

§563-A. Prohibition of nonconforming underground oil storage facilities and tanks

1. Compliance schedule. Except as provided in subsections 1-A and 1-B, a person may not operate, maintain or store oil in a registered underground oil storage facility or tank that is not constructed of fiberglass, cathodically protected steel or other noncorrosive material approved by the department after:

A. October 1, 1989, if that facility or tank is more than 15 years old and is located in a sensitive geological area; [PL 1991, c. 66, Pt. B, §2 (RPR).]

B. October 1, 1991, if that facility or tank is more than 25 years old or if that facility or tank is more than 15 years old and is located in a sensitive geological area; [PL 1991, c. 66, Pt. B, §2 (RPR).]

C. October 1, 1994, if that facility or tank is more than 20 years old or if that facility or tank is more than 15 years old and is located in a sensitive geological area; and [PL 1991, c. 66, Pt. B, §2 (RPR).]

D. October 1, 1997. [PL 1991, c. 66, Pt. B, §2 (RPR).]
[PL 1991, c. 66, Pt. B, §2 (RPR).]

1-A. Compliance schedule for municipalities and school administrative units. A municipality or school administrative unit may not operate, maintain or store oil in a registered underground oil storage facility or tank that is not constructed of fiberglass, cathodically protected steel or other noncorrosive material approved by the department after:

A. October 1, 1993, if that facility or tank is more than 25 years old or if that facility or tank is more than 15 years old and is located in a sensitive geological area; [PL 1991, c. 9, Pt. II, §6 (RPR).]

B. October 1, 1995, if that facility or tank is more than 20 years old or if that facility or tank is 15 years old and is located in a sensitive geological area; or [PL 1991, c. 9, Pt. II, §6 (RPR).]

C. October 1, 1998. [PL 1991, c. 9, Pt. II, §6 (RPR).]
[PL 1991, c. 9, Pt. II, §6 (RPR).]

1-B. Exception. Airport aviation fuel hydrant piping systems are exempt from the schedule in subsection 1 provided that corrosion-induced leaks have not occurred and the system is not located in a sensitive geologic area. Owners and operators of airport aviation fuel hydrant piping systems must meet all applicable requirements of section 564 and of this subchapter.
[PL 1991, c. 9, Pt. II, §7 (NEW).]

1-C. Extension. The removal requirement for an underground oil storage tank or facility prescribed in subsection 1 is extended 12 months if, prior to the removal date prescribed in subsection 1, a person required to remove an underground oil storage facility or tank:

A. Can not secure financing for that removal as evidenced by 3 letters from financial institutions; or [PL 1991, c. 433, §1 (NEW).]

B. Can not obtain the services of a certified underground oil storage tank installer or remover required under section 566-A as evidenced by 3 letters from certified underground oil storage tank installers or removers. [PL 1991, c. 433, §1 (NEW).]

[PL 1991, c. 433, §1 (NEW).]

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.

[PL 2001, c. 231, §18 (NEW).]

2. Consideration of sensitive geological areas. For the purposes of this section, an underground oil storage facility is not subject to subsection 1, paragraph A, regarding sensitive geological areas if the commissioner finds that:

A. The applicant has demonstrated that:

- (1) The facility is located in a municipality with a population of more than 10,000;
- (2) All persons within 500 feet of the facility are served by a public drinking water supply;
- (3) The facility is not located within 2,000 feet of any source of supply of a public drinking water supply system; and
- (4) The facility is not located within 300 feet of any source of supply of a private drinking water supply system. [PL 1987, c. 491, §10 (NEW).]

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §136 (AMD).]

3. Violations. After reasonable notice and hearing, if the commissioner finds that an owner of an underground oil storage facility has failed to correct any violations of this subchapter, the commissioner may impose on the owner a schedule that provides for the early application of any or all of the prohibitions contained in subsection 1.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §136 (AMD).]

4. Presumption of age. If the age of the underground oil storage facility or tank cannot be determined, it shall be presumed to be 20 years old as of October 1, 1989.

[PL 1987, c. 491, §10 (NEW).]

5. Abandonment. All underground oil storage facilities subject to the prohibitions in this section and section 563, subsection 1, shall be properly abandoned in accordance with section 566-A prior to the applicable prohibition dates.

[PL 1987, c. 491, §10 (NEW).]

6. Rules. The board may adopt rules necessary to administer this section.

[PL 1987, c. 491, §10 (NEW).]

7. Report to Legislature. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over natural resources on or before January 1, 1989, on the progress made toward achieving the compliance schedule established by this section.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §136 (AMD).]

8. Repaired concrete underground oil storage tanks. The requirements of subsection 1 do not apply to underground oil storage tanks that are constructed primarily of concrete and that:

- A. Exceed 100,000 gallons in capacity; [PL 1991, c. 494, §2 (NEW).]
- B. Have been repaired after December 31, 1988; [PL 1991, c. 494, §2 (NEW).]
- C. Have environmental monitoring and other leak detection procedures approved by the commissioner, including monthly visual monitoring for oil and monthly visual inspection of the tank piping; and [PL 1999, c. 640, §1 (AMD).]
- D. Store only #6 fuel oil. [PL 1997, c. 167, §1 (AMD).]

After July 1, 2002 or after a documented leak or subsurface discharge of oil, a person may not operate, maintain or store oil in a concrete underground oil storage facility or tank exempt under this subsection. An owner or operator of a concrete underground oil storage tank exempt under this subsection is not

eligible for coverage from the fund of clean-up costs and 3rd-party damage claim costs under section 568-A for any discharge discovered at that tank after October 1, 1997.

[PL 1999, c. 640, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 491, §10 (NEW). PL 1989, c. 865, §8 (AMD). PL 1989, c. 890, §§A40,B136 (AMD). PL 1989, c. 926, §§2,3 (AMD). PL 1991, c. 9, §§II6,7 (AMD). PL 1991, c. 66, §B2 (AMD). PL 1991, c. 433, §1 (AMD). PL 1991, c. 494, §2 (AMD). PL 1997, c. 167, §1 (AMD). PL 1999, c. 640, §1 (AMD). PL 2001, c. 231, §18 (AMD).

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