



DEAN
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e-newsletter

Deadlines to Upgrade Petroleum Storage Tanks for Secondary Containment

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A number of our clients may be holding mortgages encumbering real property improved with underground petroleum storage tanks and above ground storage tanks. Other clients may be considering the purchase of property improved with petroleum storage tanks. The owners of these tank systems have recently received notice from the Florida Department of Environmental Protection ("FDEP") that the deadline for upgrading single-wall underground storage tanks and piping with double-wall systems is December 31, 2009. Similarly, the deadline for upgrading above ground storage tanks that do not have secondary containment is January 1, 2010. (A list of facilities that are required to comply with the upgrade rules is found at:

www.dep.state.fl.us/waste/categories/tanks/pages/upgrades.htm.)

Procedurally, the owners of systems that are not in compliance as of these dates will receive a non-compliance warning letter. A plan to bring the system into compliance follows. If the property is not adequately brought into compliance, the FDEP will seek compliance through the civil courts.

The upgrade rules have been in effect since 1991 and the storage tank system owners and operators have had adequate notice of these requirements and time to comply. Recently, officials of FDEP have stated that these deadlines will not be further extended. Owners and operators have been repeatedly reminded of the deadlines by county inspectors, registration notices and other FDEP public information efforts.

In these economic times, the only efficient response by a number of facilities may be permanent closure. As an alternative, any tanks that have not been upgraded by the applicable deadline may be taken out of service prior to the deadline date. It is very likely that insurers will not cover storage tank systems that are not in compliance after the deadlines.

For further information, please contact Elias N. Chotas at Dean Mead.

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