

Leighton's Service Station (Registration #9671)

- Applicable Statutory Regulations

*Oil Storage Facilities and Ground Water Protection law (Oil Law),*

38 M.R.S.A. §§ 561 et seq.

*and*

*Rules for Underground Oil Storage Facilities (the Rules), 06-096 CMR 691.*

*Oil Law, 38 M.R.S.A. § 563(9)(A)*

The owner of an underground oil storage facility shall submit annual inspection results to the department on or before July 1, 2003 and on or before July 1<sup>st</sup> annually thereafter. The results must be recorded on a form provided by the department and must include a certification statement, signed by an underground oil storage tank inspector or an underground oil storage tank installer certified by the Board of Underground Oil Tank Installers under Title 32, chapter 104-A that each tank and associated piping have been inspected and any deficiencies discovered during the inspection have been corrected. The owner shall submit the completed form to the department no more than 30 days after the date on which the inspection was completed.

*The Rules, 06-096 CMR 691(5)(D)(20)*

Annual compliance inspection requirements. The owner of a facility is responsible for ensuring that the entire facility is inspected annually for compliance with the applicable requirements of this rule, 38 M.R.S.A., subchapter II-B, and department rules regarding stage I gasoline balance systems contained in chapter 118, where applicable. The owner shall have any deficiencies detected during an inspection corrected as necessary to bring the facility into compliance with the requirement cited above.

The facility owner shall submit annual inspection results to the commissioner on or before July 1, 2003, and each July 1<sup>st</sup> thereafter. The inspection results must be recorded on a form provided by the commissioner and must include a certification statement, signed by an underground oil storage tank installer or inspector certified by the Maine Board of Underground Oil Storage Tank Installers. Such a certification must certify that the entire facility was inspected and any deficiencies discovered have been corrected. Inspection and correction records must also be maintained in accordance with section 5(D)(19). All corrections must be completed prior to the annual July 1<sup>st</sup> reporting deadline.

*The Oil Law, 38 M.R.S.A. §§ 564 and 564(2-A)(C)*

The board shall adopt rules necessary to minimize, to the extent practicable, the potential for discharges of oil from underground oil storage facilities and tanks used to store motor fuel or used in the marketing and distribution of oil to others. These rules must ensure that requirements and standards governing facilities under this section assure that the State's program meets requirements under the United States Resource Conservation and Recovery Act, Subtitle I, as amended. These rules include the following requirements.

2-A Monitoring, maintenance and operating procedures for existing, new and replacement facilities and tanks. The board's rules must require: ....

C. Voltage readings for cathodically protected systems by a cathodic protection tester 6 months after installation and annually thereafter.

The *Rules*, 06-096 CMR 691(5)(D)(4)(a and e)

- (4) Operation and Monitoring Requirements for Galvanic Cathodic Protection Systems
- (a) All galvanic cathodic protection systems must be operated and maintained to continuously provide adequate corrosion protection to the underground metal components of the facility routinely storing or containing oil, and in a manner that ensures no leaks occur during the operational life of the facility. Adequate corrosion protection is indicated by a cathodic protection test reading of at least negative 0.85 volts. Steel composite tanks without secondary containment and continuous interstitial space monitoring must comply with this requirement. ...
  - (e) Repairs of a galvanic cathodic protection system must be completed by a Maine Certified Underground Oil Tank Installer within 180 days of a failed test.

The *Rules*, 06-096 CMR 691(5)(D)(17)(a) and (f)

- (17) Repairs other than relining
- (a) Repairs are allowed in accordance with this paragraph to tanks and piping constructed of fiberglass, cathodically protected steel and other noncorrosive materials approved by the commissioner.
  - (f) Tank and piping repairs are to be conducted in accordance with manufacturer specifications or in accordance with the National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code."

The *Oil Law*, 38 M.R.S.A. § 565-A

1. Order to cease deliveries. In addition to the enforcement actions allowed under sections 347-A and 348, the commissioner may, after providing an owner or operator of an underground oil storage tank with a notice of violation for failure to comply with a requirement of this subchapter and after providing a reasonable opportunity for correction of the violation, issue an administrative order requiring the owner or operator of the underground oil storage tank that is the subject of the violation to cease deliveries of oil to the tank and to cease operation of the tank and associated piping until the violation has been corrected. The commissioner shall issue an administrative order to cease deliveries to or operation of an underground oil storage tank subject to section 564 upon determining that:
  - A. The tank is not equipped with the spill prevention, overfill protection, leak detection or corrosion protection measures required under section 564 and applicable department rules;
  - B. The tank is not being operated or maintained in compliance with section 564 and applicable department rules and the owner or operator has failed to gain compliance with the requirements within 30 days of being provided with a citation for or written notice of the violation; or
  - C. There is evidence of an ongoing release of product from the tank or facility at which the tank is located. ....

2. Service. Service of an administrative order under subsection 1 must be made by hand delivery by an authorized representative of the department or by certified mail, return receipt requested. The person to whom the order is directed shall comply immediately or within the time period specified in the order or may appeal the order as provided in subsection 3.
3. Appeal. An administrative order under subsection 1 may be appealed to the board by filing a written petition within 5 working days after receipt of the order. Within 15 working days after receipt of the petition, the board shall hold a hearing on the matter. All witnesses at the hearing must be sworn. Within 7 working days after the hearing, the board shall make findings of fact and shall continue, revoke or modify the administrative order. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7.
4. Identification of tanks subject to delivery prohibition. Whenever the commissioner issues an administrative order under subsection 1, department staff shall affix a red tag to the fill pipe of the underground oil storage tank. The owner or operator may not allow the deposit of oil into the tank while a red tag is affixed to the fill pipe.

As used in this section, "red tag" means a tag, device or mechanism devised by the department for use in signifying that an underground oil storage tank is ineligible for product delivery. The tag must be red in color and must bear words clearly conveying that it is unlawful to deposit oil into the tank. The tag must be made of plastic or other durable, damage-resistant material and must be designed to be easily affixed to the tank fill pipe.

5. Prohibition. A person may not deposit oil into an underground oil storage tank that has a red tag affixed to the fill pipe or tamper with the tag except to remove it as authorized by the commissioner under subsection 6.
6. Return to service. A red tag affixed pursuant to this section may not be removed until an underground oil storage tank inspector or underground oil storage tank installer certifies in writing to the commissioner that the applicable violations have been corrected and the commissioner authorizes removal of the tag. The commissioner shall remove or authorize the removal of the tag as soon as practicable upon receipt of the certification. The commissioner may remove or authorize the removal of the tag absent confirmation that the violations have been corrected in emergency situations or when removal is determined to be in the best interest of the public.