

## **Issues to be addressed in the 2022 revision of the Above-Ground Storage Tank (AST) Rules.** Written by the DEC

- As currently written, the rule relies too heavily on cross referencing and embedding exceptions within sections rather than clearly breaking things out, which has been confusing for tank owners, inspectors, and other stakeholders. There are two main areas where this is causing confusion:
  - **New Installations and modifications vs. existing systems:** the AST rules do not clearly distinguish between installation standards of new tanks (those tanks installed after the rules went into effect) and pre-existing tank systems. Many heating oil technicians will red-tag an older tank system because it does not meet the newest installation standards.
  - **Red-taggable vs. non red-taggable inspection items:** The list of items that must be checked in the rule during inspections does not distinguish the five red-taggable items until a later rule requirement. Tank systems must be red-tagged if the system exhibits one of five items putting the tank system at significant risk of a release. Tank inspectors sometimes apply a red tag when a tank system does not meet other standards established in the rule, even if the deficiency does not require red-tagging and is relatively minor.
- The three-year inspection requirement applies to all tanks, even those large bulk tanks that are subject to the federal SPCC Rules. SPCC rules are far more stringent than our AST rules, so the three-year inspection requirement for those tanks is a burden for tank owners, while providing limited environmental benefit.
- Environmental Justice: The requirement to inspect tank systems and red-tag those which do not meet our standards has no flexibility. We absolutely do not want to encourage dangerous tank systems to remain in-service indefinitely, but all too often we deal with situations in which someone with very limited financial resources has had their tank red-tagged; the tank is nearly out of oil, and the owner cannot afford to upgrade their tank system. We need to modify the rule somehow to ensure that low-income tank owners can stay warm during

the heating season. Balancing environmental protection with the very real need for people to stay warm in the winter will not be easy, but we must find a way to include more flexibility than the current rule allows.

- Oil heat technicians have expressed concerns about the requirements for manifolded tank systems (section 9-304(b)(10) of the AST Rules). We need to work with the oil heat trade groups to clear up these issues.
- Skid tanks - those tanks which are designed to be moved regularly - usually do not meet the standards in our rules, and since they are designed to be moved from one job site to another, it would be very impractical for them to do so. The rules need to be modified either to include a separate section addressing skid tanks, or skid tanks should be exempted from the AST rules.

Of the issues listed above, I think all can be addressed fairly easily except for the EJ issue. I believe that one issue will require a lot of time and attention, and I am not sure how to balance ensuring that needy people stay warm, while still ensuring that their tank systems are not likely to leak or tip over.

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### **Suggested changes to the AST Inspection Program** by Bob Hedden

The current Routine Inspection only requires that the vent and fill be at least inch and a quarter. It does not specify what the fill and vent be made of. This allows PVC pipe and rubber hose. I don't think either of these are a good idea. I can see not red tagging copper pipe, but I think the fill and vent should at least be metal.

We should add Roth type tanks to the type of tanks allowed on the new installation check list.

We probably should add "check alarm" to the routine inspection of tanks with an interstitial space (Roth and Granby Eco-Gard tanks).

Since they are not red tag issues do we really need the last six questions on the Routine form?

Matt Moran and I have exchanged emails on the issue of the location of a shut off valve. Currently the New Installation form calls for a shut off valve within 12 inches of the AST fuel outlet. That is fine for tanks with the oil line attached to the bottom of the tank. The problem is for outdoor tanks and Roth type tanks that draw off the top of the tank. Putting a shut off valve above the tank is a potential cause of no heat calls. It is easy to make flair fittings and valve packings oil tight. It is much more difficult to make them air tight. Putting the valve on the oil line at the top of the tank is a potential air leak. This breaks the siphon and causes the pump to become air bound. On this type of installation all you need is a valve before the filter. It can be a firematic or regular valve.

Currently, not having a valve is not red taggable, but the way the rule is worded it looks like it is required for a new installation. We just have to make it clear that for a top feed tank, the valve should be at the filter, not at the top of the tank.

There is some confusion on how many inspections need to be made on a new installation. The Rules call for one when the installation is completed and one after the first delivery. The form looks like just one is required after the first fill. I think the one after the first fill is imperative. I am not so sure about the one after the install is finished. Which is it, and if two are required, do they need to keep a copy of both for three years?

Another cause of confusion is which form does one use for bringing a minor red tag into compliance? If all that is needed is say a whistle, or a larger vent pipe, do they use the Routine form or the New Install form?

The most important issue is the interval between routine inspections. It is currently three years from the previous inspection. There is no scientific reason for this time. It is arbitrary and far too short. Getting all the tanks inspected and upgraded in three years was a real hardship and proved to be impossible. Even with the Covid caused extensions we did not get them all done in time. It is unrealistic and unnecessary to think we will be able to get them all reinspected in three years. Inspections for new customers and for upgrades and new installations make sense. The routine three-year inspection is the problem. We suggest it be extended to at least 5 years.