

§562-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 865, §2 (NEW).]

1. Ancillary equipment. "Ancillary equipment" means devices including, but not limited to, piping, fittings, flanges, valves and pumps used to distribute, meter or control the flow of oil to an underground storage tank.

[PL 1989, c. 865, §2 (NEW).]

1-A. Aboveground oil storage facility. "Aboveground oil storage facility" means any aboveground oil storage tank or tanks, together with associated piping, transfer and dispensing facilities located over land or water of the State at a single location for more than 4 months per year and used or intended to be used for the storage or supply of oil. Oil terminal facilities, as defined in section 542, subsection 7 and propane facilities are not included in this definition and are not eligible for coverage by the fund.

[PL 2009, c. 319, §1 (AMD).]

1-B. Aboveground oil storage tank. "Aboveground oil storage tank" also referred to as a "tank" means any aboveground container, less than 10% of the capacity of which is beneath the surface of the ground, that is used or intended to be used for the storage or supply of oil. Included in this definition are any tanks situated upon or above the surface of a floor and in such a manner that they may be readily inspected. Drums or other storage containers that have a capacity of 60 gallons or less and oil-containing electrical equipment are not included in this definition.

[PL 2007, c. 569, §2 (AMD).]

2. Applicant. "Applicant" means the owner or operator of an underground oil storage facility or an aboveground oil storage facility that has suffered a discharge of oil and who is seeking coverage of eligible clean-up costs and 3rd-party damage claims from the fund.

[PL 1995, c. 361, §1 (AMD).]

3. Barrel. "Barrel" means 42 United States gallons at 60° Fahrenheit.

[PL 1989, c. 865, §2 (NEW).]

4. Cathodic protection tester. "Cathodic protection tester" means an underground storage tank installer certified by the Maine Board of Underground Storage Tank Installers or a person certified by the commissioner pursuant to section 567-A.

[PL 1989, c. 865, §2 (NEW).]

4-A. Clean-up and Response Fund Review Board. "Clean-up and Response Fund Review Board" or "review board" means the board created in section 568-B.

[PL 2015, c. 319, §18 (NEW).]

5. Corrosion expert. "Corrosion expert" means a person who is certified by the commissioner pursuant to section 567-A, as qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks.

[PL 1989, c. 865, §2 (NEW).]

6. Discharge. "Discharge" means any spilling, leaking, pumping, pouring, emitting, escaping, emptying or dumping.

[PL 1989, c. 865, §2 (NEW).]

7. Double-walled tank. "Double-walled tank" means an underground oil storage tank providing no less than 300' secondary containment, interstitial space monitoring and secondary containment for pressurized product delivery pipe connections.

[PL 1989, c. 865, §2 (NEW).]

7-A. Eligible clean-up costs. "Eligible clean-up costs" means those direct expenses including expenses for site investigation that:

- A. Are necessary to clean up discharges of oil to the satisfaction of the commissioner; [PL 1995, c. 361, §2 (NEW).]
- B. Are cost-effective and technologically feasible and reliable; [PL 1995, c. 361, §2 (NEW).]
- C. Effectively mitigate or minimize damages; and [PL 1995, c. 361, §2 (NEW).]
- D. Provide adequate protection of the public health and welfare and the environment. [PL 1995, c. 361, §2 (NEW).]

"Eligible clean-up costs" does not include expenses for legal advice or services.
[PL 1995, c. 361, §2 (NEW).]

8. Existing underground oil storage facility or existing underground oil storage tank. "Existing underground oil storage facility" or "existing underground oil storage tank" means any facility or tank, as defined in subsections 21 and 22, fully installed as of April 19, 1990, the location of which has not changed.

[PL 1991, c. 494, §1 (AMD).]

9. Fund. "Fund" means the Maine Ground and Surface Waters Clean-up and Response Fund.
[PL 2015, c. 319, §19 (AMD).]

9-A. Fund Insurance Review Board.
[PL 2015, c. 319, §20 (RP).]

10. Gasoline. "Gasoline" means a volatile, highly flammable liquid with a flashpoint of less than 100° Fahrenheit obtained from the fractional distillation of petroleum.

[PL 1989, c. 865, §2 (NEW).]

11. Heavy oil. "Heavy oil" means forms of oil that must be heated during storage, including, but not limited to, #5 and #6 oils.

[PL 1989, c. 865, §2 (NEW).]

12. Leak. "Leak" means a loss or gain of 0.1 gallons or more per hour at a pressure of 4 pounds per square inch gauge, as determined by a precision test or other tank and piping tightness test of similar precision approved by the department.

[PL 1989, c. 865, §2 (NEW).]

13. Motor fuel. "Motor fuel" means oil that is motor gasoline, aviation gasoline, #1 or #2 diesel fuel or any grade of gasohol typically used in the operation of a vehicle or motor engine.

[PL 1989, c. 865, §2 (NEW).]

14. Occurrence. "Occurrence" means a contamination incident or prohibited discharge associated with one or more tanks or piping at an underground oil storage facility or an aboveground oil storage facility within one year.

[PL 1993, c. 363, §5 (AMD); PL 1993, c. 363, §21 (AFF).]

15. Oil. "Oil" means oil, oil additives, petroleum products and their by-products of any kind and in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other nonhazardous waste, crude oils and all other liquid hydrocarbons regardless of specific gravity. "Oil" does not include liquid natural gas.

[PL 2011, c. 206, §13 (AMD).]

15-A. Oil storage facility or facility. "Oil storage facility" or "facility" means an aboveground oil storage facility or an underground oil storage facility.

[PL 2009, c. 319, §2 (NEW).]

15-B. Operator. "Operator" means a person in control of, or having responsibility for, the daily operation of an oil storage facility.

[PL 2009, c. 319, §3 (NEW).]

16. Person. "Person" means any natural person, firm, association, partnership, corporation, trust, the State and any agency of the State, governmental entity, quasi-governmental entity, the United States and any agency of the United States and any other legal entity.

[PL 1989, c. 865, §2 (NEW).]

16-A. Public drinking water supply. "Public drinking water supply" has the same meaning as "public water system" in Title 22, section 2601, subsection 8. For purposes of defining a sensitive geologic area in this subchapter, an underground oil storage facility's water supply that meets the criteria of Title 22, section 2601, subsection 8 solely because beverages for public sale or consumption are made at that facility is not considered a public drinking water supply.

[PL 1991, c. 763, §1 (NEW).]

16-B. Primary sand and gravel recharge area. "Primary sand and gravel recharge area" means the surface area directly overlying sand and gravel formations that provides direct replenishment of ground water in sand and gravel and fractured bedrock aquifers. The term does not include areas overlying formations that have been identified as unsaturated and are not contiguous with saturated formations.

[PL 1993, c. 383, §30 (NEW).]

17. Responsible party. "Responsible party" means any one or more of the following persons:

A. The owner or operator of the underground oil storage facility where a prohibited discharge has occurred; [PL 1989, c. 865, §2 (NEW).]

B. The person to whom the underground oil storage facility is registered where a prohibited discharge has occurred; [PL 1989, c. 865, §2 (NEW).]

C. Any person other than those identified in paragraph A or B who caused the prohibited discharge of oil or who had custody or control of the oil at the time of the prohibited discharge; [PL 1993, c. 363, §6 (AMD); PL 1993, c. 363, §21 (AFF).]

D. Any person who owned or operated the underground oil storage facility from the time any oil arrived at that facility; or [PL 1993, c. 363, §6 (AMD); PL 1993, c. 363, §21 (AFF).]

E. With regard to sections 551, 568, 568-A and 570, persons described in paragraphs A to D with regard to aboveground oil storage facilities. [PL 2015, c. 319, §21 (AMD).]

[PL 2015, c. 319, §21 (AMD).]

18. Secondary containment. "Secondary containment" means a system installed so that any material that is discharged or has leaked from the primary containment is prevented from reaching the soil or ground water outside the system for the anticipated period of time necessary to detect and recover the discharged material. That system may include, but is not limited to, impervious liners compatible to the products stored, double-walled tanks or any other method approved by the department that is technically feasible and effective.

[PL 1989, c. 865, §2 (NEW).]

19. Sensitive geologic areas. "Sensitive geologic areas" means significant ground water aquifers and primary sand and gravel recharge areas, as defined in this section, areas located within 1,000 feet of a public drinking water supply and areas located within 300 feet of a private drinking water supply.

[PL 1993, c. 383, §31 (AMD).]

19-A. Significant ground water aquifer. "Significant ground water aquifer" means a porous formation of ice contact and glacial outwash sand and gravel or fractured bedrock that contains significant recoverable quantities of water likely to provide drinking water supplies.

[PL 1993, c. 383, §32 (NEW).]

20. Underground gasoline storage tank. "Underground gasoline storage tank" means a single tank or container, 10% or more of which is underground, together with associated piping and dispensing facilities and that is used, or intended to be used, for the storage or supply of gasoline. The term does not include multiple tanks or containers that are situated on or above the surface of a floor and in such a manner that they may be readily inspected. An underground gasoline storage tank is a type of underground oil storage facility.

[PL 1989, c. 865, §2 (NEW).]

21. Underground oil storage facility. "Underground oil storage facility" means any underground oil storage tank or tanks, as defined in subsection 22, together with associated piping and dispensing facilities located under any land at a single location and used, or intended to be used, for the storage or supply of oil, as defined in this subchapter. Underground oil storage facility also includes piping located under any land at a single location associated with above ground storage tanks and containing 10% or more of the facility's overall volume capacity.

[PL 2009, c. 319, §4 (AMD).]

22. Underground oil storage tank. "Underground oil storage tank," also referred to as "tank," means any container, 10% or more of which is beneath the surface of the ground and that is used, or intended to be used, for the storage, use, treatment, collection, capture or supply of oil as defined in this subchapter, but does not include any tanks situated in an underground area if these tanks or containers are situated on or above the surface of a floor and in such a manner that they may be readily inspected.

[PL 1989, c. 865, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 865, §2 (NEW). PL 1991, c. 494, §1 (AMD). PL 1991, c. 763, §1 (AMD). PL 1993, c. 363, §§2-7 (AMD). PL 1993, c. 363, §21 (AFF). PL 1993, c. 383, §§30-32 (AMD). PL 1995, c. 361, §§1-3 (AMD). PL 2007, c. 569, §2 (AMD). PL 2007, c. 655, §3 (AMD). PL 2009, c. 319, §§1-4 (AMD). PL 2011, c. 206, §13 (AMD). PL 2015, c. 319, §§18-21 (AMD).

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