

BOH 88-1

**TOWN OF CHATHAM
BOARD OF HEALTH**

FUEL STORAGE SYSTEMS REGULATION

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SECTION 1 AUTHORITY

The Chatham Board of Health hereby adopts the following regulation under the authority granted by Massachusetts General Law Chapter 111, Section 31.

SECTION 2 PURPOSE

Leaking fuel storage systems pose an immediate and serious threat to Cape Cod's sole-source aquifer. The Town of Chatham does not have records to locate all such storage systems installed within the Town. Therefore, the Board of Health adopts the following regulation to protect the ground and surface waters from contamination by the means of fuel storage system leakage.

SECTION 3 APPLICABILITY

The following regulation shall apply to all fuel storage systems not currently regulated by 527 CMR ~~100 Chapter 66.9.00~~ Tanks and Containers of the Fire Prevention Regulations. This includes, but is not limited to:

- a. Residential and commercial fuel storage systems storing or having store fuel for consumptive use on the premises for the purpose of heating a building.
- b. Farm and residential fuel storage systems of 1100 gallons capacity or less used for storing motor fuel for noncommercial purposes.

SECTION 4 DEFINITIONS

For the purposes of this regulation the following terms shall have these meanings assigned to them.

- 4.1 Abandoned Any fuel storage system out of service for a period of twelve (12) consecutive months or longer.
- 4.2 Aboveground Any fuel storage system, **except in-house storage systems**, which has all of its structure, contents, and piping on or above the surface of the ground.
- 4.3 Fuel All liquid hydrocarbon products including, but not limited to, gasoline, motor fuel, kerosene, home heating oil, diesel fuel, or any liquid either pressurized or occurring at normal temperature and pressure which will emit a vapor which can be ignited by a flame or spark.
- 4.4 In-house Storage System Any fuel storage system that exists in the confines of any house, barn, dwelling, or other building and is surrounded by impervious material (i.e., concrete, masonry, etc.) in such a way that a spill would be contained.
- 4.5 Storage System Any tank, drum, container, or other holding device which can hold fifty (50) gallons or more and which is constructed in such a manner that it has an inlet (or fill) pipe and an outlet (or withdrawal) pipe and which is used for the purpose of storing a hydrocarbon product.
- 4.6 Underground Storage System Any fuel storage system, except in-house storage systems, which has any portion of its structure, contents, or piping below the grade of the earth's surface.
- 4.7 Water Resource Area Any land subject to flooding and inundation by groundwater, surface

water, or tidal action including, but not limited to:
freshwater/vegetated meadows, marsh, wet meadow, bog, swamp,
coastal wetland, bank (coastal or inland), beach, dune, flat, lake, river,
pond (coastal or inland), stream, creek, ocean, estuary, watercourse
(either wholly or partially man-made), and any bordering or isolated
land subject to flooding; the exact definition of which can be found in
the Town of Chatham Conservation Commission Wetlands Protection
Regulation.

SECTION 5 GENERAL REQUIREMENTS

- 5.1 The installation of all underground storage systems containing fuel, as defined above, shall be permitted only when a variance, as set forth in Section 12, has been granted by the Board of Health.
- 5.2 All aboveground storage systems must have a clearance of at least twelve (12) inches between any portion of the system and any adjacent structure and/or the earth's surface. The area beneath the system shall be a four (4) inch thick continuous concrete slab; it shall extend eight (8) inches beyond the tank on all sides.
- 5.3 Aboveground storage systems must be maintained to protect them from the elements in such a way that satisfies the Board of Health and the Fire Department.
- 5.4 All new and replacement fuel storage systems shall be double-walled. In all other respects, fuel storage systems shall comply with ~~527 CMR 4.00 and/or~~ 527 CMR 100 Chapter 66.9.00.
- 5.5 All aboveground storage systems shall be installed in such a manner as to facilitate the securing of the tank or tanks to a permanent structure to prevent tip-over. The method of installation shall comply with ~~527 CMR 4.00 and/or~~ 527 CMR 100 Chapter 66.9.00.
- 5.6 No storage system shall be relined, repaired, or in any way reused. Additionally, no previously used fuel storage system or system components shall be installed or used in the Town of Chatham.
- 5.7 ~~All new Above Ground fuel oil or waste oil storage tanks installed inside or outside shall be required to provide 110% containment capacity to prevent contamination from leaks that may occur. Exterior storage tanks must be covered to prevent water accumulation within containment that satisfies the Board of Health and the Chatham Fire Department. The area beneath the exterior storage tank shall be a four-inch-thick continuous concrete slab extending eight inches beyond the perimeter of the tank.~~
- 5.8 ~~At time of property transfer all Above Ground fuel oil storage tanks and in house storage systems shall be replaced with a double wall fuel oil storage tank or shall be required to provide 110% containment capacity to prevent contamination from leaks that may occur. Exterior fuel oil storage tanks must be covered with substantial impermeable construction material to prevent water accumulation within containment in such a way that satisfies the Health and Fire Department. Enforcement and permitting shall be conducted by the Fire Department in conjunction with Chapter 148 - 26 F inspections~~

- 5.9 If an existing Above Ground Storage Tank and in house storage system exists in a building being transferred the buyer and seller may apply to the Board of Health or Fire Department for an exemption to this regulation if the intent is to demolish and rebuild the property and or convert to another form of heating appliance not using fuel oil or remove the existing single wall fuel oil storage tank and replace it with a double wall storage tank. The buyer and seller must agree in writing to the agreement and accept joint responsibility for the completion of the replacement and or removal. A time frame for the completion of the removal and installation must be submitted to the Board of Health or Fire Department with the application for exemption.

SECTION 6 TANK REGISTRATION

- 6.1 Effective July 1, 1988, owners must file an official registration of each storage system giving the size, type, age, type of containment system and type of fuel being stored. Evidence, if any, of the date of purchase and the date of installation, including Fire Department permit, shall be included along with a sketch map showing the location of such system on the property. The sketch map shall be drawn on the back side of the Fuel Storage System Registration Form, which can be obtained at the Health Department, or on a sheet of paper 8 1/2 x 11 inches. The following information shall be provided:
- Approximate distance of storage system from buildings located on the same lot.
 - Location and distances off storage system of private and public wells within a one hundred (100) foot radius.
 - Distances to any part of a water resource area that is within a one hundred (100) foot radius.
 - Location and distances of storage systems off storm drains, subsurface drains and catch basins that are within a one hundred (100) foot radius.
- If the age of any system is not known, it shall be assumed to be twenty-five (25) years old and shall be removed within six (6) months.
- 6.2 Upon registering the storage system with the Board of Health the owner will receive a permanent tag embossed with a registration number unique to that system. This registration tag must be affixed to the fill pipe in such a location as to be visible to any distributor when filling said tank or to any inspector authorized by the Town of Chatham. In the event that an in-ground fill box is used, the tag shall be affixed to the vent pipe in a visible location. A registration fee shall be set annually by the Board of Health.
- 6.3 Effective January 1, 1989, every fuel distributor shall notify the Board of Health within five (5) working days of the existence and the location of any unregistered, untagged, or wrongly tagged fuel storage system that they are requested to fill.
- 6.4 In-house storage systems, as defined above, are exempt from this section; in-house storage systems that are located on earthen floors or other pervious surfaces are considered aboveground systems and must be registered and shall have installed a suitable continuous concrete slab extending eight (8) inches beyond the tank in all directions.

SECTION 7 TESTING

- 7.1 Effective January 1, 1989, owners of underground storage systems shall have each tank, and its piping tested for tightness fifteen (15) years after installation and annually after nineteen (19) years. A

storage system shall be tested by any method approved of by the Board of Health. Certification and results of testing shall be submitted to the Board of Health by the testing company within thirty (30) days of the testing anniversary date.

- 7.2 The Board of Health may require the owner of an existing storage system to have it, and its piping tested if there is reason to believe it constitutes a danger to public or environmental health or if the owner has not shown good faith in application and/or testing procedures.
- 7.3 The Board of Health may require owners of existing underground fuel storage systems to have a soil sample boring or deep observation hole performed to determine soil type and depth groundwater.
- 7.4 All testing shall be done by a qualified firm approved of by the Board of Health.

SECTION 8 REPORT OF LEAKS OR SPILLS

Any person who is aware of a spill, loss of product or any unaccounted-for increase in consumption that may indicate a leak shall report such spill or loss of product immediately to the Fire Department.

SECTION 9 STORAGE SYSTEM REMOVAL

- 9.1 If at any time evidence of leakage from any fuel storage system is discovered, that system shall be removed.
- 9.2 Aboveground tanks or any of its components that, in the opinion of the Board of Health or any inspector authorized by the Town of Chatham, shows signs of leakage, excessive wear, or excessive rusting, shall be removed.
- 9.3 Any fuel storage system that must be removed shall be removed by a licensed hazardous waste removal company.
- 9.4 Prior to the removal of any fuel storage system, a licensed hazardous waste removal company shall first obtain a permit of removal from the Fire Department, pursuant to M.G.L., c. 148.
- 9.5 Any licensed hazardous waste removal company granted a permit by the Marshal or the Fire Department to remove a storage system under the provisions of M.G.L., c. 148 or 527 CMR ~~100 Chapter 66 9-00~~, shall within seventy-two (72) hours provide the Fire Department with a receipt for delivery of said system to the site designated on the permit.
- 9.6 No previously used storage system or its components shall be disposed of or stored within the Town of Chatham.
- 9.7 All underground fuel storage tanks shall be removed after the twenty-fifth (25th) year from the date of installation and all work shall be completed on or before the start of the twenty-sixth (26th) year from the date of installation.
- 9.8 All in-house and aboveground fuel storage tanks, as defined in this regulation, shall be disposed of in the same manner as any underground fuel storage tank, as specified in Sections 6.3, 6.4, and 6.5 of this regulation.
- 9.9 Prior to the transfer of any real property within the Town of Chatham, all underground fuel storage tanks shall be removed. The responsibility for this removal shall be the sellers. In the case of underground fuel storage tanks used for the resale of its contents, the underground tanks shall be replaced by tanks in full compliance with 527 CMR ~~100 Chapter 66 9-00~~, as currently amended.

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SECTION 10 STORAGE SYSTEMS ABANDONED

- 10.1 Any person having knowledge of a fuel storage system that is abandoned shall notify the Fire Department or the Board of Health.
- 10.2 All tanks taken out of service or no longer used for the storage of fuel, as defined in this regulation, shall be removed within six (6) months from the date of abandonment.

SECTION 11 COSTS

- 11.1 In every case the owner shall assume the responsibility for costs incurred necessary to comply with this regulation.
- 11.2 All costs associated with the clean-up of a site from any spill or contamination shall be the responsibility of the owner.

SECTION 12 VARIANCES

- 12.1 Variances from this regulation may be granted by the Board of Health after a hearing at which the applicant establishes the following:

- a. The enforcement thereof would do manifest injustice.
- b. Installation or use of an underground storage system will not adversely affect public or private water resources and/or public or private drinking water supplies.

- 12.2 Every request for a variance shall be made in writing to the Board of Health and shall state the specific variance(s) sought and the reasons thereof. The applicant must notify all abutters and the Fire Department by certified mail at least ten (10) days before the Board of Health meeting at which the variance request will be considered.

In considering a variance the Board of Health will take into consideration the depth to groundwater, direction of groundwater flow, soil conditions, size, shape and slope of the lot, and proximity to existing and future water supplies. The Board of Health will require the owner to provide a site plan drawn by a professional engineer showing this information as well as the design criteria necessary to comply with the pertinent sections of ~~527-CMR-4.00 and~~ 527 CMR ~~100 Chapter 66 9.00~~ Tanks and Containers, proposed storage system location, setback distances, arrangement of piping and any other information it deems necessary. The Board of Health may require that an environmental impact study be conducted for the area in which a proposed storage system is to be located.

- 12.3 All requirements set forth in the State Fire Prevention regulation, ~~527-CMR-4.00 and~~ 527 CMR ~~100 Chapter 66 9.00~~ Tanks and Containers, shall be complied with when installing a fuel storage system.
- 12.4 Only U-listed double-walled steel storage systems with an in-tank or interstitial space monitoring system, complete with dual containment piping, dual containment manholes, a complete inventory control system with hard copy, and with an impervious liner beneath them shall be allowed for all new or replacement underground fuel storage systems. Only clean-washed sand shall be used as back fill material for such installations.
- 12.5 No part of any underground fuel storage system shall be placed in the water table.

SECTION 13 ENFORCEMENT

Any owner who violates any provision of this regulation shall be subject to the penalties provided under M.G.L. c 111, s. 31, as amended. Each day during which such violation continues shall constitute a separate offense.

SECTION 14 HEARING

- 14.1 Procedure for Requesting and Holding Hearings - Unless otherwise specified in this regulation, the person or persons to whom any Order has been served pursuant to any SECTION of this regulation may request a hearing before the Board of Health by filing, within seven (7) days after the day the Order was served, a written petition requesting a hearing on the matter. Upon receipt of such a petition the Board of Health shall set a time and place for such a hearing and shall inform the petitioner thereof in writing. The hearing shall commence not later than forty-five (45) days after the day on which the order was served. The Board of Health, upon application of the petitioner, may postpone the date of the hearing for a reasonable time beyond such forty-five (45) day period if in the judgment of the Board of Health the petitioner has submitted a good and sufficient reason for such postponement.
- 14.2 Hearing of Petition - At the hearing the petitioner shall be given an opportunity to be heard and to show cause why the Order should be modified or withdrawn.
- 14.3 Procedure by the Board of Health after Hearing - After the hearing the Board of Health shall sustain, modify or withdraw the Order and shall inform the petitioner in writing of its decision. If the Board of Health sustains or modifies the Order it shall be carried out within the time period allotted in the original Order or in the Modification.
- 14.4 Public Record - Every notice, Order, or other record prepared by the Board of Health in connection with the hearing shall be entered as a matter of public record in the office of the Board of Health.
- 14.5 Hearing Petition not Submitted, or Sustaining of Order - If written petition for a hearing is not filed with the Board of Health within seven (7) days of the day the Order was served or if, after hearing, the Order has been sustained in any part, each days failure to comply with the Order as issued or modified shall constitute a separate offense.

SECTION 15 APPEAL

Any person aggrieved by the decision of the Board of Health may seek relief within thirty (30) days in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

SECTION 16 SEVERABILITY

If any sentence, clause or phrase of this regulation shall be held invalid for any reason, the remainder of that SECTION and all other SECTIONS shall continue in full force.

Revised Effective: January 1, 2025

Revised: May 12, 1988

Revised: October 26, 1995

Revised: January 15, 2003

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