

**OFFICE OF THE STATE FIRE MARSHAL**  
**STATE OF ILLINOIS**

**Statute, Rule or Standard Policy Interpretation:**

Policy Number: 19-PCS-001    Red Tagging for Noncompliance    Effective Date: January 31, 2019

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Title: 41 Ill. Adm. Code  
Part: 177  
Section Number: 177.115  
Section Title: Evidence of Compliance Status for UST Facilities

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Purpose: This policy addresses uniform statewide enforcement of the Red Tag /Green Decal UST Evidence of Compliance program.  
Scope: Statewide

Current Code: 177.115 Evidence of Compliance Status for UST Facilities

*177.115(a) states in part as follows:*

Evidence of compliance status for UST facilities shall consist of a tag or decal issued by OSFM. The tag or decal shall be either:

- 1) Red: indicating non-compliance; or
- 2) Green: indicating compliance;

*177.115(c) states as follows:*

If more than one UST is located at the facility, and some but not all USTs are in compliance, OSFM, in its discretion, may issue a green decal that shall be affixed as provided in subsection (b) and will issue individual red tags for each of the non-compliant USTs that shall be affixed directly onto the fill pipe of the non-compliant UST or near the fill pipe of the non-compliant UST at a location approved by OSFM.

Statutory Reference: 430 ILCS 15/3.5 Underground Storage Tank Certification

*Section 3.5 states in part:*

(b) The Office of the State Fire Marshal shall certify either that all underground storage tanks in a facility comply or that one or more tanks in the facility do not comply with the rules adopted by the Office of the State Fire Marshal. The Office of the State Fire Marshal shall affix evidence of compliance or noncompliance to the facility in which the underground storage tank is located.

(c) Beginning December 22, 1998, no person, corporation, unit of local government, firm, or other business entity or political subdivision of the State shall knowingly deliver, deposit, fill, or otherwise place any petroleum, petroleum product, hazardous substance, or regulated substance into any underground storage tank in a facility that:

- (1) does not display evidence that its underground storage tanks are in compliance with the rules of the Office of the State Fire Marshal; or

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(2) displays evidence that one or more of its underground storage tanks are not in compliance with the rules of the Office of the State Fire Marshal.

Statute/Rule Interpretation: Since the inception of the Compliance Certification program for USTs, also known as the Red Tag/Green Decal or Delivery Prohibition program, compliance has been associated with facilities. Compliance is not achieved piecemeal, tank by tank. Instead, as indicated by the passages cited above, evidence of compliance or noncompliance is a condition of overall compliance of USTs, and as such is addressed as an all or nothing proposition for the aggregate USTs at any given facility. The exception would be when OSFM exercises discretion in individual cases, allowing some tanks to be in operation at a facility where one or more tanks are not in compliance. This is the exception, not the rule, and it is exercised solely at OSFM's discretion.

An individual tank that has been cited as being out of compliance and has exceeded the 60 day NOV compliance period without correcting the violation(s) shall be red tagged. Once even a single tank has been red tagged for noncompliance, all tanks at the facility may also be red tagged, as the facility is now in a condition of noncompliance, due to "one or more of its underground storage tanks" being out of compliance. The end result will be to trigger the delivery prohibition required at 430 ILCS 15/3.5(c) into "any underground tank in a facility" where "one or more of its underground storage tanks are not in compliance with the rules of the Office of the State Fire Marshal."

Allowing certain individual tanks to receive deliveries at a facility where a tank or tanks has been red tagged will not be the default action. To the contrary, it will be allowed only in such cases as OSFM, "in its discretion," approves that option. Designated tanks will be allowed to remain in use and to accept fuel deliveries at facilities where a tank or tanks are red tagged only with the written approval of the Division Manager.

Repealed Date:

Superseded: