



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

52 State House Station

Augusta, Maine 04333-0052

(207) 626-3880

DO NOT SEND MONEY WITH THIS APPLICATION!

DO NOT SEND INSTRUCTIONS WITH THIS APPLICATION!

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. Clean-up of a spill may be very expensive. The Maine Ground and Surface Water Clean-up and Response Fund (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 or operator (applicant) 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 the applicant. DEP will send an invoice to the applicant showing the deductible amount the applicant must pay. DEP may allow an applicant 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 based on conditions at the time of the spill. The applicant may contact other sources for obtaining necessary information. The applicant should submit photographs and other documents and information that he or she thinks will help the State Fire Marshal make his or her decision and should use additional sheets if he or she feels there is not enough room on the form to fully answer a question. The applicant must explain his or her answer when using the "Specify other:" option rather than a choice from the list of options provided.

The applicant **MUST SIGN** the application and agree to pay the deductibles assigned, or the application will be determined to be "Not Eligible". When there are more than one applicant, each applicant must sign the application. When more than two persons are signing the application, they may sign in the blank space below the signature box. When the person signing the application is different from the applicant, the person signing the application **must attach documents to show what authority he or she has to sign for the applicant**. The applicant should keep a copy of the completed application for his or her records. Falsification of information on the application is grounds for the application being found to be Not Eligible for coverage, and may be grounds for criminal prosecution.

The applicant must submit the completed application, **but NOT THE INSTRUCTIONS**, to the Office of the State Fire Marshal at the address below. The DEP Collections, Claims, and Recovery Section will send an invoice for the deductible amount owed at a later date.

**Office of the State Fire Marshal
52 State House Station
Augusta, Maine 04333-0052
Attn: GSW CR Fund**

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 review the application and will request additional information when necessary, and will request information from DEP.

The State Fire Marshal will determine if the application is eligible for coverage by the Fund and what deductibles will be applied. There is a standard deductible based on the total aboveground oil storage capacity in US gallons owned in Maine by the facility owner applied to every application. 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 the applicant 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 to the applicant for the amount of deductibles the applicant must pay. DEP will mail the invoice directly to the applicant. There will be a delay between when the applicant receives the Fire Marshal's Order and when the applicant receives the invoice from DEP.

A discharge that was discovered on or before April 1, 1990 is not eligible for coverage by the Fund. A discharge discovered or reported after October 1, 1998 from a facility with underground, bare steel piping regulated by DEP is not eligible for coverage by the Fund. This exclusion does not apply to a facility used exclusively for storage of home heating oil in tanks with individual capacities of 660 gallons or less and when the facility aggregate capacity is 1,320 gallons or less. The Fund does not cover removal or abandonment in place of a facility or purchase or installation of a new facility. The Fund does not cover fees for legal advice or services, unless the Clean-up and Response Fund Review Board (Review Board) approves payment of legal fees incurred during a successful appeal to the Review Board. A discharge from a drum with a capacity less than 60 gallons, and a discharge from a tank vehicle, a tank trailer, or another vehicle fuel tank is not eligible for coverage.

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 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 should be addressed to:

**Collections, Claims, and Recovery Section
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
207-287-7860**

A Fire Marshal’s Order may be appealed to the Review Board (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 | \$500 |
| 1,320 to 50,000 gallons | \$2,500 |
| 50,001 to 250,000 gallons | \$5,000 |
| 250,001 to 500,000 gallons | \$10,000 |
| 500,001 to 1,000,000 gallons | \$25,000 |
| 1,000,001 to 1,500,000 gallons | \$40,000 |
| Greater than 1,500,000 gallons | \$62,500 |

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

| | |
|--|----------|
| a 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 Failure to design and install piping in accordance with 38 M.R.S. § 570-K and rules adopted by DEP | \$5,000 |
| c Failure to comply with an existing consent decree, court order, or outstanding statement of deficiency | \$5,000 |
| d Failure to implement a certified Spill Prevention Control and Countermeasures (SPCC) plan when required | \$5,000 |
| e Failure to install any required spill control features | \$5,000 |
| f Failure to install any required overfill equipment | \$5,000 |
| g Use of a tank not approved for aboveground use | \$5,000 |
| h Failure to report a discharge at the facility | \$10,000 |

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

| | |
|---|-------|
| a 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 Failure to comply with the rules of the Maine Fuel Board | \$250 |
| c Failure to make a good faith effort to properly maintain the facility | \$250 |
| d 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.

Facility Information, (Continued):

Approval of tank:

Yes No Was the tank approved for use as an aboveground oil storage tank? Tanks designed to be used as underground oil storage tanks, vehicle tanks, drums, shipping containers and DOT IBCs are not approved for use as aboveground oil storage tanks.

Location of Tank:

Outdoors

Yes No Was there a housing to protect the filter?

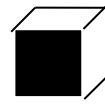
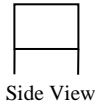
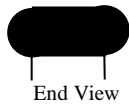
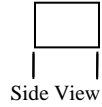
Yes No Was there a sleeve to protect the piping?

Indoors

Yes No Do the fill and vent pipes terminate outside the building?

Yes No Is the tank more than 5 feet from the oil burner?

Orientation of Tank:

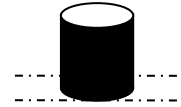
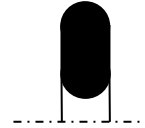
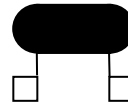
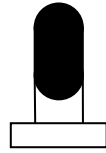
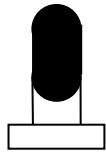


Horizontal Tank

Cylindrical Tank

Vertical Tank

Base for Tank:



Concrete Floor

Wood Floor

Concrete Blocks

Dirt, Gravel, or Soil Only

Concrete Pad

Wood Blocks

Specify other:

(Drawing Helpful But Not Required)

Supports for Tank:



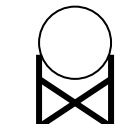
Metal Legs



Skids

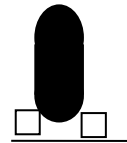


Saddles



Metal Frame

Wood Frame



Concrete Blocks

Wood Blocks

Specify other:

(Drawing Helpful But Not Required)

Protection of the Tank:

Describe how the tank was protected from vehicle collision damage, etc.

No Protection Bollards Barricades No Vehicle Traffic Area

Specify other:

Overfill Protection:

Vent Whistle (most common for home heating systems)

Specify other:

None

Spill Containment:

Not Required for Home Heating Systems

Dike, Concrete

None

Dike, Metal

Double Wall Tank

Dike, Earth

Specify other:

Yes No 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? If "Yes", **explain:**

Ultrasonic Thickness Testing

Yes No

I wish to seek a waiver of the Standard Deductible because an Ultrasonic Thickness Test was performed on the tank with less than 300 gallons capacity within 12 months prior to the discharge..

If "Yes":

Capacity of the Tank: _____ U. S. Gallons

Date Ultrasonic Thickness Test was performed: _____

Submit a copy of the test results with this application

| Discharge Information: | | |
|--|---|-----------------------------------|
| Date Discharge Occurred or Was Discovered: | Product Stored: <input type="checkbox"/> #2 Fuel <input type="checkbox"/> Kerosene <input type="checkbox"/> K-1 <input type="checkbox"/> Waste Oil <input type="checkbox"/> Diesel Fuel <input type="checkbox"/> Gasoline (any Grade) <input type="checkbox"/> Av Gas <input type="checkbox"/> Jet Fuel <input type="checkbox"/> Specify other: | |
| Date Discharge Was Reported to DEP: <input type="checkbox"/> Same Day as Discharge Occurred or Was Discovered | | |
| Capacity of Tank(s) Involved in Discharge: US Gallons | | |
| Describe How the Discharge Occurred: | | |
| What areas were threatened or affected by the Discharge: | | |
| Describe the Clean-Up Actions: | | |
| Amount of Coverage Requested: \$ Submit Documentation of costs with this Application if costs were not handled by DEP! <input type="checkbox"/> Costs Handled by DEP | | |
| DEP Spill Number: | DEP Responder's Name: | DEP Responder's Telephone Number: |
| Other Discharges | | |
| <input type="checkbox"/> Yes <input type="checkbox"/> No Has the applicant applied for or been covered for any other discharges? If "Yes", list the DEP Spill Number, town, address, and date of the discharges. | | |
| Permit Information | | |
| <input type="checkbox"/> Heating System Supply Tank; No Permit Required. Go to Signature Section! | | |
| <input type="checkbox"/> Temporary Tank on site less than 180 days. Date Installed: Go to Signature Section! | | |
| <input type="checkbox"/> Fire Marshal's Registration Submit a copy of the Registration Document with this application. Go to Signature Section! | | |
| <input type="checkbox"/> Tank integral to a Listed Generator Go to Signature Section! | | |
| <input type="checkbox"/> Fire Pump, Generator, or Other Stationary Engine Supply Complete the Permit Section! | | |
| <input type="checkbox"/> Storage Tank for Private Fueling, Public Fueling, or Bulk Storage Complete the Permit Section! | | |
| Permit Section | | |
| Is there a permit issued by the State Fire Marshal for this facility? <input type="checkbox"/> Yes COMPLETE THIS SECTION. SUBMIT A COPY OF THE PERMIT WITH THIS APPLICATION. <input type="checkbox"/> No | | |
| Permit Number: | Date Permit Was Issued: | |
| Name of Permit Holder: | | |
| Address of Permit Holder: | | |
| City/Town: | State: | Zip/Postal Code: |
| Is there a DEP Registration for this facility? <input type="checkbox"/> Yes COMPLETE THIS SECTION. <input type="checkbox"/> No | | |
| DEP Registration Number: | DEP Registration Date: | |

Spill Prevention Control and Countermeasures Plan (SPCC)

Not Required for Home Heating Systems

Yes No Was a Spill Prevention Control and Countermeasures Plan (SPCC) required for this facility under 40 CFR 112?
(Facility greater than 1320 gallon capacity)

Yes No Was there a SPCC prepared for this facility?
If "Yes", submit a copy of the SPCC with this application.

Yes No Was any part of the piping from the tank underground?
If "Yes", was the underground piping:
 Bare or Galvanized Steel Fiberglass
 Cathodically Protected Steel Flexible, Non-metallic
 Specify other:

Applicant's Signature Section

By signing this application, the applicant:

- Certifies that he or she owns or operates the facility, or owned or 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 he or she understands 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, and
- Acknowledges that he or she understands 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 Fund Insurance 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 Name 1
Printed or Typed

Applicant Signature 1

Date Signed

Applicant Name 2
Printed or Typed

Applicant Signature 2

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, e.g., Mr. and Mrs.
The Owner's or Operator's 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))

The application will be "Not Eligible" if it is indicated that the applicant does not agree to any Bullet Point above.