

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Remediation and Waste Management
17 State House Station, Augusta ME 04333-0017
(207)287-2651

July 2008

Dear Underground Oil Storage Tank Owner:

This letter contains information about several important changes to Maine's laws for ground water protection and underground oil storage facilities. These changes resulted from amendments to Maine statutes that were adopted in the 123rd Legislature. The amendments are intended to better protect public health and the environment from discharges from underground petroleum storage facilities, and to bring Maine's underground tanks program into conformance with the requirements of the "Underground Storage Tank Compliance Act", which is part of the Federal Energy Policy Act of 2005 [119 Stat. 1093, Public Law 109-58 (August 8, 2005)]. These amendments affect owners, operators, installers and inspectors of underground oil storage tank (UST) facilities.

The specific changes are described below.

1. LD 2072, "An Act to Conform the Laws Governing Underground Oil Storage Tanks to the Requirements of the Federal Energy Policy Act" was signed into Public Law, Chapter 534 on March 31, 2008. **This law became effective on June 30, 2008.** It addresses the following:

- i. **Submittal of Annual Inspection Reports**

The owner of an UST is responsible for having a passing inspection of each underground tank and piping system performed at least annually and submitting the results to the Department. Now state law specifies that the UST owner must submit annual inspection results for all USTs at a facility to the Department no more than 30 days after the date on which the passing inspection was completed.

For example, if a Certified Tank Installer or a Certified Tank Inspector (CTI) inspected your facility with passing results on July 30, 2008, you must submit a copy of the complete inspection report to the Department on or before August 30, 2008. You can no longer wait until July 1, 2009 to submit the passing annual inspection report.

Reminder: The owner of a tank or facility that has failed an annual inspection must have

repairs made within 30 days to correct the deficiencies that caused the failure. If repairs cannot be made within 30 days, the owner must notify the Department and employ temporary measures as directed. The failures must still be corrected as soon as possible.

ii. Persons authorized to conduct Annual Inspections

Beginning July 1, 2010, and at least once every 3 years thereafter, the annual inspection of each tank must be performed by a CTI who is not the tank owner or operator, an employee of the tank owner or operator, or a person having daily on-site responsibility for operation and maintenance of the tank.

For example, if the CTI who conducts your annual inspections is an employee of your company, or if you are a CTI who owns the facility you are inspecting, you must hire a different individual to conduct the annual inspection(s) in 2010, 2013, 2016, etc.

iii. Authority to Prohibit Delivery

The Department may issue an Administrative Order prohibiting delivery of product to, or dispensing of product from, an UST facility or tank for which the owner failed to submit a passing Annual Inspection that was conducted within the past year. The Department may now also prohibit delivery to, and use of the tank if:

- The tank is not equipped with required spill prevention, overfill protection or corrosion protection measures; or
- The tank is not being operated and maintained in compliance with applicable leak detection requirements and the rules for reporting "evidence of a possible leak"; or
- There is evidence of an ongoing release of product from the tank or facility.

The Department may affix a "red tag" to the fill pipe of a non-compliant tank indicating that the tank is ineligible for product delivery. The Department may remove or authorize the removal of the red tag only if the tank or facility gains compliance.

iv. UST Facility Operator Training

By August 8, 2009, the Department shall develop a program to train operators of federally regulated USTs on how to properly operate and maintain their facilities.

The Department is developing a facility-specific online training program for UST operators that will be offered free of charge. The program is expected to be available to operators by Fall 2009. Operators will be required to pass a test to obtain certification by August 2012.

2. LD 2119, "An Act to Amend Certain Laws Related to Environmental Protection" was signed into Public Law, Chapter 655 on April 18, 2008. This law becomes effective on July 18, 2008.

It addresses the following:

i. UST Registration Fees

Tank registration fees have been changed from \$35 for each registered UST, or aboveground oil storage tank with underground piping, to \$100 every three years. Fees will be due 30 days after being billed. Registration fees will be prorated for new installations. Single family homeowners do not have a fee.

ii. **Returning out-of-service tanks to service**

USTs that have neither dispensed nor received fuel for more than three months must be registered with the Department as "out-of-service." USTs that will be out-of-service for more than 12 months must either be properly abandoned or the tank owner must obtain written approval from the Department to remain out-of-service for a period exceeding 12 months. An out-of-service UST can only be returned to service if certain conditions are met:

- The facility is in compliance, including submittal of a passing annual inspection within the last twelve months; and
- The tank and piping have passed tightness testing as approved by the Department; and
- The tank and piping are constructed of noncorrosive materials approved by the commissioner.

Now, facility owners must also obtain written approval from the Department before returning an UST to service and two additional conditions must be met:

- The facility must have conforming suction or double-walled pressurized piping; and
- The return of the facility to service must not pose an unacceptable risk to groundwater resources.

When determining if a facility poses an unacceptable risk to groundwater, the Department may consider the age and maintenance history of the tanks and piping, past oil discharges from the tanks and piping, the proximity of the facility to drinking water supplies and the proximity of the facility to sensitive geologic areas.

If you have any questions about these amendments, please call (207) 287-2651 and ask for someone in the Underground Tanks Unit.

Thank you,

Scott D. Whittier, Director
Division of Oil & Hazardous Waste Facilities Regulation
Bureau of Remediation & Waste Management