**90-564 Clean-up and Response Fund Review Board**

**Chapter 4: OIL IMPORT FEES**

**SUMMARY**: This rule increases oil import fees when the balance of the Maine Ground and Surface Waters Clean-up and Response Fund is $6,000,000 or less.

**SECTION 1. LEGAL AUTHORITY**

 This rule is authorized under 38 M.R.S. §§ 568-B(2)(D) and 551(4).

**SECTION 2. DEFINITIONS**

 The following terms as used in this rule shall have the following meaning:

 A. **Board**. “Board” means the Clean-up and Response Fund Review Board created under 38 M.R.S. §568-B.

 B. **Commissioner**. “Commissioner” means the commissioner of the Maine Department of Environmental Protection.

 C. **Fund**. “Fund” means the Maine Ground and Surface Waters Clean-up and Response Fund established under 38 M.R.S. §551.

 D. **Gasoline**. “Gasoline” means a volatile, highly flammable liquid with a flashpoint of less than 100° Fahrenheit obtained from the fractional distillation of petroleum.

 E. **Oil terminal facility**. “Oil terminal facility” means any facility of any kind and related appurtenances, located in, or under the surface of any land or water, including submerged lands, which is used or capable of being used for the purpose of transferring, processing or refining oil, or for the purpose of storing the same, but does not include any facility used or capable of being used to store no more than 1500 barrels or 63,000 gallons, nor any facility not engaged in the transfer of oil to or from waters of the State of Maine. A vessel is considered an oil terminal facility only in the event of ship-to-ship transfer of oil, but only that vessel going to or coming from the place of ship-to-ship transfer and a permanent or fixed oil terminal facility. The term does not include vessels engaged in oil spill response activities.

**SECTION 3. NOTICE OF IMPENDING SHORTFALL**

 Whenever the fund balance is reduced to $ 6 million or less, the commissioner shall notify persons subject to the fees under 38 M.R.S. §551(4).

**SECTION 4. ADDITIONAL FEES**

 Upon receipt of notice under section 3 of this rule, the following fees are assessed in addition to the fees assessed under 38 M.R.S. §551(4): 18¢ per barrel of gasoline; and 6¢ per barrel of other petroleum products except unrefined crude oil, liquid asphalt, and number 6 fuel oil.

 The additional fee is assessed on oil terminal facility licensees who first transfer a product subject to the fee, and on persons required to register under §545-B who first transport a product subject to the fee into the State of Maine by rail or highway. The additional fee may be refunded on petroleum products exported from the State of Maine or on waste oil.

 The additional fee shall become due and payable beginning the first day of the month following receipt of the section 3 notice provided the notice was received 15 days in advance. If not, the additional fees must be paid monthly thereafter at the same time and in the same manner as the fees assessed under 38 M.R.S. §551(4).

**SECTION 5. DURATION OF INCREASE; NOTICE OF FUND RECOVERY**

 Payment of the additional fees shall continue until the commissioner issues written notice that the fund has recovered. The commissioner shall send such notice to persons subject to the fee increase under section 4 of this rule when the fund balance averages $ 10 million or more for 3 consecutive months.

STATUTORY AUTHORITY: 38 M.R.S. §§ 568-B(2)(D) and 551(4)

**As “Fund Insurance Review Board”:**

EFFECTIVE DATE:

 May 28, 1994

REPEALED AND REPLACED:

 December 4, 1995

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 May 28, 1996

NON-SUBSTANTIVE CORRECTIONS:

 August 19, 1997 - minor spelling and punctuation.

REPEALED AND REPLACED:

 April 22, 2003 - filing 2003-105

AMENDED:

 February 10, 2013 – filing 2013-037

**Renamed as “Clean-Up and Response Fund Review Board”:**

AMENDED:

 May 20, 2017 – filing 2017-075