Chapter 693: OPERATOR TRAINING FOR OIL AND HAZARDOUS SUBSTANCE STORAGE FACILITIES

SUMMARY: This chapter establishes training requirements for operators of oil storage facilities regulated under 38 MRSA §§ 561 through 570-L and hazardous substance storage facilities regulated under Rules For Underground Hazardous Substance Storage Facilities, 06-096 CMR 695. ~~(last amended October 22, 1996).~~

1. **Purpose.** This rule seeks to reduce releases of oil to the environment by ensuring that operators of certain underground oil and hazardous substance storage facilities are properly trained. The requirements of this chapter are intended to satisfy the minimum training requirements specified by the United States Environmental Protection Agency pursuant to 42 United States Code, section 6991i (2007).

2. **Definitions.** The following terms, as used in this chapter, have the following meanings:

   A. **Aboveground oil storage tank.** "Aboveground oil storage tank" means any aboveground container, less than 10% of the capacity of which is beneath the surface of the ground, that is used or intended to be used for the storage or supply of oil. Included in this definition are any tanks situated upon or above the surface of a floor and in such a manner that they may be readily inspected. Drums or other storage containers that have capacity of 60 gallons or less and oil-containing electrical equipment are not included in this definition.

   B. **Commissioner.** "Commissioner" means the Commissioner of Environmental Protection.

   C. **Department.** "Department" means the Maine Department of Environmental Protection composed of the Board of Environmental Protection and the Commissioner.

   D. **Facility.** "Facility" means an underground oil storage facility as defined in this section or an underground hazardous substance storage facility as defined in this section.

   E. **Hazardous substance.** "Hazardous substance" means any liquid containing a hazardous substance as defined under 38 MRSA §1362, except that, for the purpose of this rule, a liquid is not a hazardous substance because it contains:

      1. a substance identified as hazardous waste under chapter 850 of department rules;

      2. oil as defined in this section; or

      3. waste oil as defined in 38 MRSA §1303-C(42).

      For the purpose of this rule, "hazardous substance" does not include: liquids containing hazardous substances in such low concentrations that the liquid meets state and federal standards for human consumption; and liquids that the commissioner determines will have no adverse human health or environmental impact if released to the environment.

   F. **Motor fuel.** "Motor fuel" means oil that is motor gasoline, aviation gasoline, #1 or #2 diesel fuel or any grade of gasohol, gasoline, or distillate fuel typically used in the operation of a vehicle, generator, or other internal combustion engine.

   G. **MRSA.** "MRSA" means the Maine Revised Statutes Annotated.

H. Oil. "Oil" means oil, oil additives, petroleum products and their by-products of any kind and in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other nonhazardous waste, crude oils and all other liquid hydrocarbons regardless of specific gravity. "Oil" does not include propane, liquefied natural gas or other liquefied petroleum that is a gas at ambient temperatures.

I. Operator. "Operator" means any natural person who is in control of and responsible for the operation of a facility as defined in this section.

(1) Class A operator. "Class A operator" means a natural person who has primary responsibility for operation and maintenance of a facility. A Class A operator at an underground oil storage facility manages resources and personnel to achieve and maintain compliance with the Rules for Underground Oil Storage Facilities, 06-096 CMR 691(1)-(5), (7) and (11)-(13). ~~(last amended April 3, 2007).~~ A Class A operator at an underground hazardous substance storage facility manages resources and personnel to achieve and maintain compliance with 06-096 CMR 695.

(2) Class B operator. "Class B operator" means a natural person who has responsibility for the daily, on-site operation and maintenance of a facility. A Class B operator at an underground oil storage facility implements the requirements of 06-096 CMR 691(1)-(5), (7) and (11)-(13) at the underground oil storage facility. A Class B operator at an underground hazardous substance storage facility implements the requirements of 06-096 CMR 695.

(3) Class C operator. "Class C operator" means an on-site natural person who has daily responsibility for the initial response to alarms or other indications of emergencies caused by spills or releases from oil storage facilities. A Class C operator at an underground oil storage facility typically controls or monitors the dispensing and sale of oil at a facility.

Note: Although the minimum training guidelines specified by the United States Environmental Protection Agency pursuant to 42 United States Code, section 6991i (2007) specify three classes of operator, the Department intends to combine the training requirements for Class A and B operators into a single Class A/B operator training.

J. Owner. "Owner" means any person who alone, or in conjunction with others, owns a facility as defined in this section.

K. Person. "Person" means any natural person, firm, association, partnership, corporation, trust, the State and any agency of the State, government entity, quasi-governmental entity, the United States and any agency of the United States and any other legal entity.

L. Underground hazardous substance storage facility. "Underground hazardous substance storage facility," also referred to as "facility," means any underground hazardous substance storage tank or tanks as defined in this section, together with associated piping and dispensing facilities located under any land at a single location and used, or intended to be used, for the storage or supply of hazardous substances as defined in this rule.

M. Underground hazardous substance storage tank. "Underground hazardous substance storage tank as defined in this section, means any container, including piping, 10% or more of the volume of which is beneath the surface of the ground and which is used, or intended to be used, for the storage or supply of

a hazardous substance as defined in this section, but does not include any tanks situated in an underground area if these tanks or containers are situated upon or above the surface of a floor and in such a manner that the entire exterior surface of the tank may be readily inspected.

N. **Underground oil storage facility.** "Underground oil storage facility" means any underground oil storage tank or tanks, as defined in subsection ~~N~~ O, together with associated piping and dispensing equipment located under any land at a single location and used, or intended to be used, for the storage or supply of oil, as defined in this rule. "Underground oil storage facility" also includes piping located under any land at a single location associated with aboveground oil storage tanks and containing 10% or more of the facility's volume capacity.

O. **Underground oil storage tank.** "Underground oil storage tank" means any container, 10% or more of its volume being beneath the surface of the ground and which is used, or intended to be used, for the storage, use, treatment, collection, capture or supply of oil as defined in this section, but does not include tanks or containers situated on or above the surface of a floor in such a manner that they may be readily inspected.

3. **Applicability.** The requirements of this chapter apply to underground oil storage facilities, including but not limited to, those used for the storage of motor fuel or waste ~~fuel~~ oil and those used in the marketing and distribution of oil and underground hazardous substance facilities. The requirements of this chapter do not apply to:

A. Farm or residential tanks less than or equal to 1,100 gallons containing motor fuels for non-commercial use;

B. Tanks used for storing heating oil for consumptive use on the premises regulated under 06-096 CMR 691(6);

C. Field constructed underground oil storage tanks regulated under 06-096 CMR 691(8); and

D. Pressurized airport hydrant piping systems regulated under 06-096 CMR 691(10).

4. **Trained Operators.** A facility shall have designated, trained and certified operators as set forth in section 8 by ~~January 1~~ August 8, 2011.

5. **Designation of operators.** For a facility that is manned during all times that the facility is open for business or operational, the owner shall designate a Class A, Class B and Class C operator. A certified Class A, B or C operator must be present during all times that the facility is open for business or operational. In addition, a certified Class A or B operator must inspect the facility at least weekly.

For a facility that is unmanned during all times that the facility is open for business or operational, the owner shall designate a Class A, Class B and Class C operator. The certified Class A or Class B operator must inspect the facility at least weekly, unless an alternative schedule and/or inspection and verification process has been approved by the department. In addition, the owner shall install signage, as required by the Office of the State Fire Marshal~~l~~, which directs users of the facility to contact the Class A, Class B, or Class C operator if the user detects evidence of a possible leak or other problems at the facility. Whenever the unmanned facility is open for business or operational, a Class A, B or C operator shall be available to respond to any emergency calls.

Note: Emergency generators generally would be considered to be unmanned during all times that the facility is open for business or operational.

For a facility that is both manned and unmanned during the time that the facility is open for business or operational, the owner shall designate a Class A, Class B and Class C operator. A certified Class A, B, or C operator must be present during all times that the facility is manned. The certified Class A or Class B operator must inspect the facility a least weekly. In addition, the owner shall install signage, as required by the Office of the State Fire Marshal~~l~~, which directs users of the facility to contact the Class A, Class B, or Class C operator if the user detects evidence of a possible leak or other problems at the facility. Whenever the unmanned facility is open for business or operational, a Class A, B or C operator shall be available to respond to any emergency calls.

A person may be designated to fulfill more than one operator class and may be designated as an operator of more than one facility.

6. **Training of operators.** Each person designated as an operator under section 5 shall complete the applicable training requirements of this section~~ and at least every year thereafter~~. A person designated to fulfill more than one operator class shall complete the training requirements for each class for which he or she is designated.

   A. **Class A operators.** Class A operators shall complete training developed by the department, except as indicated in subsection A.2 below. At a minimum, the training will provide Class A operators with instruction on the following topics.

      1. When the facility is an underground oil storage facility:

         (i) General knowledge of oil storage tank system requirements and the operational, maintenance, reporting and recordkeeping requirements of 06-096 CMR 691(1)-(5), (7) and (11)-(13), including requirements for spill prevention, overfill prevention, release detection and reporting, corrosion protection, inspection, emergency response and product compatibility;

         (ii) Financial responsibility documentation requirements;

         (iii) Temporary and permanent closure requirements;

         (iv) Class B and C operator training requirements; and

         (v) Annual facility inspection requirements.

      2. When the facility is an underground hazardous substance storage facility, the facility owner shall develop and implement a written training plan that meets the requirements of 06-096~~,~~ CMR 695(9) and 42 United States Code, Section 6991i (2007) that has been submitted to and approved by the department.

   B. **Class B operators.** Class B operators shall complete training developed by the department, except as indicated in subsection B.2 below.~~.~~ At a minimum, the training will provide Class B operators with instruction on the following topics.

      1. When the facility is an underground oil storage facility:

(i) Operation and maintenance requirements of 06-096 CMR 691(1)-(5), (7) and (11)-(13), including requirements for spill prevention, overfill prevention, release detection and reporting, corrosion protection, emergency response, product compatibility and recordkeeping;

(ii) Facility components and materials;

(iii) Methods of release detection and prevention; and

(iv) Class C operator training requirements.

2. When the facility is an underground hazardous substance storage facility, the facility owner shall develop and implement a written training plan that meets the requirements of 06-096 CMR 695(9) and 42 United States Code, Section 6991i (2007) that has been submitted to and approved by the department

C. **Class C operators.** Class C operators shall be trained by a department certified Class A operator or a department certified Class B operator utilizing a training checklist developed or approved by the department.

1. At a minimum, Class C operators at underground oil storage facilities must receive training on the following topics:

(1) Recognizing and responding to evidence of a possible leak as defined in Rules for Underground Oil Storage Facilities, 06-096 CMR 691(12);

(2) The spill reporting and recordkeeping requirements under 06-096 CMR 691(12); and

(3) Underground oil storage facility safety.

2. At a minimum, Class C operators at underground hazardous substance storage facilities must receive training on the following topics:

(1) Recognizing and responding to evidence of a possible leak as defined in 06-096 CMR 695(10);

(2) The spill reporting and record keeping requirements under 06-096 CMR 695(10); and

(3) Underground hazardous substance storage facility safety.

7. **Department responsibility.** The department shall develop and administer a training program for underground oil storage facilities that includes an examination to evaluate operator knowledge in each subject area listed under subsections 6(A)(1) and 6(B)(1) for Class A and B operators respectively. The department shall combine the training and examination requirements for Class A and B operators. The department shall review and authorize written training plans for underground hazardous substance storage facilities meeting the requirements in sections 6(A)(2) and 6(B)(2) above.

8. **Certification.** The department shall provide a certificate of completion to each person who achieves a passing grade on the applicable training program examination for underground oil storage facilities or who meets the training requirements as set forth in authorized plans for underground hazardous substance storage facilities as approved by the department. A copy of the certificates for Class A and Class B operators must be kept at each facility where the operator has oversight responsibilities and provided to department staff, Maine Certified Storage Tank Installers or Inspectors upon request. Class A or B operators must be certified within 30 days after assuming operation and maintenance responsibilities at a facility, unless

otherwise approved by the department in writing. Any certificate issued for Class A or B operators under this chapter will expire ~~one~~ two years after issuance.

For a Class C operator, a training checklist developed or approved by the department and signed by the Class C operator and the department certified Class A or B operator who provided the training must be kept at the facility where the operator is employed. A training checklist signed by the Class C operator and a department certified Class A or B operator constitutes certification of the Class C operator. Class C operators must be certified before assuming responsibility for responding to emergencies. A training checklist that constitutes certification for a Class C operator will expire one year after the date of the signatures.

Each facility also shall maintain a Class C operator training record provided by or approved by the department that documents all current Class C operators employed at the facility and shall make the training record available to department staff upon request.

9. Retraining and Re-certification.

A. All designated Class A and ~~,~~B, ~~and C~~ operators must be retrained and recertified ~~annually~~every two years. All designated C operators must be retrained and recertified every year. It is the responsibility of owners, operators and certified operators to track certification and expiration dates.

B. In addition to the requirements of subsection A, if the department determines, after notice and opportunity for a hearing, that a facility is out of compliance with applicable statutes and rules, the designated Class A and B operators for that facility shall be retrained and recertified within 30 days of the determination. It shall be a standard condition of all Class A and B certificates that the certificates expire within 30 days of the department's determination of noncompliance, as set forth in this subsection, unless the requirements for retraining and recertification are met.

C. In addition to the requirements of subsection A, if the registered method of leak detection or overfill prevention at a facility is changed, the designated Class A and B operators for that facility shall be retrained and recertified ~~retake the applicable operator examination established under section 7~~ within ~~6~~30 days of the change. It shall be a standard condition of all Class A and B certificates that the certificates expire within 30 days of any change in the registered method of leak detection or overfill prevention at a facility, unless the requirements for retraining and recertification are met.

D. An owner may elect to retrain and recertify designated Class A and B operators every year. Class A and B operators that are retrained and recertified every year need not retrain and recertify as required in subsection B of this section if the department determines that a facility is out of compliance.

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

Effective Date: