

VT DEC Aboveground Storage Tank (AST) Program Statement on Enforcement Discretion

The following statement is issued in accordance with the Agency of Natural Resources COVID – 19 State of Emergency Enforcement and Compliance Guidance Document, dated March 31, 2020 (Guidance Document). The Guidance Document is available at https://anr.vermont.gov/about_us/emergency-information. The exercise of enforcement discretion described in the following statement is contingent on affected projects meeting all applicable criteria of the Guidance Document.

Under § 9-306 of the Aboveground Storage Tank Rules, a number of tanks must be inspected on or before August 15, 2020. Due to the ongoing state of emergency, the Agency recognizes that some tanks may not be inspected by that deadline, however:

1. Inspection of outside tanks should be able to occur within the current physical distancing criteria (i.e., 6 feet apart, masks on).
2. Inspection of inside tanks can occur in the traditional sense if the homeowner/inspector are both comfortable the physical distancing criteria can be maintained. If either party is uncomfortable with the traditional inspection, a virtual inspection can occur. Depending upon the technology, this could be via a facetime or other live chat app, or digital pictures which give the inspector a clear and definitive look at the features that need to be inspected. If a virtual inspection is conducted, the inspectors should note on the inspection checklist how the inspection was done and who provided the media.

The Agency is hereby exercising enforcement discretion pursuant to the Guidance Document for any instance of non-compliance relating to the August 15, 2020 deadline to inspect ASTs provided:

- a. The noncompliance does not present a significant threat to human health or the environment;
- b. The inspector takes all reasonable steps to prevent and/or mitigate the noncompliance;
- c. The inspector notifies the Agency of the noncompliance as soon as possible; and
- d. The inspector assures compliance as soon as possible or enters into a schedule to return the tank to compliance with the Agency, in any event no later than November 1, 2020, subject to extension at the sole discretion of the Agency.

Any report concerning an incident of non-compliance should be sent to marc.roy@vermont.gov or may be submitted via phone at 802-522-0275. This statement shall expire at the end of the Governor's declaration of a state of emergency related to the outbreak of COVID-19.