



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Jeff Madore, Scott Whittier, Bureau of Remediation and Waste Management
DATE: June 3, 2010
RE: Rulemaking: Chapter 693, Operator Training for Oil and Hazardous Substance Storage Facilities

The Federal Energy Policy Act of 2005 required, in part, that the State of Maine establish training requirements for operators of underground oil storage facilities regulated under 38 MRSA §§ 561-570-L and hazardous substance storage facilities regulated under 38 MRSA §§ 1361 §§ 1361-1364.

In response to the Energy Policy Act, P. L. 2009, Chapter 319, An Act to Continue Coverage of Oil Cleanup Costs and Improve Administration of the Ground Water Oil Clean-up Fund was enacted to amend Title 38 M.R.S.A. §564 sub§2-A to include a new paragraph L which requires "Operators to complete a department training program that meets the minimum requirements specified by the United States Environmental Protection Agency (USEPA) under 42 United States Code, Section 6991i(2007)."

The purpose of this memo is to request your permission to begin rulemaking to implement the new law.

Statutory and regulatory reference:

38 MRSA §341-D(1-B)), 38 MRSA § 564(2-A)(L), 38 MRSA § 1364(2)

P. L. 2009, Chapter 319, An Act to Continue Coverage of Oil Cleanup Costs and Improve Administration of the Ground Water Oil Clean-up Fund.

Description:

This rule establishes training requirements for operators of underground oil storage facilities regulated under 38 MRSA §§561 through 570-L and underground hazardous substance storage facilities regulated under Rules For Underground Hazardous Substance Storage Facilities, 06-096 CMR 695. The training requirements specified in the proposed rule are modeled after guidelines provided by USEPA (*Grant Guidelines to States for Implementing the Operator Training Provision of the Energy Policy Act of 2005 (August 2007)*). The proposed rule

establishes three operator classes (A, B, and C) and sets out the specific requirements for each class of operators. The Department has chosen to combine the training requirements for the class A and class B operator into a single training. This will allow tank owners to meet the federal and state requirements for both classes with a single operator. The rule also requires the department to develop and administer operator training and testing requirements.

Department staff has developed an operator training program for underground oil storage facilities, including specific training modules and testing procedures, which can be administered via the internet or in written format. The internet option is viewed as the most efficient and convenient method to ensure that the training and testing requirements are met by facility operators. The training program is currently available for use by the regulated community.

The department will require that operators of underground hazardous substance storage facilities develop and implement a written training plan that has been submitted to and approved by the department that meets the requirements of the Rules for Underground Hazardous Substance Storage Facilities. Currently the data base includes only 2 underground tanks containing hazardous substances.

Chapter 693 requires that all operators are trained and certified prior to January 1, 2011, and annually thereafter.

Environmental Issues:

The proposed rule is intended to prevent releases of petroleum and hazardous substances by providing training to tank operators on the design and operation of the tank systems they operate. Special emphasis is placed on leak detection and leak prevention equipment. The focus of many of the Bureau of Remediation and Waste Management's activities deals directly with the oversight and regulation of underground oil and hazardous substance storage facilities, managing spill events and overseeing remediation of contaminated sites. Implementation of this rule to train and certify the operators of these facilities will help reduce the incidence of discharges.

Department recommendation:

The department recommends the Board post the proposed rules Chapter 693, Operator Training for Oil and Hazardous Substance Storage Facilities, to public comment without holding a public hearing. The staff recommends the deadline for public comment be 5:00 p.m. on July 16, 2010.

Estimated Time of Presentation:

Approximately 45 minutes.