

Notice of Agency Rule-making Proposal

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Maine Fuel Board

CHAPTER NUMBER AND TITLE: Chapter 113, Installation of Waste Oil Appliances and Waste Oil Supply Tanks; Chapter 115, Denial Appeals

PROPOSED RULE NUMBER (*leave blank; assigned by Secretary of State*):

CONTACT PERSON FOR THIS FILING: Cheryl Hersom, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, (207) 624-8605, cheryl.c.hersom@maine.gov

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different): same

PUBLIC HEARING (if any): None scheduled

COMMENT DEADLINE: November 4, 2011

BRIEF *SUMMARY: The Maine Fuel Board is the successor to the former Oil and Solid Fuel Board and the Propane and Natural Gas Board. In an earlier rulemaking proceeding, the Maine Fuel Board adopted the rules of the two predecessor boards on a carryforward basis without substantive change. Former Chapters 13 and 15 of the Oil and Solid Fuel Board were inadvertently omitted from the earlier rulemaking proceeding. In this rulemaking proceeding, the Maine Fuel Board proposes to adopt these two former chapters as Chapters 113 and 115, respectively. There is no substantive change in the rules text. The proposed rules may be downloaded from www.maine.gov/professionallicensing.

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): None

STATUTORY AUTHORITY FOR THIS RULE: 32 MRSA §18123(2); PL 2009, c. 344, sec. D-15(2)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different):

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: jeffrey.m.frankel@maine.gov

* Check one of the following two boxes.

The above summary is for use in both the newspaper and website notices.

The above summary is for the newspaper notice only. A more detailed summary / basis statement is attached.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____
 (authorized signature)

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
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Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Maine Fuel Board

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Cheryl Hersom, Board Administrator, Office of Professional and Occupational Regulation, 35 Station House Station, Gardiner, ME 04333 (207) 624-8605; cheryl.c.hersom@maine.gov

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STATUTORY AUTHORITY: 32 MRSA §18123(2); PL 2009, c. 344, sec. D-15(2)

DATE AND PLACE OF PUBLIC HEARING: None scheduled

COMMENT DEADLINE: November 4, 2011

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: The Maine Fuel Board is the successor to the former Oil and Solid Fuel Board and the Propane and Natural Gas Board. In an earlier rulemaking proceeding, the Maine Fuel Board adopted the rules of the two predecessor boards on a carryforward basis without substantive change. Former Chapters 13 and 15 of the Oil and Solid Fuel Board were inadvertently omitted from the earlier rulemaking proceeding. In this rulemaking proceeding, the Maine Fuel Board proposes to adopt these two former chapters as Chapters 113 and 115, respectively. There is no substantive change in the rules text.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Chapters 13 and 15 of the former Oil and Solid Fuel Board; PL 2009, c. 344, sec. D-15(2), which governs the transition of rulemaking authority from the former Oil and Solid Fuel Board and Propane and Natural Gas Board to the Maine Fuel Board; professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: Chapter 113 regulates installation and operation of waste oil burning equipment, the arrangement of waste oil supply tanks, and the prevention of spillage. Chapter 113 carries forward Chapter 13 of the former Oil and Solid Fuel Board with no substantive change. Chapter 115 describes the manner in which an applicant or licensee may appeal a license denial to the board. Chapter 115 carries forward Chapter 15 of the former Oil and Solid Fuel Board with no substantive change.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rules will not negatively impact job growth or creation; (B) There are no fees included in the proposed rules; (C) There is no cost to the public in terms of time and money required to comply with the proposed rules; (D) No other laws or rules address the subject matter of the proposed rules; (E) There are no relevant federal standards other than 40 CFR

§279.22(c)(1-2), a labeling requirement for waste oil tanks, which is cited in Chapter 113, Section 2(3).

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Chapter 113: INSTALLATION OF WASTE OIL APPLIANCES AND WASTE OIL SUPPLY TANKS

Summary: The purpose of this Chapter is to provide requirements for the use of waste oil burning equipment and accessory equipment installations in specific applications. See Appendix A and B to Chapter 107 for further information.

1. NATIONALLY-ACCREDITED TESTING LABORATORY

All heating, chimney and/or fireplace equipment installed as well as any accessory equipment installed must be listed and approved by Underwriters' Laboratories or by a nationally-accredited testing laboratory, with certification that applicable national and Maine standards have been met. Such listing must be in effect at the time of installation. All equipment must be continually listed by a nationally-accredited testing laboratory.

2. GENERAL

1. The installation of waste oil burning unit(s) and their service shall be performed by licensed individuals experienced in servicing and installing such equipment.
2. The installation and servicing of waste oil appliances shall be made in accordance with the manufacturer's instructions and with state and local codes.
3. Waste oil tanks must be labeled with the words "Used Oil" in accordance with 40 CFR 279.22(c)(1-2).

3. USE OF APPROVED EQUIPMENT

Waste oil burning equipment shall be listed or labeled by a nationally-accredited testing laboratory. Appliances and accessory equipment listed for a specific purpose shall be considered as meeting the requirements of NFPA #31 and other Rules adopted by the Board.

4. TYPE OF FUEL

1. Waste oil fuel tank(s) may contain: 1 and 2 fuel oils; crankcase oil up to 50 SAE; automatic transmission fluid; and hydraulic oils; and specified refined waste fuels only. A complete definition of waste oil can be found in the Department of Environmental Protection's Chapter 860: "Waste Oil Management Rules," Section 4: "Identification of Waste Oil."
2. Other types of liquids such as anti-freeze, cleaners, thinners, solvents, gasoline or additives, and any other types of hazardous materials may not be introduced into a waste oil supply tank.

5. OIL SUPPLY TANK ARRANGEMENT.

1. All tanks serving a waste oil appliance shall conform to NFPA # 31 and this Chapter.
2. An exception to 13-5.1 provides that a waste oil supply tank of 660 gallons or two tanks of aggregate capacity, supplying a Waste Oil Appliance shall be installed with a receptacle or funnel used specifically for introducing waste oils into a specifically marked waste oil supply tank when the tank and accessories have a 2 inch diameter (nominal inside diameter) iron pipe vent to the outside of the building or structure.
3. The arrangement of the waste oil tank recovery receptacle shall comply with the following:
 - A. The recovered waste oil shall be introduced into the supply tank manually through a valved recovery pan or funnel for waste oils only and shall be located at the top of the tank. See Figure 4(a). The receptacle to receive the oils may be installed as follows:
 - B. Install a close x 2 inch threaded (NPT) metal nipple in the oil supply tanks' 2 inch access opening;
 - C. Install the receptacle (funnel, pan, catch basin, etc.) at the top of the valve;
 - D. Install a gauge in the other available access opening of the tank;
 - E. Spillage by individuals pouring recovered waste oil from a pan, catch basin, or other type of recovery container, must be minimized by metal steps, corresponding to the height of the tank, so an individual does not have to reach beyond his or her shoulder level while transferring the fuel from the recovery container to the oil supply receptacle. Steps provided shall be a minimum of three (3) feet wide, with a tread height of not more than eight (8) inches. Ladders are not an acceptable alternative; and
 - F. Any spillage shall be cleaned up immediately and reported to the Department of Environmental Protection.
4. As an option to the tank arrangement in paragraph 13-5.2 and Figure 4(a), the tank arrangement may be supplied with a funnel and a fill and vent pipe extending to the outside, providing the fill point is identified by a metal placard attached to the building stating: "Waste oil tank, check for inside valve closure prior to filling." See Figure 4(b).
 - A. The waste oil supply tank in Figure 4(b) must be provided with a combination oil gauge and vent alarm at the vent pipe due to the availability of only three access openings in the tank. Waste oil tanks with four (4) access openings may use a separate gauge and vent alarm.
 - B. Spillage due to pouring recovered waste oil from a pan, catch basin, or other type of recovery container must be minimized by metal steps, corresponding to the height of the tank, so an individual does not have to reach beyond his or her shoulder level while transferring the fuel from the recovery container to the oil supply receptacle. Steps provided shall be a minimum of three (3) feet wide, with

a tread height of not more than eight (8) inches. Ladders are not an acceptable alternative.

- C. Any spillage shall be cleaned up immediately and reported to the Department of Environmental Protection.

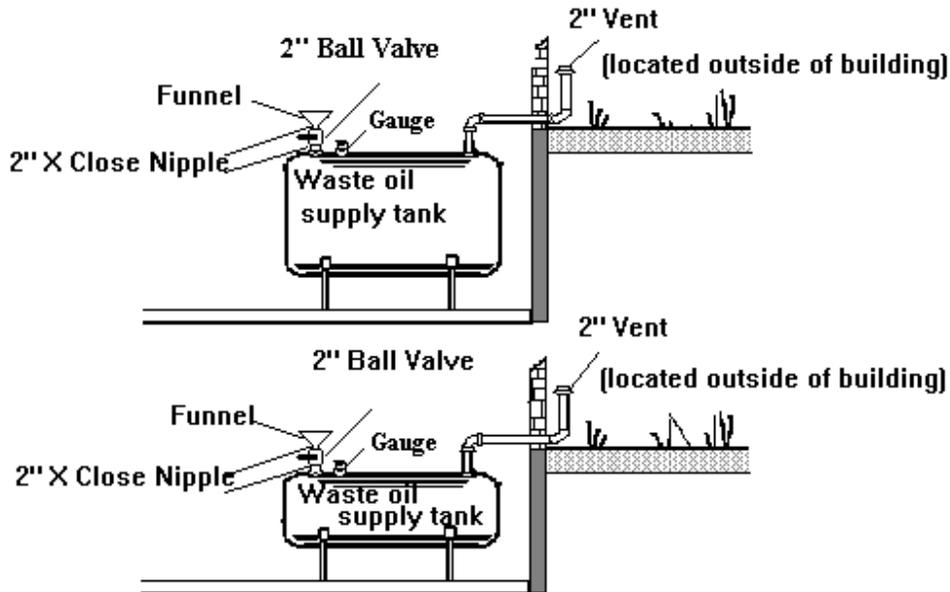


Figure 4 (a)

Note: The fill pipe can have a tee, a nipple, a manual ball valve and funnel. The funnel shall be constructed and placed so as not to restrict ball valve closure and transfer of oil without spillage. The valve shall not be left open. It is the owner's responsibility to ensure the outsidefill is ready for delivery.

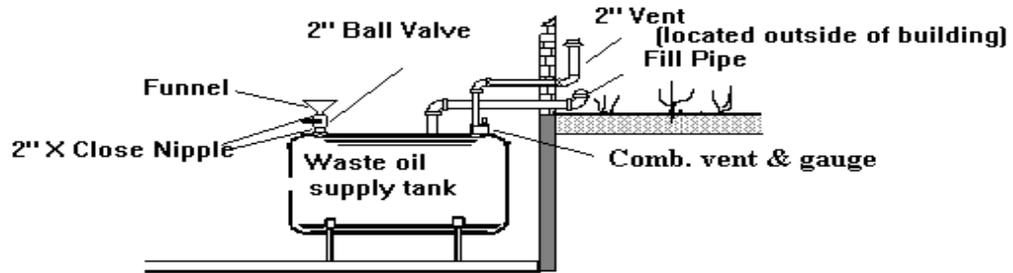


Figure 4 (b)
Note: Metal placard with 1" letters, must read "Waste Oil Tank. check for inside valve closure prior to filling."

STATUTORY AUTHORITY: 32 MRSA §18123(2); PL 2009, c. 344, sec. D-15(2)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

658 MAINE FUEL BOARD

Chapter 115: DENIAL APPEALS

Summary: This Chapter sets forth a licensee's right to appeal certain board actions.

1. APPEAL OF LICENSE DENIAL

An applicant or licensee may appeal a license denial to the Board by filing a request for hearing with the Board in writing within 30 days of the applicant's or licensee's receipt of notice of the denial. An adjudicatory hearing will be scheduled upon receipt of a timely appeal. Non-timely appeals will be denied without hearing.

STATUTORY AUTHORITY: 5 MRSA §§8051, 9051; 10 MRSA §8003(5-A); 32 MRSA §18123(2); PL 2009, c. 344, sec. D-15(2)

EFFECTIVE DATE: