

Oil Storage Tank Rules to Remember

The Maine Department of Environmental Protection (DEP) receives numerous inquiries from realtors and lending institutions regarding the state of compliance at specific oil storage facilities that are on the market. Performing this type of due diligence for yourselves and your clients ensures that all the parties involved in the sale or purchase of these facilities will not encounter any unpleasant surprises down the road. Unfortunately, the DEP occasionally hears from a new owner who has unknowingly purchased an oil storage facility and was not prepared for the cost of needed upgrades, repairs, or maintenance requirements. In some cases, unwary buyers have actually purchased facilities that could no longer be used for oil storage. Whether the facility consists of aboveground oil storage tanks or underground oil storage tanks, there are specific rules associated with each. Although this article cannot address all of these rules, we have identified below some of the newer as well as some of the older requirements that you should be aware of when involved in real estate transactions of this nature.

Aboveground Oil Storage Tanks (ASTs)

SPCC Plans:

The Maine Legislature enacted legislation in the summer of 2002 authorizing the DEP to enforce existing federal regulations for spill prevention and control at retail and marketing aboveground oil storage tank (AST) facilities. The federal regulation 40 CFR Part 112 requires Spill Prevention, Control and Countermeasures (SPCC) plans at facilities in Maine that store more than 1,320 gallons of oil in aboveground storage tanks or containers. "Oil" is very broadly defined under the federal SPCC regulation. "Oil" includes petroleum products such as gasoline, diesel, kerosene, fuel oil, lubricating oils and hydraulic fluids, as well as vegetable, animal and mineral oils. An SPCC plan is a site-specific written plan that specifies the design features of the facility for spill prevention and containment, routine facility procedures to prevent spills (including regular facility inspections), and spill response procedures. In most cases, the SPCC plan must be certified by a registered Professional Engineer to be valid under the current federal SPCC rule.

Underground Piping Associated with Aboveground Motor Fuel Tanks:

In addition to the SPCC rule, the Maine Legislature enacted legislation in the summer of 2006 that establishes new requirements for facilities with ASTs storing motor fuel and that are connected to underground piping. These requirements apply to any tanks at a facility where all of the following applies:

1. The tank is installed aboveground;
2. The tank stores motor fuel (gasoline, diesel, biodiesel, aviation gasoline, jet fuel, gasohol or other fuels used in the operation of a vehicle or motor engine); and
3. The tank is connected to underground fuel piping.

This state law became effective August 23, 2006, and establishes several important deadlines for affected aboveground tank facility owner/operators:

- 1) **By January 1, 2007**, facility owner/operators must register motor fuel ASTs (For diesel ASTs see deadline #3.) with underground piping;

- 2) ***By July 1, 2007 and annually thereafter***, facility owner/operators must submit inspection reports from a Certified Tank Installer or Certified Tank Inspector of underground piping systems associated with motor fuel ASTs (for diesel ASTs see deadline #4);
- 3) ***By January 1, 2009***, facility owner/operators must register diesel ASTs with underground piping;
- 4) ***By July 1, 2009 and annually thereafter***, facility owner/operators must submit inspection reports from a Certified Tank Installer or Certified Tank Inspector of underground piping systems associated with diesel ASTs; and
- 5) ***By January 1, 2011***, pre-June 24, 1991 underground piping systems at all motor fuel ASTs must be retrofitted as necessary to meet the DEP's leak detection standards.

Oil discharges attributed to inadequate underground piping systems at AST facilities have made up a significant portion on the money spent on clean up costs over the past several years. Therefore, the intent of this new legislation was to reduce the threat to the environment by bringing underground piping systems at motor fuel AST facilities up to the same standards as is required of their UST counterparts.

Underground Oil Storage Tanks (USTs)

Requirements for Out of Service USTs:

If an UST is out of service for more than three months, the contents of the tank must be removed, and fill pipes and other equipment must be secured. The owner must notify the Department of the change in use of the UST. The facility may remain out of service for up to twelve months in this manner.

If the owner needs to keep the UST out of service for longer than 12 months, he or she must request the Department's approval to do so. The request must be made in writing before the initial 12-month period expires.

A facility that has been out-of-service greater than twelve months and which has not received approval to remain temporarily out-of-service must be removed.

Information on these requirements, including a form for certifying that tanks have been temporarily taken out of service can be found at the Department's website at:

<http://www.maine.gov/dep/rwm/ust/outofservtanks.htm>

Often interested parties wait until the day before the closing to consider the facility's compliance history. With a little due diligence, by all parties involved, people can protect themselves by understanding the Maine laws and rules for AST and UST facilities.

What does the Maine Department of Environmental Protection suggest? If you are buying or selling an AST or UST facility, call the Department at (207) 287-2651 and ask to speak with someone from the Tanks Program, or if the facility has been registered with us you may make an appointment with the Department's file room to review the facility's registration file at (207) 287-7843.