

§564. Regulation of underground oil storage facilities used to store motor fuels or used in the marketing and distribution of oil

The department shall adopt rules necessary to minimize, to the extent practicable, the potential for discharges of oil from underground oil storage facilities and tanks used to store motor fuel or used in the marketing and distribution of oil to others. These rules must ensure that requirements and standards governing facilities under this section assure that the State's program meets requirements under the United States Resource Conservation and Recovery Act of 1976, Subtitle I, as amended. These rules are limited to the following requirements. [PL 2017, c. 333, §3 (AMD).]

1. Design and installation standards for new and replacement facilities. Design and installation standards for new and replacement facilities are as follows.

A. All new and replacement tanks, piping and below ground ancillary equipment must be constructed of fiberglass, cathodically protected steel or other equally noncorrosive material approved by the department. All new and replacement tanks must include secondary containment, continuous monitoring of the interstitial spaces for all piping and below ground ancillary equipment except for suction piping systems installed in accordance with subsection 1-A. Both tanks and piping must be constructed of materials compatible with the product to be stored. Anchoring is required of tanks when located in a site where the ground water is expected to reach the bottom of the tank or in a 100-year flood plain. [PL 1991, c. 494, §3 (AMD).]

B. All new and replacement facilities must be installed in accordance with the equipment manufacturer's specifications and nationally accepted standards and by an underground oil storage tank installer who has been properly certified pursuant to Title 32, chapter 104-A, and must be registered with the commissioner prior to installation pursuant to section 563. Underground gasoline storage tanks may be removed by an underground gasoline storage tank remover who has been properly certified pursuant to Title 32, chapter 104-A. New and replacement impressed current cathodic protection systems must be designed by a corrosion expert. [PL 1991, c. 66, Pt. B, §3 (RPR).]

C. [PL 1989, c. 865, §10 (RP).]

D. [PL 1989, c. 865, §10 (RP).]
[PL 1991, c. 494, §3 (AMD).]

1-A. Leak detection standards and procedures for existing facilities. Facility owners shall implement one of the leak detection methods listed in this subsection or properly abandon a facility in accordance with section 566-A. The leak detection system must be capable of detecting a leak within 30 days with a probability of detection of 95%. Facility owners shall retrofit leak detection for facilities with pressurized piping by December 1, 1990, and facilities with suction piping by December 1, 1991. Leak detection methods are as follows:

A. Monthly statistical inventory reconciliation of daily product inventory data by an independent vendor using procedures approved by the United States Environmental Protection Agency. Pressurized piping must be retrofitted with an automated in-line leak detector; or [PL 2017, c. 333, §4 (AMD).]

B. Installation of one of the following leak detection systems:

(1) Secondary containment of all underground oil storage facility components or secondary containment for the tank and single-walled containment for suction piping sloped evenly to the tank and equipped with a single check valve under the pump;

(5) Automatic tank gauging that can detect a 0.2 gallon per hour loss, and to detect a leak or discharge of oil from product piping not installed in accordance with subparagraph (1), one of the following:

- (a) Continuous vapor monitoring;
 - (b) Annual tightness testing;
 - (c) Secondary containment with interstitial space monitoring; or
 - (d) Other methods of leak detection approved by the department; or
- (6) Other leak detection systems approved by the department that can detect a 0.2 gallon per hour leak rate or a leak of 150 gallons in 30 days with a 95% probability of detecting a leak and a 5% chance of false alarm. [PL 2017, c. 333, §4 (AMD).]

Existing piping must be equipped with leak detection. Pressurized piping must be equipped with an automated in-line leak detector and be monitored by a leak detection system listed in paragraph A or B. Suction piping must be installed to operate at less than atmospheric pressure, sloped to drain back into the tank with a loss of suction and installed with only one check valve located below and as close as practical to the suction pump. Product piping that does not meet these suction piping criteria must be monitored by a leak detection system listed in paragraph B.
[PL 2017, c. 333, §4 (AMD).]

1-B. Overfill and spill prevention equipment. Overfill and spill prevention equipment is required for all new, replacement and existing facilities. A phase-in schedule for existing facilities to meet this requirement is as follows.

A. Overfill and spill prevention equipment must be installed in new and replacement underground oil storage tanks at the time the underground oil storage tank is installed. [PL 1991, c. 763, §4 (NEW).]

B. Overfill and spill prevention equipment must be retrofitted on existing tanks constructed of cathodically protected steel, fiberglass or other noncorrosive material approved by the department by December 22, 1998, pursuant to 40 Code of Federal Regulations, 280.20 and 280.21. [PL 1991, c. 763, §4 (NEW).]

[PL 1991, c. 763, §4 (AMD).]

2. Monitoring, maintenance and operating procedures for existing, new and replacement facilities and tanks.

[PL 1991, c. 66, Pt. B, §4 (RP).]

2-A. Monitoring, maintenance and operating procedures for existing, new and replacement facilities and tanks. The department's rules must require:

A. Collection of inventory data for each day that oil is being added to or withdrawn from the facility or tank, reconciliation of the data, with monthly summaries, and retention of records containing all such data for a period of at least 3 years either at the facility or at the facility owner's place of business; [PL 1991, c. 66, Pt. B, §5 (NEW).]

B. Monthly statistical inventory reconciliation, the results of which must be reported to the commissioner. Monthly statistical inventory reconciliation is not required for double-walled tanks equipped with interstitial space monitors; [PL 2017, c. 333, §5 (AMD).]

C. Voltage readings for cathodically protected systems by a cathodic protection tester 6 months after installation and annually thereafter; [PL 1991, c. 66, Pt. B, §5 (NEW).]

D. Monthly inspections by a cathodic protection tester of the rectifier meter on impressed current systems; [PL 1991, c. 66, Pt. B, §5 (NEW).]

E. Precision testing of any tanks and piping showing evidence of a possible leak. Results of all tests conducted must be submitted to the commissioner by the facility owner and the person who conducted the test; [PL 1991, c. 66, Pt. B, §5 (NEW).]

F. Proper calibration, operation and maintenance of leak detection devices; [PL 1991, c. 66, Pt. B, §5 (NEW).]

G. Evidence of financial responsibility for taking corrective action and for compensating 3rd parties for bodily injury and property damage caused by sudden and nonsudden accidental discharges from an underground oil storage facility or tank; [PL 1991, c. 66, Pt. B, §5 (NEW).]

H. Reporting to the commissioner any of the following indications of a possible leak or discharge of oil:

- (1) Unexplained differences in daily inventory reconciliation values that, over a 30-day period, exceed 1.0% of the product throughput;
- (2) Unexplained losses detected through statistical reconciliation of inventory records;
- (3) Detection of product in a monitoring well or by other leak detection methods;
- (4) Failure of a tank or piping precision test, hydrostatic test or other tank or piping tightness test approved by the department; and
- (5) Discovery of oil on or under the premises or abutting properties, including nearby utility conduits, sewer lines, buildings, drinking water supplies and soil.

The rules may not require the reporting of a leak or discharge of oil above ground of 10 gallons or less that occurs on the premises, including, but not limited to, spills, overfills and leaks, when those leaks or discharges do not reach groundwaters or surface waters of the State and are cleaned up within 24 hours of discovery, if a written log is maintained at the facility or the owner's place of business in this State. For each discharge the log must record the date of discovery, its source, the general location of the discharge at the facility, the date and method of cleanup and the signature of the facility owner or operator certifying the accuracy of the log; [PL 2017, c. 333, §5 (AMD).]

I. Compatibility of the materials from which the facility is constructed and the product to be stored; [PL 1991, c. 66, Pt. B, §5 (NEW).]

J. Owners and operators, upon request by the commissioner, to sample their underground oil tanks, to maintain records of all monitoring and sampling results at the facility or the facility owner's place of business and to furnish records of all monitoring and sampling results to the commissioner and to permit the commissioner or the commissioner's representative to inspect and copy those records; [PL 2009, c. 319, §5 (AMD).]

K. Owners and operators to permit the commissioner or the commissioner's designated representatives, including contractors, access to all underground oil storage facilities for all purposes connected with administering this subchapter, including, but not limited to, for sampling the contents of underground oil tanks and monitoring wells. This right of access is in addition to any other granted by law; and [PL 2009, c. 319, §6 (AMD).]

L. Operators to complete a department training program that meets the minimum requirements specified by the United States Environmental Protection Agency under 42 United States Code, Section 6991i (2007). The training program must provide certification for the successful completion of the program, which must be renewed every 2 years. Training may be provided by a 3rd party if approved by the department. [PL 2011, c. 317, §1 (AMD).]

The requirements in paragraphs A and B do not apply to the following tanks as long as the associated piping has secondary containment or a suction pump product delivery system or another leak detection system approved by the commissioner and as long as the tank and associated piping have been installed and are operated in accordance with the requirements of this subchapter, including rules adopted under this subchapter: tanks providing product to a generator; double-walled tanks with continuous interstitial space monitoring; and existing tanks constructed of fiberglass, cathodically protected steel or another

commissioner-approved noncorrosive material that are monitored for a leak by a method able to detect a product loss or gain of 0.2 gallons or less per hour.

[PL 2017, c. 333, §5 (AMD).]

3. Replacement of tanks at facilities where leaks have been detected.

[PL 2003, c. 551, §13 (RP).]

4. Sampling of monitoring wells. When a monitoring well is installed at an underground oil storage facility storing motor fuel or used for the marketing and distribution of oil, the owner or operator is required to sample that well at least weekly; to maintain records of all sampling results at the facility or at the facility owner's place of business; and to report to the commissioner any sampling results showing evidence of a possible leak or discharge of oil.

[PL 1991, c. 66, Pt. B, §7 (RPR).]

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 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 [PL 2011, c. 276, §1 (NEW).]

B. Beginning in the 5th year 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. [PL 2023, c. 16, §1 (AMD).]

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.

[PL 2023, c. 16, §1 (AMD).]

6. Retrofit of existing underground tanks. The department's rules must allow a person to retrofit a single-walled underground oil storage tank with secondary containment as long as the retrofitted tank complies with Underwriters Laboratories Subject 1316 or 1856 and interstitial monitoring of the retrofitted tank is equal to or greater than interstitial monitoring of a new tank. The department shall require a site assessment of an underground oil storage facility when a tank is retrofitted in accordance with this subsection.

[PL 2017, c. 333, §6 (AMD).]

SECTION HISTORY

PL 1985, c. 496, §A14 (NEW). PL 1985, c. 626, §§3,4 (AMD). PL 1987, c. 402, §A200 (AMD). PL 1987, c. 491, §11 (AMD). PL 1989, c. 312, §17 (AMD). PL 1989, c. 593, §1 (AMD). PL 1989, c. 865, §10 (AMD). PL 1989, c. 890, §§A40,B137-141 (AMD). PL 1991, c. 66, §§B3-7 (AMD). PL 1991, c. 494, §§3-6 (AMD). PL 1991, c. 763, §§4,5 (AMD). PL 1993, c. 355, §14 (AMD). PL 1993, c. 732, §§A2,3 (AMD). PL 1995, c. 493, §10 (AMD). PL 1997, c. 624, §3 (AMD). PL 2003, c. 551, §§11-13 (AMD). PL 2009, c. 319, §§5-7 (AMD). PL 2011, c. 276, §1 (AMD). PL 2011, c. 317, §1 (AMD). PL 2015, c. 361, §1 (AMD). PL 2017, c. 333, §§3-6 (AMD). PL 2023, c. 16, §1 (AMD).

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