

PART III
ARTICLE 2 - Residential Underground Fuel Storage Tanks

Revised September 18, 2003 Public
Hearing September 18, 2003

WHEREAS leaking fuel storage tanks pose an immediate and serious threat to Cape Cod's sole source aquifer and,
WHEREAS the Town of Provincetown does not have records to locate all such tanks installed within the Town,
THEREFORE, the following regulations are adopted.

FUEL STORAGE TANK REGULATIONS

DEFINITIONS: "Toxic or hazardous materials" shall be defined as all liquid (at ambient pressure and temperature) hydrocarbon products, including but not limited to, gasoline, fuel and diesel fuel, and any other substance controlled as being toxic or hazardous by the Division of Hazardous Waste of Massachusetts General Law, Ch. 21C, §1, et seq.

"Above Ground Tank" AGT shall be defined as any tank located above ground to store fuel oil for the purpose of heating.

Section 1 – Tank Registration

The following regulations shall apply to all fuel storage tanks, both above ground and underground, containing toxic or hazardous materials as defined above which are not currently regulated under 527 CMR 9.26 - Tanks and Containers.

Owners shall file with the Board of Health and Fire Department on or before December 1, 1989, the size, composition, age and location of each tank, and its components, and the type of fuel or chemical stored in them. Evidence of dates of purchase shall be included along with a sketch showing the location of such tanks on the property. If the installation date is unknown, it shall be assumed that the installation date is prior to January 1, 1983. Upon registering the tank with the Board of Health and the Fire Department, the tank owner will receive a permanent metal or plastic tag, embossed with a registration number unique to that tank. This registration tag must be affixed to the fill pipe in such a location as to be visible to any distributor when filling the tank and to any inspector authorized by the Town. A fee of \$10.00 will be charged to cover the cost of the tag.

Effective February 1, 1990, all petroleum and other chemical distributors, when filling a fuel storage tank, shall note on the invoice or bill for the product delivered the registration number appearing on the tag affixed to the tank that was filled. Every petroleum and other chemical distributor shall notify the Board of Health and the Fire Department of the existence and location of any untagged tank that they are requested to fill. Such notification must be completed within two (2) working days of the time the distributor discovers that the tank registration tag is not affixed to the fill pipe.

Effective December 1, 1989, prior to the sale of a property containing a fuel storage tank, the Board of Health and the Fire Department must receive from the current owner a change of ownership form for the registration of the fuel storage tank. Such form can be obtained from the Board of Health.

Section 2 – Installation /Maintenance of Heating Fuel System

Following the effective date of this regulation all underground fuel oil storage tanks shall be prohibited within the Town of Provincetown.

All copper fuel lines shall be enclosed in an approved double containment system by the Fire Department at such time as any new line or new tank is installed or whenever property ownership is transferred if lines are underground including basement foundations.

All new construction where above ground fuel oil storage tanks (inside and outside) are installed 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 the containment area in such a way it satisfies the Board of Health and the Fire Department. The area beneath the exterior shall be 4-inch thick continuous concrete slab. Doubled walled fuel oil storage tanks could be substituted for containment devices. The fuel oil storage tank or containment device must be approved by the Fire Department before installation occurs.

At time of replacement of existing tanks all AGT's shall be required to be replaced with double walled fuel oil storage tanks 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 the containment area in such a way that it satisfies the Board of Health and the Fire Department. The area beneath the exterior tank shall be 4 inch thick continuous concrete slab.

Effective October 27, 2005, at the time of property transfer, all AGT's that are not double walled or do not provide 110% containment capacity shall be replaced with a tank that meets these requirements. All aboveground elements of a fuel storage system shall be maintained free of leaks and visible rust.

Section 3 – Testing

The tank owner shall have each underground tank and its piping tested for tightness fifteen (15) years after installation and annually thereafter. A tank shall be tested by any final or precision test, not involving air pressure, that can accurately detect a leak of 0.05 gal./hr., after adjustment for relevant variables, or by any other testing method approved by the Board of Health and the Fire Department as providing equivalent safety and effectiveness. Piping shall be tested hydrostatically to 150 per cent of the maximum anticipated pressure of the system.

The owner, at the owner's expense, shall submit certification of the testing to the Board of Health and the Fire Department. Owners of those tanks subject to the testing requirements of this regulation shall submit the certification by December 31, 2003. Owners shall submit certification of testing of tanks which subsequently become subject to testing requirements by

December 31 of the year the tanks require testing. Tanks that are currently tested under the provision of 527 CMR 9.13 are exempt from this section. Tanks failing this test shall be removed within a reasonable time at the owner's expense.

Section 4 – Reporting Leaks or Spills

Any person who is aware of a spill, loss of product, or unaccounted for increase of consumption which may indicate a leak shall report such spill, loss or increase immediately to the Chief of the Fire Department, to the Health Agent, and to the owner of the tank.

Section 5 – Underground and Aboveground Tank Removal

1. Underground fuel storage tanks must be removed and properly disposed of whenever one or more of the following criteria apply:
 - A. prior to the issuance of any building permit for any construction cost exceeding \$5,000 on a lot where an underground storage tank exists.
 - B. Prior to issuance of any septic system installation permit on a lot where and underground storage tank exists.
 - C. Prior to the transfer of title of land where an underground storage **tank exists**.
 - D. All existing underground storage tanks which reach the age of twenty (20) years or where the age of the tank cannot be documented to be less than twenty (20) years, shall be considered an imminent danger to public health and safety, shall be deemed “FAILED”, and shall be removed within (6) months after notification by the Board of Health that the tank is condemned.

No underground or aboveground storage tanks shall be removed without there first being an application made to the Board of Health and the Fire Department.

The application shall include the following information (see permit form from the Fire Department, cost: \$20.00):

Location of property (Assessor's Atlas numbers)

Owner of record of property

Name of contractor removing the tank

Date and time specific of proposed removal

Disposition The Health Agent and the Fire Chief shall be notified to monitor the removal.

Section 6 – Enforcement

Any owner or operator who violates any provision of the regulation shall be subject to the penalties provided under MGL, Chapter 111, § 31, as amended. Each day during which such violation continues shall constitute a separate offense. Upon request of the Chief of the Fire Department or the Board of Health, the licensing authority and the town counsel shall take any legal action as may be necessary to enforce the provisions of this regulation.

Section 7 – Costs

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

Section 8 – Variances

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

1. Enforcement thereof would do manifest injustice;
2. Continued use of the storage tank will not adversely affect public or private water resources.
3. Existing above ground tank is less than 10 years of age, has been inspected and has been certified to be in full compliance with current regulations. At age 10 years of age the single walled tanks would be required to be replaced with a doubled walled tank or to provide 110% containment.

In granting a variance, the Board will take into consideration the direction of the ground water flow, soil conditions, and depth to ground water; size, shape and slope of the lot, and existing and known future water supplies.

Section 9 – Severability

Provisions of this regulation are severable and if any provision hereof shall be held invalid under any circumstances, such invalidity shall not affect any other provisions or circumstances.