



## DEP FACT SHEET

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### SITING ABOVEGROUND OIL STORAGE TANKS AND OTHER FACILITIES THAT POSE A SIGNIFICANT RISK TO DRINKING WATER

#### An Act to Prevent Contamination of Drinking Water Supplies

Wellhead Protection (38 M.R.S.A § 1391 through § 1399)

Chapter 692 (Siting of Oil Storage Facilities)

Chapter 700 (Siting of Facilities that Pose a Significant Threat to Drinking Water)

#### THE BASICS OF THE LAW:

##### What was the legislative intent?

In 2008 the Maine Legislature passed a new law to protect existing public and private water supplies from the threats of spills and leaks from aboveground oil storage tanks, automotive graveyards, automobile body and maintenance repair shops, dry cleaners using perchloroethylene, metal finishing or plating facilities, and commercial hazardous waste facilities that pose a significant risk to drinking water. In 2010, this was expanded to protect future water supplies (i.e. sand and gravel aquifers).

##### Summary of the law:

- It prohibits the installation of new aboveground oil storage tank (AST) facilities, such as motor fuel storage facilities and bulk fuel plants, in areas where an installation is likely to pose a threat to drinking water. The specific prohibitions are:
    - No new ASTs within the source water protection area of a public drinking water well, or within 1000 feet of the public water well (whichever is greater)\*, and
    - No new ASTs within 300 feet of a private well (except for a private water supply well located on the same property as a facility and serving only that facility).
    - No new ASTs within a significant sand and gravel aquifer mapped by the Maine Geological Survey.
  - The law applies to new petroleum storage facilities. Existing facilities or facilities under construction where the Department has determined a substantial amount of money or effort has been expended on the completion of the facility prior to the effective date of this law are exempt. An AST facility will not be considered “under construction” based solely on the issuance of a permit from the State Fire Marshal’s Office. Heating oil tanks for use on the premises are exempt.
  - The law now places both AST and underground oil storage tank (UST) facilities under the same siting requirements.
  - These siting restrictions also apply to new automotive graveyards, automobile body and maintenance repair shops, dry cleaners using perchloroethylene, metal finishing or plating facilities and commercial hazardous waste facilities located in the above mentioned wellhead protection zones.
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\*DEFINITIONS: A *source water protection area* is the land area that contributes recharge water to a public drinking water supply well. Maps of these areas are available from the Drinking Water Program (207)-287-2070 and will be available in most municipal offices by the fall of 2008. *Public wells* range from wells serving an entire community, a mobile home park, schools and large places of business to campgrounds, restaurants and motels. Maps showing the general location of public wells are available on the Web at [http://www.maine.gov/dep/gis/datamaps/index.htm#Google Earth Maps](http://www.maine.gov/dep/gis/datamaps/index.htm#Google_Earth_Maps) (look under maps).

### Are there any variances?

The law allows the Commissioner of the Department of Environmental Protection to grant a variance from these prohibitions in certain limited circumstances.

- For *community drinking water wells and drinking water wells serving schools and private wells*, a variance is available only where no hydrogeological connection between the proposed facility location and the potentially affected water supply can be demonstrated. The demonstrations require submitting a hydrogeological study to DEP for approval.
- For *other types of public drinking water wells*, a variance may be issued if the commissioner determines that the engineering and monitoring measures proposed by the applicant go beyond current minimum regulatory requirements and that they will effectively minimize releases and the likelihood of groundwater contamination.
- For *mapped sand and gravel aquifers*, a variance may be issued for incorrectly mapped aquifers, potentially low or polluted aquifers or moderate yield aquifers.
- *An opportunity for public comment is required on each request for a variance.*

### What happens if you fail to comply with the law?

- The DEP Commissioner is authorized to halt the operation of any facility installed in violation of these prohibitions.
- Clean-up costs and third party damages caused by discharges from an oil facility installed in violation of these prohibitions are not eligible for reimbursement from the State's Ground Water Oil Clean-up Fund.

### Is there a home heating oil exemption?

- Although heating oil tanks used for onsite consumption are exempt from the siting prohibition, after July 1, 2009, all new or replacement tanks to be installed within the wellhead protection zone of a community drinking water well, or within 1000', whichever is greater, must be double-walled. They also must be installed by a professional who is certified by the Maine Fuel Board. Please see the Department's fact sheet for double-walled home heating oil tanks in community wellhead protection areas for additional information.

## BACKGROUND ON THE LAW:

- **Lack of basic siting standards:** Until now there have been no statutory requirements that potential threats to drinking water from these types of facilities be considered as part of the permit process for siting. However, these facilities have often been the source of contamination and expensive cleanups.
- **No facility is 100% leak or spill-proof:** No matter how well designed and built a facility is, spills and leaks still occur. Operational errors, installation errors, other human errors and routine equipment failures due to wear and tear continue to result in discharges to the environment.

The types of facilities that are subject to these siting restrictions are those that historically have been the main sources of ground water pollution in Maine.

- **Some examples are:**
  - Windham where over \$3 million was spent to replace two highly productive Portland Water District wells impacted by gasoline overfills at a nearby service station;
  - Lisbon where over \$4 million has been spent to clean up solvents that escaped from a circuit board manufacturing facility and contaminated the municipal well field;
  - Gorham where solvents from an auto body shop contaminated several nearby wells, requiring the expenditure of over \$800,000 to extend public water lines to the neighborhood;
  - Rumford where \$500,000 was spent to protect municipal water supply wells from heating oil that leaked from two residential oil storage tanks; and
  - Sinclair where over \$100,000 has been spent on cleanup of gasoline that leaked from an aboveground tank and contaminated 5 private wells.

Over 50% of Mainers get their drinking water from ground water sources. 41% of Maine households get their drinking water from a private well. 89% of community public water systems serving Maine municipalities rely on ground water as their drinking water supply. Protecting our drinking water by keeping pollutants away from it is a low cost way to protect public health and local economies.

- **The installation of these facilities in areas where they could threaten drinking water is an unacceptable public health risk.** At these sites where spills happen, humans are at significant risk of exposure to toxic chemicals that include known carcinogens such as benzene and perchloroethylene from their drinking water.

## **FOR MORE INFORMATION:**

- For questions about this new law, please call David McCaskill or George Seel at (207) 287-2651 or visit the Department's web site: [www.maine.gov/dep/index.shtml](http://www.maine.gov/dep/index.shtml)
- For information on how to apply for a variance, call John Dunlap or Rick Kaselis at (207) 287-2651
- For help using the Google Earth maps of public well locations, call Erika Bonenfant at (207) 287-2070 or Christian Halsted at (207) 287-8754

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