Chapter 3: CERTIFICATION OF UNDERGROUND OIL TANK INSTALLERS

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Chapter 3: CERTIFICATION OF UNDERGROUND OIL TANK INSTALLERS

**SUMMARY**: This chapter establishes a certification program for underground oil tank installers. It describes the initial examination process, states apprenticeship requirements, and grants authority for final examinations. In addition, it provides status to individuals certified prior to the adoption of these rules, establishes a mechanism for upgrading certificates, granting reciprocity, renewing and issuing certificates, and certifying employees of the Department of Environmental Protection.

**1. Authority for Installers.** An underground oil storage tank installer may install or remove any type of underground oil storage tank, with the exception of field‑constructed storage or impressed‑current cathodically‑protected tanks.

**2. Application.** An applicant applying for certification as an underground oil storage tank installer shall file a written application on a form which is approved by the Board, showing to the Board that he or she meets the following requirements:

**A. Individual.** An applicant must be an individual. Businesses or corporations may not be certified.

**B. Residence.** An applicant need not be a resident of this State.

**C. Character.** An applicant shall have demonstrated ethical practice. Such demonstration shall consist of providing to the Board written statements from three (3) personal references and three (3) business references attesting to the applicant's ethical practice. In addition, the Board may conduct a police check and checks with its own records, other certification or licensing boards with which the applicant is registered, and any other government agencies reasonably thought to have relevant information to confirm an absence of violations of Federal, State or local laws and regulations relating to the applicant's installation in an ethical and competent manner.

**D. Experience.** An applicant shall provide the Board with a listing of his or her experience directly involving underground oil storage tank installation and removal.

**E. Payment of Fee.** At the time of application, the applicant shall remit a nonrefundable $200 fee, which includes application costs, initial examination costs, and initial apprenticeship registration, except that no fee shall be charged to persons holding Master Oil Burner Technician Licenses.

**3. Initial Examination**

**A. Written Examination.** All applicants for certification as underground oil tank installers, except those for whom the written test has been substituted by an oral examination pursuant to subsection (B) of this section, shall pass a written examination testing the applicant's knowledge of the requirements of 38 M.R.S. Section 561, *et seq*., any rules promulgated thereunder by the Board of Environmental Protection concerning the installation and removal of underground oil storage tanks, any relevant rules promulgated by the U.S. Environmental Protection Agency covering installation and removal of underground oil storage tanks, the practical skills relating to underground oil storage tank installation and removal, and other subjects as the Board requires to determine the applicant's fitness to practice. Written examinations shall consist of one hundred (100) multiple‑choice questions approved by the Board. Scores of 80% or higher shall be considered passing. Written examinations shall be given at least twice each year at such places as the Board determines, and supervised by one or more of the following: a member of the Board, a member of the staff, or a certified employee of the Department. All persons submitting completed applications since the date of the previous written examination shall be notified by mail at least fourteen (14) days in advance of the time and place of the examination. A person who fails the written examination may apply for re‑examination upon payment of the prescribed fee stated in section 2 of this chapter. The Board shall also establish a packet of materials to assist applicants in studying for the written examination. Such packets shall be furnished to applicants upon request.

**B. Oral Examination.** Only applicants who demonstrate to the Board that the written examination would not provide an equitable test of their underground oil storage tank installation knowledge can take the oral examination. The circumstances under which the Board will consider substituting an oral examination for the written examination include but are not limited to physical disability or where English is not the applicant's first language. Such oral examination will test the applicant's knowledge of the requirements of 38 M.R.S. Section 561, *et seq*., any rules promulgated thereunder by the Board of Environmental Protection concerning the installation and removal of underground oil storage tanks, any relevant rules promulgated by the U.S. Environmental Agency concerning installation and removal of underground oil storage tanks, the practical skills relating to underground oil storage tank installation and removal, and other subjects as the Board requires to determine the applicant's fitness to practice. Such examination shall be scheduled and located by mutual consent between the qualified applicant and the Board. The oral examination shall be administered by at least one member of the Board. The test shall consist of one hundred (100) multiple‑choice questions identical to those developed for the written examination (Subsection A of this section), and a score of 80% or better shall be considered passing. A person who fails the oral examination may apply for re‑examination upon payment of the prescribed fee stated in section 2 of this chapter.

**C. Scores; review.** Applicants will be sent written notification by regular mail of their scores within ten (10) business days of their completion of the examination. At their request, applicants will be provided the opportunity to review the questions they answered incorrectly along with the correct answers. That review will be accomplished by appointment at the Board’s offices. Examination questions may not be retained or copied by the applicant. No other person may review an applicant’s examination.

**4. Apprenticeship**

**A. Basic Requirements.** An applicant for certification as an underground oil storage tank installer must meet the following apprenticeship requirements before being certified. Apprenticeship is initiated only after the applicant successfully completed requirements of sections 2 and 3 of this chapter.

**B. Detailed Requirements.** No more than three years after passing the initial examination, an apprentice must accumulate a total of 1,000 experience points based on projects in Maine where he or she substantially assists a Maine certified installer. Points are accumulated for both mandatory and elective projects.

(1) **Mandatory Projects**. An apprentice must assist on the following projects, and will be granted experience points on the following schedule:

(a) Installation of an UST motor fuel facility with pressurized piping, secondary containment, and continuous interstitial monitoring for both tanks and piping – 300 points. At least one installation is required, but additional installations will be credited towards the apprentice’s point total; and

(b) Removal of one or more gasoline tanks at a motor fuel facility – 100 points. One removal is required, and points will be earned for only one project.

(2) **Elective Projects**. An apprentice may accumulate points for substantially assisting on the following projects, with no limit on the number of similar projects credited:

(a) Installation of an UST motor fuel facility with secondary containment and continuous interstitial monitoring for the tank and suction piping in conformance with 06-096 CMR c. 691 Section 5.B(2)(d) and Appendix E, para. 9 – 150 points;

(b) Installation of a heating oil facility for the on-site consumption of number 2 oil, including secondary containment and continuous interstitial monitoring for tanks and piping – 150 points;

(c) Underground piping upgrade at underground or above-ground tank facility – 100 points;

(d) Installation of a heavy oil underground storage facility with secondary containment and continuous interstitial space monitoring for tanks and piping as well as heating capability for the oil – 200 points;

(e) Prior certification as an underground storage tank inspector pursuant to 06‑481 CMR Chapter 6 – 100 points; and

(f) Retrofit of galvanic cathodic protection – 50 points.

**C. Documentation Required.** In order to meet apprenticeship requirements specified in subsection A of this section, the apprentice must file a notarized statement that is certified by the installer responsible for each installation or removal for which the apprentice wishes to document their participation, along with a copy of the registration form for the installation filed with the Department pursuant to 06-096 CMR Chapter 691 Section 4 or the notice of intent for abandonment filed pursuant to 06-096 CMR Section 11.E. The installer responsible for each installation or removal must certify the following:

(1) The dates of the installation or removal;

(2) The nature of the apprentice's involvement; and

(3) The registration number assigned by the Department.

Such certification must be filed within forty‑five (45) days of completion of the installation or removal.

**D. Fees.** The fee assessed pursuant to section 2 of this chapter includes in part, one year's registration as an apprentice. An applicant may re‑register annually for subsequent years as an apprentice for a charge of $150.00, due prior to the expiration of his or her registration as an apprentice. The applicant can be re‑registered as an apprentice for up to thirty (30) days after expiration of his or her apprenticeship upon payment of an additional ten dollar ($10) late fee.

**E. Variance.** An applicant may apply to the Board for a variance ofthe apprenticeship requirements as set forth in sections 4A to 4C. An applicant may also apply for a variance from a portion of these requirements. The Board shall issue such a variance provided the Board finds the applicant has demonstrated training and experience comparable to completion of an apprenticeship by meeting the requirements below:

(1) The applicant satisfactorily demonstrates the training and experience required by:

 (a) Successful completion of the initial examination as required in section 3 of this rule prior to undertaking installations and removals to be included in the variance application;

 (b) Demonstrating ethical practice in accordance with the requirements of section 2.C of this rule;

 (c) Submitting satisfactory evidence demonstrating that the applicant proficiently performed or substantially assisted on at least as many installations and removals as required by subsection B of this section. These installations and removals shall be completed outside Maine within 3 years of passing the initial examination and in a jurisdiction where technical standards for underground oil storage facility regulations are at least as stringent as 06-096 CMR Chapter 691. The applicant must file a notarized statement that is certified by the installer responsible for each installation or removal for which the applicant wishes to document their participation;

 (d) Submitting the installation and removal requirements of the underground storage facility regulations in the state in which the work was performed; and

(e) Providing the Board with current copies of equipment manufactures’’ training certifications for the installation of tanks, piping, sumps, leak detection systems, and overfill prevention equipment.

(2) The applicant has remitted a nonrefundable fee of $200 for processing the variance request.

(3) The Board will provide the applicant with the opportunity to appear before the Board to demonstrate training and experience comparable to the completion of an apprenticeship.

**5. Final Examination**

**A. Written Examination.** All applicants qualified for final examination pursuant to these rules for certification by virtue of having completed requirements of sections 2‑4 of this chapter, except those for whom the written test has been substituted by an oral examination pursuant to subsection (B) of this section, shall pass a written examination testing the applicant's knowledge of the legal and technical requirements specific to the class for which the applicant is applying. All written final examinations as well as acceptable passing scores, will be approved by the Board prior to their administration. Written examinations shall be given at least twice each year at such places as the Board determines, and supervised by one or more of the following: a member of the Board, a member of the staff, or a certified employee of the Department. All persons having completed apprenticeship requirements or otherwise qualifying for the final examination pursuant to these rules since the date of the previous written final examination shall be notified by mail at least fourteen (14) days in advance of the time and place of the examination. A person who fails the written final examination may apply for re‑examination upon payment of the prescribed fee. The Board shall also establish a packet of materials to assist applicants in studying for the written examination. Such packets shall be furnished to applicants upon request.

**B. Oral Examination.** Only applicants who demonstrate to the Board that the written final examination would not provide an equitable test of their underground oil storage tank installation knowledge can take the oral examination. The circumstances under which the Board will consider substituting an oral examination for the written examination include but are not limited to physical disability or where English is not the applicant's first language. Such oral examination will test the applicant's legal and technical knowledge of requirements specific to the class for which the applicant is applying. Such examination shall be scheduled and located by mutual consent between the qualified applicant and the Board. The oral examination shall be administered by at least one member of the Board. All oral examinations as well as acceptable passing scores, will be approved by the Board prior to their administration. A person who fails the oral examination may apply for re‑examination upon payment of the prescribed fee.

**C. Fees.** The Board shall assess a $250 non‑refundable fee for the conduct and processing of all final examinations, written or oral, except that no fee will be charged to persons holding a Master Oil Burner Technician license. This fee is due prior to the applicant taking the examination, and includes processing and conducting the examination, any study materials provide by the Board, and the applicant's certification as an installer for the first two (2) years.

**D. Scores; review.** Applicants will be sent written notification by regular mail of their scores within ten (10) business days of their completion of the examination. At their request, applicants will be provided the opportunity to review the questions they answered incorrectly along with the correct answers. That review will be accomplished by appointment at the Board’s offices. Examination questions may not be retained or copied by the applicant. No other person may review an applicant’s examination.

**6. Certification Prior to the Adoption of these Rules**

**A. Rights and Privileges.** Persons certified by the Board as underground oil storage tank installers prior to May 18, 1990 are considered by the Board to be properly certified under these rules as underground oil storage tank installers subject to renewal pursuant to section 9 of this chapter. Persons certified as Class 3 underground oil storage tank installers prior to September 20, 2007 will retain that classification until the certification expires by its own term as is not renewed, is reclassified pursuant to this chapter, is voluntarily surrendered or is revoked pursuant to Chapter 1, whichever is earlier.

**B. Mechanisms for Reclassifying Certificates.** All persons holding Class 1 underground oil storage tank installer certificates prior to April 6, 1992 or Class 2 underground oil storage tank installer certificates prior to September 20, 2007 are considered by the Board to be properly certified under these rules as underground oil storage tank installers subject to renewal pursuant to section 9 of this chapter.

**7. Upgrading Certificates for Installers Certified under these Rules.** An installer initially certified after May 18, 1990 may upgrade his or her class by accomplishing the following:

**A.** **Demonstrating to the Board Training and Experience Comparable to Completion of Appropriate Apprenticeship.** The applicant must complete a sufficient number of apprenticeship projects to accumulate 1000 experience points as outlined in Section 4 of this chapter. For this purpose, an apprentice can applyprojects used in his or her initial apprenticeship. A fee for processing of $100 will be assessed at the time the applicant indicates his or her desire to pursue a class upgrade; and

**B.** **Passing the Final Written Examination.** Following completion of apprenticeship, the applicant must pass the final written or oral examination, as described in section 5 of this chapter.

**8. Reciprocity.** An applicant may receive certification without having to meet the application and examination requirements governing new applicants provided that he or she files an application for certification by reciprocity demonstrating to the Board's satisfaction that:

**A.** The applicant has one or more professional certifications in good standing needed to perform both underground oil storage tank installations and removals in another state;

**B.** The qualifications for certification in the other state(s) in which the applicant is certified are equivalent to those specified in 32 M.R.S. Section 10001, *et seq*., and this rule;

**C.** The technical standards for underground oil storage regulations in the state(s) in which the applicant is certified are at least as stringent as 06-096 CMR Chapter 691;

**D**. The applicant does not have a history in the prior 5 years of any violations of the laws or regulations in the state(s) in which the applicant is certified relating to the applicant’s ability to install and remove underground oil storage tanks in an ethical and competent manner. The applicant must demonstrate the foregoing by submitting a notarized letter or comparable document from the certifying authority in the state(s) in which the applicant is certified documenting an absence of such violations within the prior 5 years. If there is a history of any such violations, the applicant may submit evidence to the Board demonstrating ability to install and remove underground storage tanks in an ethical and competent manner notwithstanding the prior violations. The Board may verify with other agencies to confirm information provided by an applicant and to obtain additional information; and

**E**. The applicant has remitted a $250.00 nonrefundable processing fee for a reciprocity request, due at the time such request is made.

**9. Renewal of Certification.** Any certificate issued under these rules or prior to the adoption of these rules will expire two (2) years after issuance at which time it must be renewed. In order to receive certificate renewal, the applicant must submit an application for renewal on a form which is processed by the Board prior to the date of expiration of certification, or upon payment of a late fee of $10.00, up to thirty (30) days after the date of certification. Any person who submits an application for renewal more than thirty (30) days after the date of expiration of certification is subject to all application and examination requirements governing new applicants under this subsection, except that the Board may, for good cause and giving due consideration to the protection of the public, waive the requirements governing new applicants if the renewal application is made within two (2) years from the date of expiration. The application for renewal must provide evidence of continuing competency, consisting of at least eight (8) hours of Board approved continuing education which the underground oil storage tank installer has satisfactorily completed since the last certificate was issued or renewed and prior to submission of the application for renewal. The continuing education requirement is more fully described in 06‑481 CMR Chapter 1, Section 4, subsection B. The Board may elect to conduct such continuing education and assess reasonable fees to attendees to recover costs of such training. If renewal of certification is granted by the Board, payment of a re‑certification fee of $150.00 must be accomplished by the applicant's prior certificate identification number on the payment.

**10. Issuance of Certification.** The Board shall issue a certificate and a certificate identification number to any person who meets the requirements of this chapter.

**11. Certification of Employees of the Department**

**A. Eligibility.** An employee of the Department of Environmental Protection is eligible to become certified as an underground oil storage tank installer pursuant to this subsection if his or her assigned duties and responsibilities include:

(1) Providing staff support to the Board;

(2) Investigation of discharges of oil potentially related to faulty underground oil storage tank installations; or

(3) Enforcement of Department rules involving underground oil storage tank installation and removal.

**B. Certification Requirements.** A Department employee shall be certified as an underground oil storage tank installer by the Board if his or her duties and responsibilities include those listed in subsection (A) of this section and if he or she passes the written examinations described in Sections 3 and 5 of this chapter with a passing score of 90% or higher. No fee shall be assessed by the Board for such certification.

**C. Renewal.** Any Department employee certified as an installer under this subsection is subject to the renewal requirements of section 9, except that the continuing education requirement need not be met as long as the certified employee's duties and responsibilities include those listed in subsection (A) of this section. No fee will be assessed for renewal.

**D. Certification Prior to Adoption of these Rules.** All Department employees certified by the Board as underground oil storage tank installers prior to the adoption of these rules shall be considered by the Board to be properly certified under these rules as underground oil tank installers subject to renewal pursuant to subsection C of this section.

**E. Certification upon Leaving the Department.** If a certified Department employee leaves the Department and wishes to engage in the practice of underground oil storage tank installation, he or she must meet the application and apprenticeship requirements governing new applicants and must pay the certification fee, except that no apprenticeship and final exam is required for those former employees whose duties and responsibilities include the conducting of on‑site examinations pursuant to 06‑481 Chapter 1, Section 4, repealed with the adoption of these rules.

**12. Severability.** Should any provision of this rule be declared invalid or ineffective by a court decision, the decision shall not invalidate any other provision of this rule.

STATUTORY AUTHORITY:

 32 M.R.S. Section 10004

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