

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2011**

**Sec. 2. 38 MRSA §1672, sub-§6** is enacted to read:

**6. Lamp crushing.** A recycling program required under subsection 4 may include the use of crushing devices in accordance with the provisions of this subsection.

A. The owner of the crushing device shall:

(1) Register the device with the department. The registration must include:

- (a) The owner's name and contact information;
- (b) The brand of device used;
- (c) Anticipated usage of the device; and
- (d) A statement that the operating manual required pursuant to subparagraph (2) is in place;

(2) Develop an operating manual specifying how to safely crush mercury-added lamps. The operating manual must be available to all operators of the device and must include:

- (a) Procedures for operation and maintenance of the device in accordance with written procedures developed by the manufacturer of the device;
- (b) Testing and monitoring procedures;
- (c) Information concerning mercury hazards, crushing procedures, waste handling and emergency procedures;
- (d) An assessment of whether surrounding areas will be negatively affected, either by physical proximity or air exchange with a heating, ventilation and air conditioning system;
- (e) Proper waste management practices;
- (f) Procedures for operator training to ensure operators have been trained in the operation and maintenance of equipment, including, but not limited to, engineering controls to mitigate mercury releases and personal protective equipment use; and
- (g) Procedures to address emergency situations, including, but not limited to, procedures to address mercury hazards, waste handling and equipment failure;

(3) Document maintenance activities, retain maintenance logs, test data from the manufacturer and any additional test data acquired and make available a copy of these records to the department at its request;

(4) Meet all federal Occupational Safety and Health Administration requirements;

(5) Dispose of all material crushed in the device;

(6) Maintain on file an annual report for review by the department, at the discretion of the department, indicating the:

- (a) Total volume of mercury-added lamps crushed;
- (b) Volume and disposition of any carbon or other filter from the device; and
- (c) Names of the destination facilities to which all crushed material was shipped; and

(7) Maintain testing and monitoring data.

B. The crushing device may be operated only in a closed system and in such a manner that any emission of mercury from the crushing device does not exceed 0.3 micrograms per cubic meter when measured on the basis of a time-weighted average over an 8-hour period.

C. The crushing device may be operated only in a secure, ventilated area and may not be operated in an area accessible to the general public.

See title page for effective date.

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## CHAPTER 276

### S.P. 210 - L.D. 721

#### An Act To Extend the Use of Underground Storage Tanks

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

**Sec. 1. 38 MRSA §564, sub-§5**, as amended by PL 1997, c. 624, §3, is repealed and the following enacted in its place:

**5. Mandatory facility replacement.** Upon the expiration date of a manufacturer's warranty for a tank, the tank and its associated piping must be removed from service and properly abandoned in accordance with section 566-A, except that a double-walled tank may continue in service up to 10 years beyond the expiration of the warranty if:

A. During the year the warranty expires but on a date before the warranty expires, a precision test is conducted to determine the integrity of the tank. Results of the test conducted must be submitted to the commissioner by the facility owner; and

B. During the 5th to 10th years after the expiration of the warranty, a precision test is conducted annually to determine the integrity of the tank. Results of each test must be submitted to the commissioner by the facility owner.

This subsection does not apply until January 1, 2008 to a tank installed before December 31, 1985 that has been retrofitted to meet the requirements of subsections 1-A and 1-B.

**Sec. 2. 38 MRSA §566-A, sub-§1,** as amended by PL 2009, c. 501, §7, is further amended to read:

**1. Abandonment.** All underground oil storage facilities and tanks that have been, or are intended to be, taken out of service for a period of more than ~~12~~ 24 months must be properly abandoned by the owner or operator of the facility or tank or, if the owner or operator is unknown, dissolved or insolvent, by the current owner of the property where the facility or tank is located. All abandoned facilities and tanks must be removed, except where removal is not physically possible or practicable because the tank or other component of the facility to be removed is:

- A. Located beneath a building or other permanent structure;
- B. Of a size and type of construction that it cannot be removed;
- C. Otherwise inaccessible to heavy equipment necessary for removal; or
- D. Positioned in such a manner that removal will endanger the structural integrity of nearby tanks.

**Sec. 3. 38 MRSA §566-A, sub-§1-A,** as amended by PL 2009, c. 501, §8, is further amended to read:

**1-A. Abandoned tanks brought back into service.** Underground oil storage tanks and facilities that have been out of service for a period of more than ~~12~~ 24 months may not be brought back into service without the written approval of the commissioner. The commissioner may approve the return to service if the owner demonstrates to the commissioner's satisfaction that:

- A. The facility is in compliance with this subchapter and rules adopted pursuant to this subchapter;
- B. The underground oil storage tanks and piping have successfully passed testing as directed by the commissioner;
- C. The underground oil storage tanks and piping are constructed of fiberglass, cathodically protected steel or other equally noncorrosive material approved by the commissioner;
- D. The facility has conforming suction or double-walled pressurized piping; and
- E. The return of the facility to service does not pose an unacceptable risk to groundwater resources. In determining if the facility poses an unacceptable risk to groundwater resources, the

commissioner may consider the age and maintenance history of the storage tanks and piping, the number and consequences of 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.

The commissioner may not approve the return to service of a single-walled underground oil storage tank that has been out of service for more than ~~12~~ 24 consecutive months.

**Sec. 4. Report to the Fund Insurance Review Board.** By October 1, 2015, the Department of Environmental Protection shall report to the Fund Insurance Review Board, under the Maine Revised Statutes, Title 38, section 568-B, data and associated information related to all incidents of leaks or spills resulting from the exception to the required replacement of underground oil storage tanks upon the expiration of a manufacturer's warranty for double-walled underground oil storage tanks pursuant to Title 38, section 564, subsection 5.

**Sec. 5. Rulemaking.** The Department of Environmental Protection shall amend its rules in accordance with the Maine Revised Statutes, Title 5, chapter 375 to allow the retrofitting of single-walled underground storage tanks with secondary containment systems prior to the expiration of the tank manufacturer's warranty and to allow the upgrading of related piping. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

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## CHAPTER 277

### S.P. 231 - L.D. 793

#### An Act To Protect Ratepayers While Enhancing Energy Independence and Security

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

**Sec. 1. 38 MRSA §580-A, sub-§18-B** is enacted to read:

**18-B. Other independent system operator participating states.** "Other independent system operator participating states" means the following states participating in the regional greenhouse gas initiative as of January 1, 2011 that are located within the New England independent system operator control area: Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont.

**Sec. 2. 38 MRSA §580-B, sub-§2-A** is enacted to read: