



## Maine Ground and Surface Waters Clean-up and Response Fund

Instructions and Application For a discharge from an

### Aboveground Oil Storage Facility

Office of the State Fire Marshal

45 Commerce Dr. Ste 1 – SHS 52

Augusta, Maine 04333-0052

(207) 626-3880 Telephone, (207) 287-6251 Fax

<https://www.maine.gov/dps/fmo/home>

### Introduction

Clean water is a precious commodity. It is critical that oil spills (discharges) are cleaned up as soon as possible to limit the damage they may cause to our water supply. The owner of an oil tank(s), including home heating oil tank(s) (referred to as a facility), is responsible for notifying Maine Department of Environmental Protection (DEP) at **(800) 482-0777** as soon as possible after a spill (any discharge including leaks, overfills, etc.) occurs or is discovered. Maine Ground and Surface Water Clean-up and Response Fund was established as an insurance program to help tank owners pay the costs of the clean-up and third-party damage claims. (38 M.R.S. § 568-A)

The owner, operator or resident may submit an application to the State Fire Marshal who will determine eligibility for coverage by the Fund and the assignment of deductibles to be paid by you. DEP will send an invoice to you showing the deductible amount the you must pay. DEP may allow you to pay in installments. DEP may waive deductible payments for a discharge at an applicant's personal residence when the applicant documents an inability to pay the deductibles. DEP may waive a standard deductible for aboveground tanks regulated by the Maine Fuel Board with less than 300 gallons of storage capacity upon submission of documentation of a passing ultrasonic thickness test of the tank conducted within 12 months prior to the discharge. Fund coverage is conditioned on the applicant paying the deductibles unless the applicant qualifies for a waiver.

The applicant may appeal the decision of the State Fire Marshal regarding eligibility for coverage or assignment of deductibles. Payment of deductibles may be postponed until appeals are finally resolved. The Commissioner of DEP may initiate legal action for collection of deductibles or may initiate legal action for collection of all clean-up costs if an applicant fails to pay the deductibles assigned. This Fund does not cover spills from shipping containers (including 55-gallon drums) or from transport vehicle tanks. There is a similar program that covers spills from underground oil storage facilities. See 38 M.R.S. § 568-A for the statute describing Fund coverage requirements. See 38 M.R.S. § 562-A for the statutory definitions of relevant terms.

### Instructions

The applicant must complete the application **legibly** and must answer all the questions completely and to the best of the applicant's knowledge. Please submit photographs and other documents and information that will help the State Fire Marshal make their decision and use additional paper if there is not enough room on the form to fully answer a question.

You must submit the completed application to the address below.

**Department of Environmental Protection  
Attn: Christopher Fournier  
State House Station 17  
Augusta, ME 04333-0017**

An application is not eligible for coverage if the application is received by the Office of the State Fire Marshal more than 180 days from the date the discharge was reported. The State Fire Marshal **may** waive the 180-day filing deadline when DEP confirms the applicant has cooperated in the clean-up in a manner that satisfies the Commissioner of DEP and justifies waiving the filing deadline.

The State Fire Marshal will determine if the application is eligible for coverage by the Fund and what deductibles will be applied. The State Fire Marshal will prepare a Fire Marshal's Order showing the determination of eligibility, the finding of facts and the assignment of deductibles. The State Fire Marshal will send the Fire Marshal's Order to you via certified mail and first-class mail and to DEP. DEP will determine what eligible clean-up costs and third-party damage claims will be covered by the Fund and will prepare an invoice for the amount you must pay. DEP will mail the invoice directly to the you. There will be a delay between when you receive the Fire Marshal's Order and the invoice from DEP.

Fund coverage for an aboveground oil storage facility is limited to \$750,000 for eligible clean-up costs and third-party damage claims per occurrence. Fund coverage is limited to \$2,000,000 aggregate per facility owner per calendar year.

Coverage by the Fund is conditioned upon payment of the assigned deductibles within 180 days of receipt of an invoice from DEP or within 180 days of a decision of the Review Board or an appellate court, whichever is later. Pursuant to 38 M.R.S. § 568-A(2-B), if the deductibles are not paid by the applicant, the Commissioner of DEP may seek reimbursement from the applicant or any other

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responsible party for all costs that were incurred by the State for the clean-up of the discharge for which coverage was sought. The Commissioner of DEP may initiate court action or place liens on property to recover such costs.

Questions pertaining to the DEP's role regarding Fund coverage and payment of deductibles call:

Department of Environmental Protection Main Line at **207-287-7688** - ask for the supervisor of Collections, Claims, and Recovery Section.

A Fire Marshal's Order may be appealed to the Board of Environmental Protection (38 M.R.S. § 568-B(2-C) and the Board rules, Chapter 3). Information on filing an appeal of the Fire Marshal's Order is included with the Fire Marshal's Order.

### **DEDUCTIBLES**

#### **Standard Deductibles:**

Less than 1,320 gallons	<b><u>\$500</u></b>	1,320 to 50,000 gallons	<b><u>\$2,500</u></b>
50,001 to 250,000 gallons	<b><u>\$5,000</u></b>	250,001 to 500,000 gallons	<b><u>\$10,000</u></b>
500,001 to 1,000,000 gallon	<b><u>\$25,000</u></b>	1,000,001 to 1,500,000 gallons	<b><u>\$40,000</u></b>
Greater than 1,500,000 gallons	<b><u>\$62,500</u></b>		

#### **Conditional Deductibles—Aboveground tanks subject to jurisdiction of State Fire Marshal**

<b>a</b> Failure to obtain a construction permit from the Office of the State Fire Marshal, when required under Title 25, chapter 318 and 16-219 CMR, chapter 34 or under prior applicable law	\$5,000
<b>b</b> Failure to design and install piping in accordance with 38 M.R.S. § 570-K and rules adopted by DEP	\$5,000
<b>c</b> Failure to comply with an existing consent decree, court order, or outstanding statement of deficiency	\$5,000
<b>d</b> Failure to implement a certified Spill Prevention Control and Countermeasures (SPCC) plan when required	\$5,000
<b>e</b> Failure to install any required spill control features	\$5,000
<b>f</b> Failure to install any required overfill equipment	\$5,000
<b>g</b> Use of a tank not approved for aboveground use	\$5,000
<b>h</b> Failure to report a discharge at the facility	\$10,000

#### **Conditional Deductibles—Aboveground tanks subject to jurisdiction of Maine Fuel Board**

<b>a</b> Failure to install the facility in accordance with rules adopted by the Maine Fuel Board and in effect at the time of installation	\$150
<b>b</b> Failure to comply with the rules of the Maine Fuel Board	\$250
<b>c</b> Failure to make a good faith effort to properly maintain the facility	\$250
<b>d</b> Failure to notify DEP of a spill	\$500

### **Disclaimer**

This document is intended to be a summary of information related to Fund coverage for discharges from aboveground oil storage facilities to help owners of facilities that have suffered a discharge understand the Fund. This document is not a statute or rule and it does not have the force of law. This document does not create or affect any legal right of any individual, all of which are determined by the applicable statutes and rules.

## The Seal of the State of Maine is located at the bottom center of the page. It features a shield with a moose in a forest, flanked by a fisherman and a farmer. Above the shield is a star and the word "MAINE". Below the shield is a banner with the word "MAINE".

Responder Email:

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☐ **DEP Responder** – Check box to confirm you filled out form.

Extra Comments:

DEP Responder **Printed Name** \_\_\_\_\_

DEP Responder **Signature** \_\_\_\_\_

Date Signed \_\_\_\_\_

**Other Discharges (Claims)**

☐ Yes ☐ No Has the applicant applied for or been covered for any other discharges/claims?

If “Yes”, list the DEP Spill Number, town, address, and date of the discharges/claims.

Is there an outstanding statement of deficiencies, Notice of Violation, Court Decree or Court Order regarding violations of statutes, rules, codes or standards at the facility? ☐ Yes ☐ No If “Yes”, **explain:**

**Facility/Residence Information:**

Was the tank approved for use as an aboveground oil storage tank? ☐ Yes ☐ No - If yes Permit Number:

**Applicant's Signature Section**

By signing this application, the applicant:

- Certifies that they own/operate the facility or owned/operated the facility at the time of the discharge.
- Certifies that the information contained in this application is accurate.
- Agrees to pay the deductible amounts assigned,
- Agrees to permit access to all properties and buildings under the control of the applicant for the purpose of conducting inspections and reviewing records relative to this application,
- Acknowledges that they understand that falsification of information on this application shall constitute grounds for denial, and that pursuant to 38 M.R.S. § 349 and/or 17-A M.R.S. § 453, falsification of information contained on this document may be punishable by fines, imprisonment, or both.
- Acknowledges that they understand that coverage by the Fund is conditioned upon payment of the assigned deductibles within 180 days of receipt of an invoice from DEP or within 180 days of a decision of the Clean-up and Response Fund Review Board or an appellate court upholding the assigned deductibles, whichever is later. Pursuant to 38 M.R.S. § 568-A(2-B), the DEP may seek reimbursement from the applicant or any other responsible party for all costs that were incurred by the State for the removal, abatement, and remediation of the discharge for which coverage was sought if the deductibles are not paid by the applicant by the date set forth above. The DEP may initiate court actions or place liens on property to recover such costs.

\_\_\_\_\_  
Applicant 1  
Print Name

\_\_\_\_\_  
Applicant 1  
Signature

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Applicant 2  
Print Name

\_\_\_\_\_  
Applicant 2  
Signature

\_\_\_\_\_  
Date Signed

Legal authority to sign for the applicant, if the signature is different from name of the applicant:

☐ Officer of Corporation, Business, Trust, Organization, Agency, Entity, etc.

☐ Legal Counsel or Power of Attorney

☐ Executor of Estate

☐ Specify Other Legal Authority and **Submit Documentation of Legal Authority** with this Application:

Use “Applicant Name 2” and “Applicant Signature 2” if more than one person is applying.

**The Owner, Operator or Resident signature as Applicant is required for this application to be eligible for coverage by the Fund.**

**(38 M.R.S. § 568-A(1)(A)(2))**