shall be of sufficient length to extend above the level of a projected flood.

(B) The tank shall be anchored to the concrete pad or alternative foundation that has been approved by the Secretary through the use of one of the following methods:

(i) Foot flanges. For tanks with pipe legs on a foundation, foot flanges with threaded ends shall be connected to compatible pipe ends. Each foot flange shall be secured to the supporting surface with concrete bolts or screws;

(ii) Concrete anchors. For tanks with saddles or pipe legs for new surfaces in combination with hold-down straps, concrete anchors with a means for attaching the strap end shall be cast into the supporting surface. The anchors shall be

positioned at +/- 4 inches of the tank support centerline and +/- 4 inches of the tank width or diameter centerline;

(iii) Earth augers. For tanks with saddles or pipe legs for undersized pads in combination with hold-down straps, earth augers with a means for attaching the strap end shall be installed under the concrete slab. The augers shall be positioned at +/- 4 inches of the tank support centerline and +/- 4 inches of the tank width or diameter centerline; or

(iv) Any other method recommended by the tank manufacturer or tank installer that is based on the tank installation type, supporting surface, and other appropriate considerations.

(C) Hold-down straps used with a concrete anchor or earth auger methods specified in **§§ 9-304(a)(1)(B)(ii) or 9-304(a)(1)(B)(iii)** shall have a means at each end to connect to fixed attachment points and shall have a means to tighten the strap (e.g., a turnbuckle). Straps shall be positioned over the tank at the anchor points but shall not interfere with used openings.

(2) Tanks located outside a structure. New tanks located outside a structure shall comply with the criteria for aboveground storage tank systems located inside a structure listed above in **§§ 9-304(a)(1)(A) through 9-304(a)(1)(C)** to prevent product loss and damage to the tank system. An exemption from this requirement may be requested from the Secretary and shall be approved on a case-by-case basis.

Note: Information pertaining to flood hazard areas and projected flood levels can be found at the FEMA Map Service Center (Flood Insurance Rate Maps) – https://msc.fema.gov.

These maps can also be found on the ANR Natural Resources Atlas - https://anrmaps.vermont.gov/websites/anra5/. Visit the Agency website for guidance on making flood hazard area determinations.

Note: Where applicable, the Agency encourages contractors and other parties to refer to the **National Oilheat Research Alliance (NORA) Recommended Practice for Home Heating Oil Tank Flood Resistance** for guidance on the construction of anchoring systems and other work to aboveground storage tank systems located within a flood hazard area.

§ 9-305 INSPECTION OF TANK SYSTEMS

(a) Applicability. With the exception of tank systems used for storing used oil, all storage tank systems shall be inspected by the fuel carrier in accordance with the requirements of this section.

(b) Frequency of inspections. An aboveground storage tank system shall be inspected at the following times:

(1) Immediately after the installation of a new tank but prior to the initial delivery of fuel;

(2) Immediately after initial delivery of fuel to a new tank;

(3) Prior to the initial delivery of fuel to the aboveground storage tank system when the tank owner switches fuel carriers;

(4) If not otherwise required under **§ 9-305(b)(1), 9-305(b)(2), or 9-305(b)(3)**, the aboveground storage tank system shall be inspected once every four years; and

(5) Upon removal of a tank system under **§ 9-306**.

(c) Inspection standards. Aboveground storage tank systems shall be visually inspected for compliance with the following standards:

(1) Tank foundation requirements of **§ 9-303(c)(1)**.

(2) Piping and fuel line requirements of **§ 9-303(c)(8)**.

(3) The overfill vent alarm or whistle requirements of **§ 9-303(c)(2)**.

(4) Tank vent and fill pipe size, design, and capping requirements of **§§ 9-303(c)(4) and 9-303(c)(5)**.

(5) The entirety of the tank surface and tank legs are free of any cracks and of significant corrosion or pitting, rust, and spores; tank is free of dents or bulges visibly impacting tank seams; and all tank fuel filter, fittings, and valves are free of drips or leaks and any other sign of an actual or suspected release of hazardous material.

(6) All unused openings are fully and permanently closed or plugged, in accordance with **§ 9-303(c)(6)**.

(7) The shutoff valve requirements of **§ 9-303(c)(3)**.

(8) The requirements of **§ 9-303(c)(12)** for tank leg length.

(9) The aboveground storage tank system is equipped with a device to gauge fuel volume in accordance with **§ 9-303(c)(7)**.

(10) For aboveground storage tank systems located outside a structure, the requirements of **§ 9-303(c)(10)** (for protection from damage from snow and ice).

(11) For aboveground storage tank systems located inside a structure, the requirements of **§ 9-303(c)(9)** (installation on lowest floor of structure).

(12) For aboveground storage tank systems that include more than one storage tank, requirements of **§ 9-303(c)(11)**.

(13) For aboveground storage tank systems located in flood prone areas, requirements of **§ 9-304(a)**.

(14) For aboveground storage tanks systems located at marinas, requirements of **§ 9-303(e)**.

(d) Inspectors. Inspections of aboveground storage tank systems shall be conducted by an inspector that maintains one of the following:

(1) a NORA Gold, Bronze, or Silver certification;

(2) a Vermont Oilheat Certificate of Fitness;

(3) a certificate of completion from an Oilheat Tank Seminar, which has been approved by NORA; or

(4) other training may be requested in lieu of §§ **9-305(d)(1) through 9-305(d)(3)** and shall be reviewed and approved by the Secretary on a case-by-case basis.

(e) Inspection checklist and photo documentation of noncompliance.

(1) Inspectors shall utilize an inspection checklist for performing each aboveground storage tank system inspection. The checklist shall be on the current form provided by the Secretary with the form effective date of August 2024 or later, or pre-approved by the Secretary and shall be used by the inspector to document the age and condition of the aboveground storage tank system as of the time of the inspection. The checklist shall document any issues identified in the inspection which indicate an actual or suspected release of fuel and any noncompliance with the requirements and standards of **§ 9-305(c)** and shall include measures recommended

by the inspector that are necessary to return the aboveground storage tank system to compliance.

(2) Within five business days of the date of inspection, the tank inspector shall provide a copy of the inspection checklist completed in accordance with **§ 9-305(e)(1)** to the tank owner.

(3) For aboveground storage tank system determined to be noncompliant per **§ 9-305(f)(1)(B)**, the tank inspector shall photo document all noncompliant tank components.

(f) Noncompliant tanks.

(1) Existing tanks. If an aboveground storage tank system is determined to be noncompliant with the standards of **§§ 9-305(c)(1) through 9-305(c)(6)**, the inspector shall include such results in the inspection checklist and take the following measures:

(A) Red Tag. The inspector shall immediately affix a "Do Not Fill" red tag onto the aboveground storage tank system to indicate that the tank system is noncompliant with the requirements and standards of **§§ 9-305(c)(1) through 9-305(c)(6)** and shall not be filled. A red tag shall be affixed to the tank and the tank fill port and shall be clearly visible and unobstructed from view.

(B) Yellow Tag. The tank inspector may affix a "Conditional Fill" yellow tag in lieu of a red tag if the reason for noncompliance with the requirements and standards of **§§ 9-305(c)(1) through (c)(6)** does not constitute an immediate threat of a release of a petroleum product. The yellow tag shall be affixed to the tank and the tank fill port and shall be clearly visible and unobstructed from view.

(i) A yellow tag may be used only for noncompliance with the following aboveground storage tank system inspection standards:

I. Tank piping which is in contact with earthen materials or concrete is coated or sleeved to protect against corrosion and damage, per standards of **§ 9-305(c)(2)**.

II. For aboveground storage tank systems located outside a structure, the vent line is equipped with an operational overfill vent alarm or whistle, per standards listed in **§ 9-305(c)(3)**. Aboveground storage tank systems located indoors and lacking an operational vent alarm or whistle

shall not be yellow tagged.

III. Fill and vent diameter is a minimum 1 ¼ inches, per standards of **§ 9-305(c)(4)**.

IV. The aboveground storage tank system is free of visible dents and bulges; the tank has no evidence of leak at the fill or vent pipe, and the tank and tank legs are free of moderate rust and pitting.

(C) Affixing a yellow tag to any aboveground storage tank system found out of compliance with any items other than those listed in **§§ 9-305(f)(1)(B)(i)(I) though 9-305(f)(1)(B)(i)(IV)** is prohibited.

(D) Aboveground storage tank systems with yellow tags may only be filled per conditions specified in **§ 9-305(i)**.

(E) All yellow tags installed leading up to or during the current heating season will expire on the first day of May. Yellow tags shall not be renewed.

(F) Upon the expiration of the yellow tag, the aboveground storage tank system is noncompliant with the requirements and standards of **§§ 9-305(c)(1) through 9-305(c)(6)** and may not be filled. Filling an aboveground storage tank system with an expired yellow tag is prohibited.

(G) Yellow tags are applicable only to tanks located on and serving a residential property. Application of a yellow tag to a tank used for non-residential purposes is prohibited.

(2) New tanks. If a new tank is determined to be noncompliant with any standard of **§ 9-305(c)**, the inspector shall include such results in the inspection checklist and shall immediately affix a "Do Not Fill" red tag onto the new tank. A red tag shall be affixed to the tank and the tank fill port and shall be clearly visible and unobstructed from view.

(3) Within five business days of the date of the inspection resulting in a red or yellow tag, the inspector shall enter the following information into the Secretary's database for tracking aboveground storage tank compliance:

(A) Name of the aboveground storage tank system owner;

(B) Location of the aboveground storage tank system (physical address and city);

(C) Capacity of aboveground storage tank system inspected;

(D) Name, company, and contact information of technician that performed the inspection of the aboveground storage tank system;

(E) The date of inspection and date of application of the red or yellow tag;

(F) Reason for noncompliance;

(G) Measures recommended by inspector to address noncompliance; and

(H) For aboveground storage tank systems that have been affixed with a yellow tag, a written explanation documenting the grounds for being granted a yellow tag.

Note: The Secretary's database for aboveground storage tanks is located at: https://anrweb.vt.gov/DEC/ERT/AST.aspx

(g) Return to compliance; removal of visible designation.

(1) Existing tanks. A red or yellow tag required to be affixed to an aboveground storage tank system under this section may be removed if the results of a follow-up inspection demonstrate that the measures taken to address the identified noncompliance are sufficient to bring the tank system into compliance with **§§ 9-305(c)(1) through 9-305(c)(6)**.

(2) New tanks. A red tag required to be affixed to an aboveground storage tank system under this section may be removed if the results of a follow-up inspection demonstrate that the measures taken to address the identified noncompliance are sufficient to bring tank system into compliance with **§§ 9-305(c)**.

(h) Prohibition of fuel delivery. No person shall deliver fuel to an aboveground storage tank system which has an affixed "Do Not Fill" red tag and/or has been reported to the State AST Red Tag database. No person shall deliver fuel to an aboveground tank system that has not been inspected per **§ 9-305(a)**.

(i) Conditional fuel delivery. Fuel may be delivered to an aboveground

storage tank system that has an affixed yellow tag only under the following conditions:

(1) Maximum of 100 gallons per delivery; and

(2) Fuel delivery at slow fill speed.

(j) Recordkeeping requirements. Inspectors shall retain copies of all completed inspection checklists per **§ 9-305(e)(1)**, photo documentation per **§ 9-305(e)(3)**, and other records used to document aboveground storage tank system compliance in accordance with this section for a period of four years. Copies of inspection checklists, photo documentation, and other records maintained under this provision shall be made available to the Agency upon request.

§ 9-306 PROPER REMOVAL OF TANK SYSTEMS

(a) During the installation of an aboveground storage tank system, the installer shall ensure that the existing aboveground storage tank system is taken out-of-service and removed in accordance with one of the following methods:

(1) NFPA 1 Uniform Fire Code (IFC);

(2) NFPA Parts 30 & 31; or,

(3) A similar method approved in writing by the Secretary.

(b) Removal of out-of-service aboveground storage tank systems.

(1) Any aboveground storage tank system including all piping, that is out-of-service for more than one year shall be removed. For tank systems located in a structure, the fill pipe to the tank system shall be fully and permanently removed from the structure to prevent delivery to a disconnected system. The removed tank and piping shall be properly disposed of unless reused in accordance with**§ 9-306(c)**.

(2) During the removal of an aboveground storage tank system, the tank system location shall be inspected for an actual or suspected release of the substance stored in the tank system. The inspection shall include any aboveground, subsurface or other areas where contamination is likely to exist. If an actual release or suspected release is discovered, the owner shall comply with the requirements of **§ 9-103**.

(3) If the owner of any aboveground storage tank system that serves a structure converts the type of fuel used for the structure so that the structure is no longer served for any purpose by the aboveground storage tank system, the owner shall have the aboveground storage tank system and any fill pipes removed at the same time as the heating type conversion in accordance with this section.

(c) Reuse of tank systems. Any aboveground storage tank system taken out-of-service shall be rendered unusable unless the tank system is inspected pursuant to **§ 9-305** and is found to be in sound condition and otherwise compliant with these rules, in which case, the tank system may be put back in service.

(d) Upon written request, the Secretary may conditionally approve an aboveground storage tank system that meets the standards of **§ 9-302**, **§ 9-303**, and with **§ 9-304** (when a tank is located in a flood prone area), and the inspection requirements of **§ 9-305**, to remain out-of-service for more than one year.

(e) When installing a replacement tank system, the fuel in the tank being replaced shall not be pumped into the replacement tank unless the tank being replaced is leaking or is likely to cause a release. The fuel in the tank being replaced shall either be burned by the heating system prior to tank replacement or, if pumped into the replacement tank, shall be treated with a fuel conditioner that contains the following components: stabilizer (to keep fuel fresh during summer storage), dispersant (to arrest moisture and pre-existing sedimentation), corrosion inhibitor (to protect storage tank and remainder of the fuel system) and metal deactivator (to protect against fuel blackening from contact with yellow metals).

Note: Unused fuel in tanks that are replaced that is not burned prior to new tank installation or is not treated by a fuel conditioner shall be managed in accordance with the Vermont Hazardous Waste Management Regulations.

§ 9-307 ADDITIONAL REQUIREMENTS FOR BULK STORAGE TANK FACILITIES

(a) Prior to a new installation of an aboveground storage tank system at a bulk storage tank facility, the installer shall submit a **Vermont Aboveground Storage Tank Registration Form** (provided by the Secretary) completed in accordance with the form's instructions. Installers of aboveground storage tank systems at more than one bulk storage facility location shall file a separate form for each location.

Note: An installer may register multiple aboveground storage tank systems at one location using one form.

(b) At the time a tank is taken out-of-service at a bulk storage tank facility, the owner shall conduct a site investigation consistent with the requirements of **Subchapter 3** of the Vermont Investigation and Remediation of Contaminated Properties Rule (IRule).

(c) No aboveground bulk storage facility sited after 2011 shall be located:

(1) Within the Source Protection Area of a public community water system or public non-transient, non-community (NTNC) water system using a groundwater source;

(2) Within Zone 1 or Zone 2 of a Source Protection Area of a public community water system or NTNC water system using a surface water source except that the Secretary may, on a case-by-case basis, make a determination that an aboveground storage tank may be sited in the Zone 2 of a source protection area of a water system using a surface water source;

(3) Within 200 feet of a public transient, non-community (TNC) water system source;

(4) Within 100 feet of any private drinking water supply source;

(5) Within 25 feet of any public water distribution line; or

(6) In any area designated as a Class I or Class II groundwater zone.

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

The Vermont Statutes Online have been updated to include the actions of the 2023 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 10 : Conservation and Development

Chapter 059 : Underground and Aboveground Liquid Storage Tanks

Subchapter 001 : Underground Storage Tank Regulation

(Cite as: 10 V.S.A. § 1929a)

§ 1929a. Standards for aboveground storage tanks

(a) On or before December 31, 2011, the Secretary shall adopt rules addressing the design and proper installation of aboveground storage tanks.

(b) After January 1, 2012, no person shall offer for sale, install, or substantially improve an aboveground storage tank that does not meet the standards adopted by the Secretary under subsection (a) of this section.

(c) On or before July 1, 2017, the Secretary shall adopt rules for the inspection of aboveground storage tanks. The rules shall include, at a minimum, the following:

(1) when installation of secondary containment systems for types of aboveground storage tanks is required, the required specifications of the systems, and the process for installation of the systems;

(2) the protocol to be followed and the criteria to be reviewed in the performance of inspections required under this section, including:

(A) the appropriate methods to document the age of tanks installed on or after July 1, 2017;

(B) the frequency of required tank inspections;

(C) requirements for the tagging or marking of tanks and tank fill pipes when tanks are determined to be noncompliant with the requirements of this section or the rules adopted by the Secretary under this section;

(3) an updated checklist to be used in the performance of inspections required under this section or the rules adopted by the Secretary under this section;

(4) training and certification requirements for tank inspectors;

(5) the protocol to address tanks identified as noncompliant with the inspection criteria established by the rules adopted by the Secretary under this section; and

(6) requirements for the reuse of an aboveground storage tank removed under the requirement of subsection (g) of this section.

(d) A fuel supplier shall inspect an aboveground storage tank in accordance with the requirements of this chapter and the rules adopted by the Secretary pursuant to subsection (c) of this section.

(e) The Secretary shall maintain a database of tanks that have been determined to be noncompliant with the requirements of this section or the rules adopted by the Secretary pursuant to subsection (c) of this section. The database shall be accessible to the public.

(f) No person shall deliver heating fuel to an aboveground storage tank that has been visibly designated as noncompliant with the requirements of this chapter.

(g) If the owner of any aboveground storage tank that serves a structure converts the type of fuel used for the structure from fuel oil or kerosene to natural gas so that the structure is no longer served for any purpose by the aboveground storage tank, the owner shall have the aboveground storage tank used to store fuel oil or kerosene and any fill pipes removed at the same time as the conversion. As used in this subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof. (Added 2007, No. 18, § 2; amended 2015, No. 76 (Adj. Sess.), § 1.)

No. 76. An act relating to aboveground storage tanks.

(H.531)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 10 V.S.A. § 1929a is amended to read:

§ 1929a. STANDARDS FOR ABOVEGROUND STORAGE TANKS

(a) ~~No later than~~ On or before December 31, 2011, the ~~secretary~~ Secretary shall adopt rules addressing the design and proper installation of aboveground storage tanks.

(b) After January 1, 2012, no person shall offer for sale, install, or substantially improve an aboveground storage tank that does not meet the standards adopted by the ~~secretary~~ Secretary under subsection (a) of this section.

(c) On or before July 1, 2017, the Secretary shall adopt rules for the inspection of aboveground storage tanks. The rules shall include, at a minimum, the following:

(1) when installation of secondary containment systems for types of aboveground storage tanks is required, the required specifications of the systems, and the process for installation of the systems;

(2) the protocol to be followed and the criteria to be reviewed in the performance of inspections required under this section, including:

(A) the appropriate methods to document the age of tanks installed on or after July 1, 2017;

(B) the frequency of required tank inspections;

(C) requirements for the tagging or marking of tanks and tank fill pipes when tanks are determined to be noncompliant with the requirements of this section or the rules adopted by the Secretary under this section;

(3) an updated checklist to be used in the performance of inspections required under this section or the rules adopted by the Secretary under this section;

(4) training and certification requirements for tank inspectors;

(5) the protocol to address tanks identified as noncompliant with the inspection criteria established by the rules adopted by the Secretary under this section; and

(6) requirements for the reuse of an aboveground storage tank removed under the requirement of subsection (g) of this section.

(d) A fuel supplier shall inspect an aboveground storage tank in accordance with the requirements of this chapter and the rules adopted by the Secretary pursuant to subsection (c) of this section.

(e) The Secretary shall maintain a database of tanks that have been determined to be noncompliant with the requirements of this section or the rules adopted by the Secretary pursuant to subsection (c) of this section. The database shall be accessible to the public.

(f) No person shall deliver heating fuel to an aboveground storage tank which has been visibly designated as noncompliant with the requirements of this chapter.

(g) If the owner of any aboveground storage tank that serves a structure converts the type of fuel used for the structure from fuel oil or kerosene to natural gas so that the structure is no longer served for any purpose by the aboveground storage tank, the owner shall have the aboveground storage tank used to store fuel oil or kerosene and any fill pipes removed at the same time as the conversion. As used in this subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof.

Sec. 2. 10 V.S.A. § 1941(g) is amended to read:

(g) The owner of a farm or residential heating fuel storage tank used for on-premises heating or an underground or aboveground heating fuel storage tank used for on-premises heating by a mobile home park resident, as defined in section 6201 of this title, who desires assistance to close, replace, or upgrade the tank may apply to the Secretary for such assistance. The financial assistance may be in the form of grants of up to: $2,000.00 or the costs of closure, replacement, or upgrade, whichever is least for an aboveground storage tank located inside a structure; up to $3,000.00 or the costs of closure, replacement, or upgrade, whichever is least for an aboveground storage tank located outside a structure; and up to $4,000.00 or the costs of closure,

replacement, or upgrade, whichever is least for an underground storage tank. As used in this subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof. Grants shall be made only to the current property owners, except at mobile home parks where a grant may be awarded to a mobile home park resident. To be eligible to receive the grant, an environmental site assessment must be conducted by a qualified consultant during the tank closure, replacement, or upgrade if the tank is an underground heating fuel storage tank. In addition, if the closed tank is to be replaced with an underground heating fuel storage tank, the replacement tank and piping shall provide a level of environmental protection at least equivalent to that provided by a double wall tank and secondarily contained piping. Grants shall be awarded on a priority basis to projects that will avoid the greatest environmental or health risks. The Secretary shall also give priority to applicants who are replacing their underground heating fuel tanks with aboveground heating fuel storage tanks that will be installed in accordance with the Secretary's recommended standards. The Secretary shall also give priority to lower income applicants. To be eligible to receive the grant, the owner must provide the previous year's financial information, and, if the replacement tank is an aboveground tank, must assure that any work to replace or upgrade a tank shall be done in accordance with industry standards (National Fire Protection Association, or NFPA, Code 31), as it existed on July 1, 2004, until another date or edition is

specified by rule of the Secretary. The Secretary shall authorize only up to $400,000.00 in assistance for underground and aboveground heating fuel tanks in any one fiscal year from the Heating Fuel Account for this purpose. The application must be accompanied by the following information:

(1) proof of ownership, including information disclosing all owners of record of the property, except in the case where the applicant is a mobile home park resident;

(2) for farm or residential aboveground heating fuel storage tank owners, a copy of the federal income tax return for the previous year;

(3) identification of the contractor performing any heating fuel storage tank closure, replacement, or upgrade;

(4) an estimated cost of tank closure, replacement, or upgrade;

(5) the amount and type of assistance requested;

(6) a schedule for the work;

(7) description of surrounding area, including location of water supply wells, surface waters, and other sensitive receptors; and

(8) such other information and assurances as the Secretary may require.

Sec. 3. 10 V.S.A. § 8003(a) is amended to read:

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(8) 10 V.S.A. chapter 59, relating to underground storage tanks and aboveground storage tanks;

* * *

Sec. 4. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except that 10 V.S.A. § 1929a(d)–(g) (aboveground storage tank inspection, database, delivery, and removal requirements) shall take effect on July 1, 2017.

Date Governor signed bill: April 19, 2016

VERMONT

Proposed Rules Postings
A Service of the Office of the Secretary of State

Search Rules

Deadline For Public Comment

Deadline: Apr 24, 2024

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	24P012
Title:	Aboveground Storage Tank Rules.
Type:	Standard
Status:	Proposed
Agency:	Department of Environmental Conservation, Agency of Natural Resources
Legal Authority:	10 V.S.A. § 1929a (a) and (c); (Sec. 1 of Act No. 76 of 2016).
Summary:	This rule is required by 10 V.S.A. section 1929a(c). The existing rule sets tank design and installation standards, tank inspection requirements, and protocols for reporting and managing noncompliant

	tanks. The proposed amended rule includes additional requirements for new tank system installations, adds phased in installation requirements for existing tank system, and proposes a new yellow tag provision for addressing noncompliant tanks by allowing limited fuel deliveries to noncompliant tanks that do not pose an immediate threat to the environment. Although continued operation of noncompliant tanks is potentially problematic, an immediate prohibition of further deliveries of fuel oil (i.e., red tagging) is a major concern, as existing rules jeopardize the health and safety of Vermont residents that rely on oil heat. Additionally, the proposed amended rules provide additional rule applicability clarifications and new technical definitions and modify the tank inspection interval from 3 to 4 years.
Persons Affected:	Any person who owns an aboveground storage tank will be affected by this rule. Information obtained from the Vermont Fuel Dealers Association indicates that over 150,000 aboveground storage tanks are in use in Vermont. Fuel suppliers and certified tank inspectors will also be affected by this rule, as they are required to ensure that the aboveground storage tank systems of their customers are inspected routinely. Fuel suppliers and other entities that conduct tank inspections are required to report certain noncompliance to the State and are prohibited from filling noncompliant tanks.
Economic Impact:	Negative economic impacts may include higher tank installation/upgrade/repair costs to tank owners; higher costs may result from more stringent installation standards for new systems and more stringent phased in standards for existing systems. Lower income Vermonters will continue to be eligible for financial assistance to help offset the costs of tank replacements and repairs. Positive economic impacts of these revisions include lower costs to the fuel industry due to changes in inspection frequency; positive impacts to both fuel tank owners and fuel suppliers resulting from the new yellow tag provision that will allow more flexibility in the timeline for replacement or repair of noncompliant tanks; and potentially significant economic benefits to both tank owners and the State due to the potential reduction of the quantity and severity of petroleum spills resulting from more stringent tank installation standards. All fuel oil spills require extensive and often expensive cleanup efforts.

Posting date: Mar 13,2024

Hearing Information

Information for Hearing # 1

Hearing date:	04-16-2024 6:00 PM ADD TO YOUR CALENDAR
Location:	David C. Dill Building
Address:	2178 Airport Rd.
City:	Berlin
State:	VT
Zip:	05641
Hearing Notes:	

Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level:	Primary
Name:	Anna Bourakovsky
Agency:	Department of Environmental Conservation, Agency of Natural Resources
Address:	One National Life Drive - Davis 1
City:	Montpelier
State:	VT
Zip:	05620-3704
Telephone:	802-477-2981
Fax:	
Email:	anna.bourakovsky@vermont.gov SEND A COMMENT
Website Address:	https://dec.vermont.gov/waste-management/storage-tanks VIEW WEBSITE

Information for Secondary Contact

SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level:	Secondary
Name:	Matthew Chapman

Agency:	Department of Environmental Conservation, Agency of Natural Resources
Address:	1 National Life Drive, Davis 1
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SEND A COMMENT

Keyword Information

Keywords:

aboveground tanks
fuel oil tanks
heating oil tanks
tank inspections
oil heat

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	The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
	Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: APA Coordinator, VSARA **Date of Fax:** March 12, 2024

RE: The "Proposed State Rules " ad copy to run on **March 21, 2024**

PAGES INCLUDING THIS COVER MEMO: **2**

NOTE **8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at https://secure.vermont.gov/SOS/rules/ . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Aboveground Storage Tank Rules.

Vermont Proposed Rule: 24P012

AGENCY: Agency of Natural Resources, Environmental Conservation

CONCISE SUMMARY: This rule is required by 10 V.S.A. section 1929a(c). The existing rule sets tank design and installation standards, tank inspection requirements, and protocols for reporting and managing noncompliant tanks. The proposed amended rule includes additional requirements for new tank system installations, adds phased in installation requirements for existing tank system, and proposes a new yellow tag provision for addressing noncompliant tanks by allowing limited fuel deliveries to noncompliant tanks that do not pose an immediate threat to the environment. Although continued operation of noncompliant tanks is potentially problematic, an immediate prohibition of further deliveries of fuel oil (i.e., red tagging) is a major concern, as existing rules jeopardize the health and safety of Vermont residents that rely on oil heat. Additionally, the proposed amended rules provide additional rule applicability clarifications and new technical definitions and modify the tank inspection interval from 3 to 4 years.

FOR FURTHER INFORMATION, CONTACT: Anna Bourakovsky, Agency of Natural Resources, Department of Environmental Conservation, 1 National Life Drive, Davis 1, Montpelier VT 05620-3704 Tel: 802-477-2981 Email: anna.bourakovsky@vermont.gov URL: https://dec.vermont.gov/waste-management/storage-tanks.

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