

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
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J.S. McCarthy Company
Augusta, Maine
2001

*Discharge or license quantity fees do not apply to these categories.

When a license authorizes multiple discharge points in different categories in the same license, the total maximum fee for the license may not exceed the maximum fee for the most significant category plus 1/2 of the maximum fee for each of the other applicable categories.

B. The annual rate per unit for various pollutants and groups of discharges used in computing discharge and license quantity fees may not exceed the limits set out in this paragraph. When a license authorizes the discharge of pollutants fitting more than one category, the appropriate fee is due for each group and type of pollutant.

License group or type of pollutant	Rate
Conventional pollutants, license rate	\$1.25 per pound
Conventional pollutants, discharge rate	\$2.40 per pound
Conventional pollutants, primary treatment only	\$0.55 per pound
Conventional pollutants, food handling or packing facilities	\$0.05 per pound
Nonconventional or toxic pollutants	Variable*
Heat (as licensed flow x temperature x 8.34)	\$0.045 per million BTU
Flow: fish rearing facilities	\$45 per million gallons
Flow: combined sewer overflows (based on treatment facility design)	\$55 per million gallons
Flow: nonprocess from industrial or commercial sources	\$175 per million gallons
Flow: publicly owned treatment facilities, <u>greater than 6,000 gallons per day</u>	\$630 per million gallons
Flow: process from industrial or commercial sources	\$630 per million gallons

Flow: treated storm water	\$17.50 per million gallons
Flow: sanitary, from commercial sources <u>excluding overboard discharge</u>	\$0.02 per gallon
Flow: sanitary from residential sources	\$0.02 per gallon
Flow: sanitary from publicly owned facilities, <u>less than 6,000 gallons per day or less</u>	\$0.02 per gallon
Flow: sanitary from <u>overboard discharge</u>	<u>\$0.05 per gallon</u>

*The license rate per pound is \$10.50 divided by the licensed effluent concentration in milligrams per liter. The discharge rate per pound is \$21 divided by the licensed effluent concentration in milligrams per liter.

For the purposes of this section, the term "conventional pollutant" means oxygen-demanding compounds, suspended or dissolved solids, oil and grease. The term "nonconventional pollutants" means other chemical constituents subject to fees. Excluded from fees are the following: pH, residual chlorine, settleable solids, bacteria, whole effluent toxicity tests, color, any compound without numeric license limitations and effluent concentrations reported as being below acceptable detection limits.

Annual discharge or license quantity fees may be calculated using either pounds of pollutants or allowable flow, as is most appropriate for the circumstances of a particular discharge category, situation or location. License limits may be supplemented by applications and related supporting materials when necessary to calculate effluent quantities or concentrations.

See title page for effective date.

CHAPTER 231

H.P. 1225 - L.D. 1666

An Act to Improve the Inspection and Maintenance of Underground Oil Storage Tanks

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA §963-A, sub-§49-C, as enacted by PL 1987, c. 769, Pt. A, §45, is amended to read:

49-C. Underground oil storage facility project. "Underground oil storage facility ~~replacement~~ project" means the renovation, removal, disposal or replacement of all or any part of an underground oil storage facility ~~which that~~ is used for marketing and distribution of oil, petroleum products or their by-products to persons or entities other than the owner of the facility.

Sec. 2. 10 MRSA §963-A, sub-§49-E, as enacted by PL 1989, c. 543, §2, is amended to read:

49-E. Underground oil storage tank project. "Underground oil storage tank ~~replacement~~ project" or "tank ~~replacement~~ project" means the renovation, removal, disposal or replacement of all or any part of an underground oil storage tank.

Sec. 3. 10 MRSA §1023-D, sub-§3, as amended by PL 1997, c. 613, §1, is further amended to read:

3. Application of fund. Money in the fund may be applied to carry out any power of the authority under this section or under or in connection with section 1026-F, including, but not limited to, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal, interest and other amounts due on insured loans. Money Except as otherwise prohibited under this subsection, money in the fund may be used for direct loans or grants for all or part of underground oil storage facility ~~replacement~~ projects, underground oil storage tank ~~replacement~~ projects, aboveground oil storage tank or facility construction or replacement projects or gasoline service station vapor control or petroleum liquids transfer vapor recovery projects ~~as described in paragraph A~~ when the authority determines that:

A. One or more of the following circumstances exists:

- (1) The underground oil storage facility or tank is leaking or has been identified by the Department of Environmental Protection as posing an environmental threat, or removal is required by applicable law;
- (2) The applicant is required to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery; ~~or~~
- (3) The applicant is constructing, replacing or renovating a tank or facility used for the

aboveground storage of oil and the work is supervised by a state-registered professional engineer with training and experience in aboveground oil storage facility installation; or

(4) The applicant is renovating an underground oil storage tank or facility, the work is supervised by an underground oil storage tank installer certified by the Board of Underground Storage Tank Installers under Title 32, chapter 104-A and the estimated cost of the work exceeds \$1000;

B. The applicant, if the applicant is not a unit of local government, demonstrates financial need for the assistance; and

C. If the assistance includes a loan, there is a reasonable likelihood that the applicant will be able to repay the loan.

Applicants demonstrating the requirement to install equipment related to the improvement of air quality pursuant to section 1026-F and who own fewer than 15 service stations, and who are not able to repay a loan, are eligible to receive no more than \$35,000 per service station in grants for the payment of expenses relating to the installation of this equipment.

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans and grants. In the case of loans, the authority may charge an interest rate that may be as low as 0% and may be greater, depending on the financial ability of the applicant to pay as determined by the authority, up to a maximum of the prime rate of interest charged by major New York banks. The maximum the authority may loan or grant to any one borrower, including related entities as determined by the authority, is \$600,000. Loans or grants for the purposes listed in paragraph A, subparagraph (3) may not exceed \$1,000,000 in a 12-month period. Grants may not be made for the purpose listed in paragraph A, subparagraph (4). Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested as permitted by law.

Sec. 4. 32 MRSA §10001, first ¶, as amended by PL 1997, c. 364, §2, is further amended to read:

In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons, to ~~assure~~ ensure the highest degree of professional conduct on the part of underground oil storage tank installers and inspectors and to ~~assure~~ ensure the availability of underground oil storage tank installations and inspections of high

quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering underground oil storage tank installation and inspection services.

Sec. 5. 32 MRSA §10002, sub-§6-A is enacted to read:

6-A. Underground oil storage tank inspector. "Underground oil storage tank inspector" means a person certified under this chapter to inspect underground oil storage tanks.

Sec. 6. 32 MRSA §10003, sub-§1, as amended by PL 1997, c. 364, §4, is further amended to read:

1. Establishment and membership. There is established within the Department of Environmental Protection, the Board of Underground Storage Tank Installers. The board consists of 7 members appointed by the Governor as follows: one from the Department of Environmental Protection; one from either the Maine Oil Dealer's Association or the Maine Petroleum Association; one underground oil storage tank installer; ~~one from either the Oil and Solid Fuel Board, the Plumber's Examining Board or the State Board of Certification for Geologists and Soil Scientists;~~ one from the Maine Chamber of Commerce and Industry; one from the Maine Fire Chiefs Association; and ~~one~~ 2 public ~~member~~ members.

Sec. 7. 32 MRSA §10004, sub-§2, as amended by PL 1997, c. 364, §5, is further amended to read:

2. Rules. The board may adopt, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, rules relating to professional conduct to carry out the policy of this chapter, including, but not limited to, rules relating to professional regulation and to the establishment of ethical standards of practice for persons certified to practice underground oil storage tank installation, inspection and removal and underground gasoline storage tank removal.

Sec. 8. 32 MRSA §10006, sub-§1, as amended by PL 1997, c. 364, §6, is further amended to read:

1. Certification required. No person may practice, or profess to practice, as an underground oil storage tank installer, underground oil storage tank inspector or underground gasoline storage tank remover in this State or use the words "underground oil storage tank installer," "underground gasoline storage tank remover," "underground oil storage tank inspector" or other words or letters to indicate that the person using the words or letters is a certified underground oil storage tank installer practitioner, underground oil storage tank inspector practitioner or

underground gasoline storage tank remover practitioner unless that person is certified in accordance with this chapter.

Sec. 9. 32 MRSA §10008, first ¶, as amended by PL 1997, c. 364, §7, is further amended to read:

A person who is a resident of the State and has been certified in another state as an underground oil storage tank installer or underground oil storage tank inspector may, upon payment of a fee as established under section 10012, obtain a certification as an underground oil storage tank installer or underground oil storage tank inspector, ~~provided that a if that~~ person submits satisfactory evidence of certification as an underground oil storage tank installer or underground oil storage tank inspector in another state under qualifications equivalent to those specified in this chapter.

Sec. 10. 32 MRSA §10010, first ¶, as amended by PL 1997, c. 364, §8, is further amended to read:

An applicant ~~applying~~ for certification as an underground oil storage tank installer or an underground gasoline storage tank remover or an underground oil storage tank inspector must file a written application provided by the board, showing to the satisfaction of the board that that person meets the following requirements.

Sec. 11. 32 MRSA §10010, sub-§6 is enacted to read:

6. Education and examination for certification of underground oil storage tank inspectors. An applicant for certification as an underground oil storage tank inspector must:

A. Pass a written or oral examination prepared by the board or such other exam as the board may deem equivalent that demonstrates the applicant's understanding of the following:

(1) The underground oil storage tank requirements of Title 38, chapter 3, subchapter II-B;

(2) Any rules regarding underground oil storage tanks adopted pursuant to Title 38, chapter 3, subchapter II-B by the Board of Environmental Protection;

(3) Any regulations regarding underground oil storage promulgated by the federal Environmental Protection Agency; and

(4) Any technical concepts necessary to understand and implement state and federal

laws, rules and regulations regarding underground oil storage tanks;

B. Demonstrate valid certification or licensing by manufacturers of ancillary equipment that the applicant intends to inspect if the manufacturers require any such certification to maintain equipment warranties; and

C. If the applicant intends to inspect cathodic protection systems, demonstrate valid, nationally recognized certification or licensing that meets the requirements for a "cathodic protection tester" as specified in 40 Code of Federal Regulations, Section 280.12.

Sec. 12. 32 MRSA §10011, sub-§1, as amended by PL 1997, c. 364, §12, is further amended to read:

1. Requirements; fees. Only a person satisfying the requirements of section 10010, subsections 1 and 2 may apply for examination in the manner prescribed by the board. The application must be accompanied by the nonrefundable fee prescribed by section 10012. A person who fails either part of the applicable examination specified in section 10010, subsection 3 ~~or~~ 5 or 6 may apply for reexamination upon payment of the prescribed fee.

Sec. 13. 32 MRSA §10011, sub-§2, as amended by PL 1997, c. 364, §13, is further amended to read:

2. Content. The written examination must test the applicant's knowledge of the skills and knowledge relating to storage tank installation, inspection or removal and such other subjects as the board requires to determine the applicant's fitness to practice. The board shall approve examinations required by this chapter for underground oil storage tank installers ~~and~~ underground gasoline storage tank removers and underground oil storage tank inspectors and establish standards for an acceptable performance.

Sec. 14. 32 MRSA §10012, sub-§2, as amended by PL 1997, c. 364, §14, is further amended to read:

2. Disposal of fees and civil penalties. All fees and civil penalties as authorized by section 10015 received by the board related to underground oil storage tank installers ~~or~~ underground gasoline storage tank removers or underground oil storage tank inspectors must be paid to the Treasurer of State to be deposited into the Ground Water Oil Clean-up Fund and used for the purpose of carrying out all applicable provisions of this chapter. Any balance of fees and civil penalties as authorized by section 10015 does not lapse but must be carried forward as a continuing

account to be expended for the same purposes in the following fiscal years.

Sec. 15. 32 MRSA §10014, sub-§2, as amended by PL 1997, c. 364, §15, is further amended to read:

2. Inactive status. Upon request, the board shall grant inactive status to certified persons who do not practice or present themselves as underground oil tank installers ~~or~~ underground gasoline storage tank removers or underground oil storage tank inspectors and maintain any continuing competency requirements established by the board.

Sec. 16. 32 MRSA §10015, sub-§2, ¶B, as amended by PL 1997, c. 364, §16, is further amended to read:

B. Unprofessional conduct, including any gross negligence, incompetency or misconduct in the certified person's performance of the work of underground oil storage tank installation or removal ~~or~~ underground gasoline storage tank removal or underground oil storage tank inspection or violation of any standard of professional behavior established by the board;

Sec. 17. 38 MRSA §563, sub-§9 is enacted to read:

9. Annual compliance inspection. The owner of an underground oil storage facility is responsible for ensuring that each underground oil storage tank and associated piping at the facility are inspected annually for compliance with the requirements of this subchapter and any rules adopted under this subchapter and the requirements for gasoline vapor control in rules adopted under section 585-A. The owner shall correct or arrange for correction of any deficiencies detected during the inspection as necessary to bring the facility into compliance with these requirements.

A. The owner of an underground oil storage facility shall submit annual inspection results to the department on or before July 1, 2003 and on or before July 1st annually thereafter. The results must be recorded on a form provided by the department and must include a certification statement, signed by an underground oil storage tank inspector or underground oil storage tank installer certified by the Board of Underground Oil Tank Installers under Title 32, chapter 104-A that each tank and associated piping have been inspected and any deficiencies discovered during the inspection have been corrected.

B. In addition to other enforcement actions allowed under state law, the commissioner may issue an administrative order after providing a notice of violation for failure to comply with the

requirement of this subsection and after providing a reasonable opportunity to correct the violation. The administrative order may include, but is not limited to, a requirement that the owner or operator of an underground oil storage facility cease deliveries of oil to, and operation of, the underground oil storage tank and associated piping that are the subject of the violation until the violation has been corrected.

C. Service of the commissioner's administrative order under paragraph B must be made by hand delivery by an authorized representative of the department or by certified mailing, return receipt requested.

D. The person to whom the administrative order under paragraph B is directed shall comply immediately or within the time period specified in the order. That person may appeal the order to the board by filing a written petition within 5 working days after receipt of the order. Within 15 working days after receipt of the petition, the board shall hold a hearing on the matter. All witnesses at the hearing must be sworn. Within 7 working days after the hearing, the board shall make findings of fact and shall continue, revoke or modify the administrative order. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter VII.

Sec. 18. 38 MRSA §563-A, sub-§1-D is enacted to read:

1-D. Prohibition on delivery. Effective May 1, 2002, a person may not deliver oil to an underground oil storage tank identified by the department as in violation of subsection 1 or 1-A through the publication of a list of such nonconforming tanks. The department may revise the list as new information becomes available and shall take reasonable steps, such as targeted mailings and posting of information on the Internet, to disseminate the list of nonconforming tanks to persons in the oil delivery business.

See title page for effective date.

CHAPTER 232

H.P. 1108 - L.D. 1477

An Act to Amend Certain Laws Regarding Land and Water Quality Protection

Be it enacted by the People of the State of
Maine as follows:

Sec. 1. 22 MRSA §2660-C, sub-§1, ¶A, as amended by PL 1995, c. 581, §1, is repealed.

Sec. 2. 22 MRSA §2660-C, sub-§1, ¶¶A-1 and A-2 are enacted to read:

A-1. Three of the members must represent the water purveying community and must be associated with public water systems. One of the 3 must be associated with a public water system serving a population of not more than 1,000 people, one must be associated with a public water system serving a population of at least 1,001 but not more than 10,000 people and one must be associated with a public water system serving a population greater than 10,000.

A-2. Two members must be users of noncommunity water systems. One of the 2 must be a user of a transient noncommunity water system and one must be a user of a nontransient, noncommunity water system.

Sec. 3. 22 MRSA §2660-C, sub-§1, ¶B, as enacted by PL 1993, c. 410, Pt. DD, §4, is amended to read:

B. ~~Four~~ Three of the members must represent the drinking water public. At least one of the 4 must be a user of a transient, noncommunity water system and at least one must be a user of a nontransient, noncommunity water system.

Sec. 4. 38 MRSA §346, sub-§3, as enacted by PL 1977, c. 300, §9, is repealed.

Sec. 5. 38 MRSA §361-A, sub-§1-J, as enacted by PL 1997, c. 794, Pt. A, §10, is amended to read:

1-J. Code of Federal Regulations. "Code of Federal Regulations" means the codification of regulations published in the Federal Register by the Federal Government, and includes those regulations effective on or before January 1, ~~1997~~ 2001.

Sec. 6. 38 MRSA §361-A, sub-§1-K, as enacted by PL 1997, c. 794, Pt. A, §10, is amended to read:

1-K. Federal Water Pollution Control Act. "Federal Water Pollution Control Act" means federal Public Law 92-500 or 33 United States Code, Sections 1251 et seq., including all amendments effective on or before January 1, ~~1997~~ 2001.

Sec. 7. 38 MRSA §410-G, as amended by PL 1989, c. 890, Pt. A, §40 and Pt. B, §23, is further amended to read: