

503 CMR: UNDERGROUND STORAGE TANK PETROLEUM PRODUCT CLEANUP  
FUND ADMINISTRATIVE REVIEW BOARD

503 CMR 4.00: IMPLEMENTATION OF UNDERGROUND STORAGE TANK CLEANUP FEES

Section

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4.01: Purpose and Scope

503 CMR 4.00 shall apply to the collection of fees for the implementation of M.G.L. c. 21J, § 2(A).

4.02: Definitions

Bulk Facility. A facility including pipeline terminals, refinery terminals, rails and barge terminals, and associated underground and above ground storage tanks, connected or separate, from which Petroleum Products are withdrawn from bulk and delivered into a cargo tank or a barge used to transport these products, including all licensed distributors and unclassified importers of Petroleum Products.

Commissioner. The Commissioner of the Massachusetts Department of Revenue, or the Commissioner's duly authorized representative.

Delivery Load or Load. This shall consist of 10,000 US gallons of petroleum product.

Department. Massachusetts Department of Revenue.

Dispensing Facility. Any facility qualified to do business in the Commonwealth under the provisions of M.G.L. chs. 64A, 64E and 64F, at which Underground Storage Tanks located in Massachusetts are used to store gasoline or other fractions of Petroleum Products and from which gasoline or other fractions of Petroleum Products are dispensed directly to a motor vehicle as motor fuel; provided that a facility at which gasoline, or any fractions of Petroleum Products are stored in an Underground Storage Tank that is a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes or is owned by the Commonwealth or any of its political subdivisions shall not constitute a dispensing facility.

Facilities that do not constitute dispensing facilities must obtain an exemption certificate from the Commissioner or such other issuing authority appointed by the UST Fund Board.

Fund. - The Underground Storage Tank Petroleum Product Cleanup Fund established pursuant to M.G.L. c. 29, § 2S.

Person Delivering Petroleum Product. The titleholder of the Petroleum Product delivered or transferred to a Dispensing Facility including, licensed Massachusetts Distributors, Unclassified Importers and Special Fuel Suppliers. A common carrier simply delivering or transferring a load of Petroleum Product to a Dispensing Facility shall not be considered a Person Delivering Petroleum Product.

Petroleum Product. A product that is obtained from distilling and processing crude oil and that is capable of being used as fuel for the propulsion of a motor vehicle or aircraft. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing or fuel oil used for heating purposes.

Underground Storage Tank. Where 10% or more of the tank volume and piping is buried below the ground surface. This term shall not include storage in a freestanding container within a building.

UST Fund Board. The Massachusetts Underground Storage Tank Petroleum Cleanup Fund Administrative Review Board.

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4.03: Delivery Fee

(1) A fee of \$ 250 shall be paid to the Department for the benefit of the Fund for each Delivery Load delivered to a Dispensing Facility. The fee for deliveries of Petroleum Product in quantities greater or less than a Delivery Load shall be calculated at \$0.025/gallon. The Person Delivering Petroleum Product shall remit this fee to the Department in accordance with 503 CMR 4.03(2). The delivery fee shall be applicable to deliveries made on or after April 1, 2003.

(2) Delivery fees will be collected by licensed Massachusetts Distributors, Unclassified Importers and Special Fuel Suppliers and remitted to the Department under the terms of 503 CMR 4.03(2)(a). The delivery fee will be collected on each Delivery Load sold by any licensed Massachusetts Distributor, Unclassified Importer or Special Fuel Supplier to any customer who does not hold a valid Massachusetts Distributor, Unclassified Importer or Special Fuel Supplier license or who has not been issued an exemption certificate by the Commissioner or any other issuing authority appointed by the UST Fund Board.

(a) The remittance of the delivery fee shall be made to the Department on or before the last day of the month immediately following the reporting period. The reporting period shall consist of a calendar month.

Example:

<u>Fees Collected in</u>	<u>Paid by</u>
November	December 31
December	January 31
January	February 28 or 29

(b) A completed UST Form 500 shall accompany this return payment.

(c) All licensed Massachusetts Distributors, Unclassified Importers and Special Fuel Suppliers shall attach a copy of the Massachusetts Gasoline Tax Return and the Massachusetts Supplier's Tax Return for Special Fuels for the corresponding reporting period.

(3) The fees established in 503 CMR 4.03 shall not apply to a delivery of a Petroleum Product destined for export from this State that is delivered by a bulk facility owner or operator to a common or contract carrier or an oceangoing vessel including a ship, barge or tanker, if the Petroleum Product is in continuous movement to a destination outside this State.

(4) The fees established in 503 CMR 4.03(3) shall not apply to noncommercial sales or deliveries to the United States Government or noncommercial sales or deliveries to the Commonwealth or any of its political subdivisions.

(5) The collection of this delivery fee shall be in full force and effect on and after June 6, 2003.

(6) The fee imposed under 503 CMR 4.03 may not be collected or required to be paid on or after the first day of the second month following the date on which the unobligated balance in the Fund equals or exceeds \$30,000,000 as determined under M.G.L. c. 21J. The Department shall notify all Persons Delivering Petroleum Product when this occurs.

(7) If the unobligated balance in the fund falls below \$10,000,000 the delivery fee shall be reinstated effective on the first day of the second month following notice from the Department to all Persons Delivering Petroleum Product. Once reinstated the fee shall be charged until the unobligated balance in the Fund equals or exceeds \$30,000,000 as determined under M.G.L. c. 21J.

4.04: Annual Tank Fee

(1) Each owner of an Underground Storage Tank used to store Petroleum Products or any fraction thereof, except waste oil, at a Dispensing Facility shall annually pay to the Department for the benefit of the Fund a fee of \$250.00 per tank. The tank owner shall not pass on the annual tank fee to the lessee of a Dispensing Facility.

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4.04: continued

- (2) The Department shall mail invoices for the annual tank fee by May 1<sup>st</sup> of each year payable by June 1<sup>st</sup> of that same year.
- (3) The annual fee is not collected by the Person Delivering Petroleum Product to a Dispensing Facility.

4.05: General Provisions for Enforcement and Appeals

- (1) Any owner or operator or Person Delivering Petroleum Product to a Dispensing Facility who violates any provision of 503 CMR 4.00 shall be subject to penalties specified in M.G.L. c. 21J, §§ 12 and 13.
- (2) After a hearing, the Commissioner may vary the application of any provision of 503 CMR 4.00, unless otherwise required by law, when in the Commissioner's opinion the applicant has demonstrated a reasonable and prudent action that complies with M.G.L. c. 21J. Any grant or denial shall be in writing and shall contain a brief statement of the reason for the grant or denial.
- (3) Pursuant to the provisions of M.G.L. c. 21J, the Commissioner and/or any other individual granted authority by the UST Fund Board will have the authority to issue certificates exempting certain facilities from the delivery fee. These facilities include but may not be limited to:
  - (a) Facilities at which gasoline or any fraction of Petroleum Products are stored in an Underground Storage Tank that is a farm or residential tank of 1,100 U.S. gallons or less capacity used for storing motor fuel for noncommercial purposes.
  - (b) Facilities owned or operated by the Commonwealth of Massachusetts or any of its political subdivisions for noncommercial use.
  - (c) Facilities owned or operated by the United States Government for noncommercial use.
- (4) The Commissioner and/or any other individual granted authority by the UST Fund Board will have the authority to grant abatement of the delivery fee upon receipt of a properly completed and timely filed Underground Petroleum Cleanup Fund Application for Abatement. The grounds for abatement include but may not be limited to:
  - (a) The delivery fee was charged and collected on the delivery of Petroleum Product to a facility which holds a certificate exempting it from the delivery fee; or
  - (b) The Petroleum Product was delivered to a facility located outside the Commonwealth.Applicants shall file the Underground Petroleum Cleanup Fund Application for Abatement within 730 days of the date the fee was due the Department. Failure to file for abatement within 730 days of the due date shall result in the denial of the application for abatement.
- (5) Non-payment of the fee may subject the owner or operator to the penalties specified in M.G.L. c. 21J, §§ 12 and 13, 503 CMR 2.07(10) and 503 CMR 2.08(2).

REGULATORY AUTHORITY

503 CMR 4.00: M.G.L. c. 21J.

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NON-TEXT PAGE