

Chapter 131: CUTBACK ASPHALT AND EMULSIFIED ASPHALT

SUMMARY: This regulation establishes requirements for the storage, use and application of cutback and emulsified asphalts.

1. Scope. This regulation applies statewide.

2. Definitions

- A. Asphalt.** "Asphalt" means a dark-brown to black solid, liquid or semisolid cementitious material composed primarily of bitumens that occur naturally or are obtained as a residue of petroleum refining.
- B. Cutback Asphalt.** "Cutback asphalt" means asphalt that has been liquefied by blending with a diluent of petroleum solvents or any other diluent that contains VOC.
- C. Emulsified asphalt.** "Emulsified asphalt" means an emulsion of asphalt and water that contains a small amount of an emulsifying agent; it is a heterogeneous system containing two normally immiscible phases (asphalt and water) in which the water forms the continuous phase of the emulsion, and minute globules of asphalt form the discontinuous phase.

3. Standards

- A.** On or after May 1, 2010, no person shall use or apply, during the period May 1 through September 15, cutback asphalt or emulsified asphalt, unless:
 - (a) The asphalt contains no greater than 0.1 percent VOC by weight; or
 - (b) The asphalt produces no greater than 6.0 milliliters of oil distillate, in accordance with ASTM Method D244, Standard Test Methods and Practices for Emulsified Asphalts, or AASHTO T59, Standard Method of Test for Testing Emulsified Asphalts, or ASTM Method D402, Standard Test Method For Distillation of Cutback Asphaltic Products, or AASHTO T78, Standard Method of Test for Cutback Asphaltic Products, all as incorporated herein by reference. ASTM Method D244 and D402 are available from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, Pennsylvania 19428-2959, or from its website www.astm.org. AASHTO T59 and T78 are available from the American Association of State Highway and Transportation Officials (AASHTO), 444 North Capitol Street N.W., Suite 249, Washington, DC 20001, or from its website www.transportation.org.

4. Recordkeeping. The owner or operator of any facility subject to this regulation shall maintain records of the manufacture, mixing, storage, use or application of any asphalt containing volatile organic compounds (VOC) during the period May 1 through September 15. These records shall be available for inspection during normal business hours and copies shall be provided to the Department and/or E.P.A. upon request. All records must be maintained at the company's main headquarters for a period of 6 years.

AUTHORITY: 38 M.R.S.A., Section 585-A

EFFECTIVE DATE: February 10, 1993
Amended: September 15, 2009

BASIS STATEMENT

In Maine, nine counties are classified as nonattainment for the federal ozone air quality standard. Cutback asphalts and some emulsified asphalts contain VOC, which are precursors to ground-level ozone formation.

This cutback and emulsified asphalt regulation restricts the VOC content of emulsified asphalts and restricts the use of cutback asphalts. Under Section 184 of the Clean Air Act Amendments of 1990, the State must submit plans to control VOC emissions from all sources covered by a Control Technique Guideline (CTG) issued before November 15, 1990.

In addition to the Basis Statement above, the Department has filed with the Secretary of State responses to comments received during the comment period.

BASIS STATEMENT OF AUGUST 20, 2009

These amendments are part of the Department's effort to satisfy the RACT requirements mandated under the CAA and regulations related to the 1997 8-hour ozone NAAQS. As part of its 8-hour ozone RACT review, the Department has determined that the existing asphalt paving regulation no longer constitutes RACT under the 8-hour ozone standard.

These amendments limit the use of cutback asphalt and emulsified asphalt during the period May 1 through September 15 to that which produces not more than 6.0 milliliters of oil distillate or contains no greater than 0.1 percent VOC by weight, as determined using the American Society for Testing and Materials Methods or American Association of State Highway and Transportation Officials Methods. The rule applies to all asphalt paving activities.

In addition to the Basis Statement above, the Department has filed with the Secretary of State responses to comments received during the comment period.