

**§566-A. Abandonment of underground oil storage facilities and tanks**

**1. Abandonment.** Except as provided by subsection 1-A, all underground oil storage facilities and tanks that have been, or are intended to be, taken out of service for a period of more than 12 months must be properly abandoned by the owner or operator of the facility or tank or, if the owner or operator is unknown, dissolved or insolvent, by the current owner of the property where the facility or tank is located. All abandoned facilities and tanks must be removed, except where removal is not physically possible or practicable because the tank or other component of the facility to be removed is:

- A. Located beneath a building or other permanent structure; [PL 1987, c. 491, §14 (NEW).]
- B. Of a size and type of construction that it cannot be removed; [PL 1987, c. 491, §14 (NEW).]
- C. Otherwise inaccessible to heavy equipment necessary for removal; or [PL 1987, c. 491, §14 (NEW).]
- D. Positioned in such a manner that removal will endanger the structural integrity of nearby tanks. [PL 1987, c. 491, §14 (NEW).]

[PL 2017, c. 333, §7 (AMD).]

**1-A. Abandoned tanks brought back into service.** Underground oil storage tanks and facilities that have been out of service for a period of more than 12 months may not be brought back into service without the written approval of the commissioner. The commissioner may approve the return to service if the owner demonstrates to the commissioner's satisfaction that:

- A. The facility is in compliance with this subchapter and rules adopted pursuant to this subchapter; [PL 2007, c. 655, §5 (AMD).]
- B. The underground oil storage tanks and piping have successfully passed testing as directed by the commissioner; [PL 2009, c. 501, §8 (AMD).]
- C. The underground oil storage tanks and piping are constructed of fiberglass, cathodically protected steel or other equally noncorrosive material approved by the commissioner; [PL 2009, c. 501, §8 (AMD).]
- D. The facility has conforming suction or double-walled pressurized piping; and [PL 2007, c. 655, §5 (NEW).]
- E. The return of the facility to service does not pose an unacceptable risk to groundwater resources. In determining if the facility poses an unacceptable risk to groundwater resources, the commissioner may consider the age and maintenance history of the storage tanks and piping, the number and consequences of past oil discharges from the tanks and piping, the proximity of the facility to drinking water supplies and the proximity of the facility to sensitive geologic areas. [PL 2007, c. 655, §5 (NEW).]

The commissioner may not approve the return to service of a single-walled underground oil storage tank that has been out of service for more than 12 consecutive months.

[PL 2017, c. 333, §8 (AMD).]

**2. Notice of intent.** The owner or operator of an underground oil storage facility or tank or, if the owner or operator is unknown, the current owner of the property where the facility or tank is located shall provide written notice of an intent to abandon an underground oil storage facility or tank to the commissioner and the fire department in whose jurisdiction the underground oil facility or tank is located prior to abandonment.

[PL 2011, c. 206, §15 (AMD).]

**3. Rulemaking.** The department shall adopt rules allowing for the granting of a variance from the requirement of removal where abandonment by removal is not physically possible or practicable due to circumstances other than those listed in this subsection. The department shall adopt rules setting

forth the proper procedures for abandonment of underground oil storage facilities and tanks, including requirements and procedures to conduct a site assessment for the presence of discharges of oil prior to completion of abandonment at facilities storing motor fuel or used in the marketing and distribution of oil, acceptable methods of disposing of the removed tanks, requirements for venting at least 12 feet above ground level flammable gases purged from tanks and from trucks removing oil from tanks and procedures for abandonment in place where removal of a tank or other component of a facility is determined not physically possible or practicable.

[PL 2017, c. 333, §9 (AMD).]

**4. Commissioner role.** If the owner of an underground oil storage facility or tank fails to properly abandon the facility or tank within a reasonable time period, the commissioner may undertake the abandonment. The commissioner shall seek recovery of costs incurred to undertake the abandonment, whether from state or federal funds, in accordance with the procedures set forth in section 551, subsection 6. Costs incurred by the commissioner to undertake the abandonment are a lien against the real estate of the owner as provided under section 551, subsection 6-A.

[PL 2015, c. 319, §22 (AMD).]

**5. Qualified personnel.** All abandoned facilities and tanks used for the storage of Class 1 liquids that require removal must be removed under the direct, on-site supervision of an underground oil storage tank installer certified pursuant to Title 32, chapter 104-A.

A. [PL 2007, c. 292, §33 (RP).]

B. [PL 2007, c. 292, §33 (RP).]

[PL 2007, c. 292, §33 (AMD).]

**6. Underground gasoline storage tanks.**

[PL 2007, c. 292, §34 (RP).]

#### SECTION HISTORY

PL 1987, c. 491, §14 (NEW). PL 1989, c. 312, §§19,20 (AMD). PL 1989, c. 865, §12 (AMD). PL 1989, c. 890, §§A40,B145 (AMD). PL 1991, c. 66, §A27 (AMD). PL 1991, c. 88, §§1-3 (AMD). PL 1991, c. 763, §6 (AMD). PL 1991, c. 817, §§20,21 (AMD). PL 1999, c. 334, §2 (AMD). PL 2001, c. 626, §14 (AMD). PL 2007, c. 292, §§33, 34 (AMD). PL 2007, c. 655, §5 (AMD). PL 2009, c. 121, §11 (AMD). PL 2009, c. 501, §§7, 8 (AMD). PL 2011, c. 206, §15 (AMD). PL 2011, c. 276, §§2, 3 (AMD). PL 2015, c. 319, §22 (AMD). PL 2017, c. 333, §§7-9 (AMD).

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