

Motive Fuel and Fuel Oil Approval Regulations

made under Section 84 of the

Environment Act

S.N.S. 1994-95, c. 1

O.I.C. 96-57 (January 31, 1996), N.S. Reg. 21/96

as amended up to O.I.C. 2000-200 (April 19, 2000, effective June 15, 2000), N.S. Reg. 62/2000

Citation

1 These regulations may be cited as the "Motive Fuel and Fuel Oil Approval Regulations".

Definitions

2 In these regulations,

(a) "Act" means the Environment Act;

(b) "Administrator" means a person appointed by the Minister pursuant to Section 3 of these regulations, and includes an acting Administrator;

(c) "approval holder" means a retailer or wholesaler who has obtained an approval under these regulations;

(d) "attended service outlet" means an outlet where the dispensing units are operated by a pump island attendant, and not by a consumer;

(e) "bulk plant" means one or more storage tanks, including any appurtenances, where petroleum products are received by pipeline, tank vessel, tank car or tank vehicle and are stored in bulk for subsequent transmission by pipeline or transportation or distribution by tank vessel, tank car or tank vehicle, but does not include a service station or an outlet;

(f) "consumer" means a person who acquires motive fuel or fuel oil for their own use and not for sale, exchange or other disposition to any other person;

(g) "Department" means the Department of Environment;

(h) "fuel oil" means a liquid or gas derived from petroleum or natural gas and all liquids or gases containing any derivative of petroleum or natural gas that are produced, prepared, compounded, acquired, used or may be used for the purpose of generating heat or electrical power, and includes stove oil, furnace oil, bunker, heavy fuel oil, and any other petroleum or natural gas product, but does not include kerosene;

(i) "marina outlet" means premises where a petroleum product is sold or kept for sale and put into the fuel tank of a vessel or an aircraft equipped to float on water;

(j) "merchandise" means anything of value and includes, but is not limited to, goods, services and anything that may be redeemed for goods or services;

Clause 2(j) added: O.I.C. 1999-526, N.S. Reg. 121/99.

(k) "Minister" means the Minister of Environment;

Clause 2(j) relettered (k): O.I.C. 1999-526, N.S. Reg. 121/99.

(l) "motive fuel" means a petroleum product used to power a vehicle, aircraft or vessel and includes gasoline and diesel oil, but does not include kerosene or fuel oil;

Clause 2(k) relettered (l): O.I.C. 1999-526, N.S. Reg. 121/99.

(m) "National Fire Code" means the National Fire Code of Canada published by the Associate Committee on the National Fire Code, National Research Council of Canada;

Clause 2(l) relettered (m): O.I.C. 1999-526, N.S. Reg. 121/99.

(n) "outlet" means a station, shop, establishment or other place or facility where a petroleum product is sold or kept for sale and put into the fuel tank of a vehicle, vessel, or aircraft, or into a portable container;

Clause 2(m) relettered (n): O.I.C. 1999-526, N.S. Reg. 121/99.

(o) "petroleum product" means a single product or mixture of at least 70% hydrocarbons, refined from crude oil, with or without additives, that is used or could be used as a fuel, lubricant, or power transmitter, and includes gasoline, diesel oil, aviation fuel, naphtha, lubricating oil, fuel oil, and engine oil, including used oil and hydraulic fluid, but does not include kerosene;

Clause 2(n) relettered (o): O.I.C. 1999-526, N.S. Reg. 121/99.

(p) "restricted access outlet" means an unattended outlet equipped with a card-operated or key-operated dispensing device;

Clause 2(o) relettered (p): O.I.C. 1999-526, N.S. Reg. 121/99.

(q) "retailer" means a person who sells or keeps for sale motive fuel or fuel oil directly to a consumer;

Clause 2(p) relettered (q): O.I.C. 1999-526, N.S. Reg. 121/99.

(r) "self-service outlet" means an outlet where the dispensing services are operated by a consumer without the assistance of a pump island attendant, but does not include a restricted access outlet;

Clause 2(q) relettered (r): O.I.C. 1999-526, N.S. Reg. 121/99.

(s) "storage tank" means a closed container with a capacity greater than 205 L used or intended to be used for the containment of petroleum products and is located in a stationary location, including a temporary arrangement on cradles, skids or wheels;

Clause 2(r) relettered (s): O.I.C. 1999-526, N.S. Reg. 121/99.

(t) "wholesaler" means any person who sells or keeps for sale motive fuel or fuel oil, but does not include a retailer;

Clause 2(s) relettered (t): O.I.C. 1999-526, N.S. Reg. 121/99.

(u) "wholesale facility" means a vehicle, terminal, bulk plant, bulk station or other facility operated in the Province by a wholesaler where the wholesaler sells or keeps for sale petroleum products.

Clause 2(t) relettered (u): O.I.C. 1999-526, N.S. Reg. 121/99.

[Note: the Department name in clauses (g) and (k) has been updated in accordance with Order in Council 2008-161 under the Public Service Act, R.S.N.S. 1989, c. 376, effective April 1, 2008.]

Administrator

3 The Minister may appoint an Administrator to administer these regulations.

Designation

4 For the purpose of the Act and these regulations, motive fuel and fuel oil are designated as dangerous goods.

Exemption from regulations

5 These regulations do not apply to consumer fuel gases including, but not limited to, propane.

Retailer's approval

6 (1) An applicant for a motive fuel retailer's approval shall specify to the Minister or an Administrator one or more of the following types of outlets proposed to be operated by the applicant:

- (a) an attended service outlet;
- (b) a self-service outlet;
- (c) an attended service outlet and a self-service outlet;
- (d) a marina outlet; or
- (e) a restricted access outlet.

(2) An applicant for a fuel oil retailer's approval shall specify to the Minister or an Administrator the type of outlet proposed to be operated.

(3) An applicant for an approval under this Section shall complete an application form adopted by the Minister or an Administrator.

Wholesaler's approval

7 (1) An applicant for a wholesaler's approval shall specify to the Minister or an Administrator one or more of the following types of approvals requested:

- (a) a motive fuel wholesale approval;
- (b) a fuel oil wholesale approval; or
- (c) a motive fuel and fuel oil wholesale approval.

(2) An applicant for an approval under this Section shall complete an application form adopted by the Minister or an Administrator.

General duties of approval holders

8 (1) An approval holder under these regulations shall operate a wholesale facility or an outlet in a safe manner and maintain the wholesale facility or the outlet in a safe operating condition, including:

(a) repairing or replacing any defective or malfunctioning equipment associated with the distribution, storage or dispensing of motive fuel and fuel oil; and

(b) taking all reasonable precautions to prevent fire, explosion, release, escape or spillage of motive fuel or fuel oil.

(2) No approval holder shall permit a vehicle owned or operated by the approval holder to be used to refuel any other vehicle except with a special permit issued under the Motor Vehicle Act.

(3) An approval holder shall

(a) keep each fill pipe to each storage facility of the approval holder's outlet or facility

(i) locked when not being used to fill storage tanks at the facilities,

(ii) painted in a colour prescribed by the National Fire Code to identify the grade of motive fuel or fuel oil stored there, and

(iii) tagged with a tag provided by the wholesaler in accordance with the standards prescribed in the National Fire Code to identify the grade of motive fuel or fuel oil;

(b) keep the approval holder's outlet, including pumps, signs, lights, delivery and other facilities, equipment and storage, in good repair; and

(c) keep the grounds of the approval holder's outlet clean and free from any accumulation of discarded tires, vehicle parts and other forms of litter.

Underground storage tank system inventory control

9 (1) For the purpose of determining petroleum product loss or water gain for each underground storage tank operated by the approval holder, the approval holder shall ensure that

(a) the petroleum product level in an underground storage tank containing motive fuel is measured and reconciled in conformance with subsection (2)

(i) each day that petroleum product is added to or removed from the underground storage tank; or

(ii) at least weekly where petroleum product is added or removed less frequently than outlined in subclause (i); and

(b) the petroleum product level in an underground storage tank containing a petroleum product other than motive fuel is measured and reconciled in conformance with subsection (2) at least every 14 days; and

(c) the water level in an underground storage tank is reconciled in accordance with the National Fire Code and is included in all reconciliation computations required under subsection (2).

(2) Inventory control measurements shall be reconciled by comparing petroleum product and water level measurements with dispenser meter readings, shipments, deliveries and internal transfers.

(3) The computation of any gain or loss of petroleum product shall be recorded and included in a monthly summary of cumulative losses or gains of petroleum product.

(4) The approval holder shall forthwith notify the Department in the manner prescribed in Section 69 of the Act or the Emergency Spill Regulations* when a leak is indicated in any of the following circumstances:

(a) any unexplained loss or gain of 0.5% or more of the inventory in any month;

(b) inventory reconciliations show 5 or more consecutive days of product losses or gains when the petroleum product level is measured every day;

(c) inventory reconciliations show 18 or more days per month of losses or gains when the petroleum product level is measured every day;

(d) inventory reconciliations show 15 or more days per month of losses or gains when the petroleum product level is measured 6 days a week; or

(e) the water level in the bottom of the underground storage tank exceeds 50 mm.

Aboveground storage tank system inventory control

10 (1) For the purpose of determining petroleum product loss or water gain for each aboveground storage tank operated by the approval holder, the approval holder shall ensure that

(a) the petroleum product level in an aboveground storage tank containing motive fuel is measured and reconciled at least weekly;

(b) inventory control measurements are reconciled by comparing petroleum product measurements with dispenser meter readings, shipments, deliveries and internal transfers; and

(c) computation of any gain or loss of petroleum product is recorded and included in a monthly summary of cumulative losses or gains of petroleum product.

(2) The petroleum product level in an aboveground storage tank containing a petroleum product other than motive fuel shall be measured and reconciled by the approval holder at least every 14 days.

(3) The approval holder shall forthwith notify the Department in the manner prescribed in Section 69 of the Act and the Emergency Spill Regulations* when a leak is indicated in any of the following circumstances:

(a) any unexplained loss or gain of 1.0% or more of the inventory in any month; or

(b) inventory reconciliations showing 4 or more consecutive weeks of unexplained petroleum product losses or gains in excess of 1.0% of the inventory for each week.

Inventory record keeping

11 (1) All inventory control records and reconciliation data shall be maintained by the approval holder at the location of the outlet for a period of 2 years.

(2) Where computerized inventory reconciliation is conducted, the records and data referred to in subsection (1) may be stored at a location other than the outlet but, if requested by an Administrator, must be made available within 48 hours of the request.

(3) The Minister may outline the form for records under this Section.

(4) Any new owner or operator of an outlet shall obtain and maintain any records from the previous owner or operator.

Sale of motive fuel by a wholesaler

12 No wholesaler shall deliver, store or sell to a consumer less than 205 L of motive fuel at any one time.

Restrictions on activities near dispensing units

13 (1) No person shall smoke within 7.5 m of a motive fuel dispensing unit where motive fuel is being dispensed.

(2) No person shall operate the engine or motor of a vehicle into which motive fuel is being dispensed.

(3) No person shall use jumper cables for the purpose of starting a vehicle, within 7.5 m of a motive fuel dispensing unit.

(4) No person shall dispense motive fuel

(a) into the tank of a vehicle while the engine or motor of the vehicle is in operation;

(b) while a person is smoking within 7.5 m of a motive fuel dispensing unit where motive fuel is being dispensed; or

(c) while a person is using jumper cables for the purpose of starting a vehicle, within 7.5 m of a motive fuel dispensing unit.

(5) The approval holder at an outlet or place at which motive fuel is stored shall post in a conspicuous place on or near the pumps or place from which motive fuel is dispensed a no smoking symbol and post a sign warning that smoking, jump-starting a motor vehicle or operating a motor vehicle while motive fuel is being dispensed, is prohibited.

(6) Nothing in this Section prohibits the operation of a vehicle if the operation of the motor or engine is required for the delivery of motive fuel.

Posting prices - motive fuel

14 (1) A retailer approval holder operating a type of outlet referred to in subsection 6(1) shall post in a conspicuous place on each pump or drum, in letters and figures that are clearly legible, the price per litre and the grade of motive fuel offered for sale from the pump or drum.

(2) A retailer approval holder operating a type of outlet referred to in subsection 6(1) shall post in a conspicuous place visible to the motoring public the price, in figures a minimum of 20 cm high, and the grade, in letters a minimum of 5 cm high, of the minimum priced grade of gasoline offered for sale at the facility.

(3) The price posted pursuant to subsections (1) and (2) shall include any tax the approval holder is required by law to collect.

Section 14 replaced: O.I.C. 2000-200, N.S. Reg. 62/2000.

Merchandise to be included in wholesale price

15 No wholesaler shall claim or recover in any manner, directly or indirectly, from a retailer or a retailer's agent the cost or any portion of the cost of a promotional activity that is sponsored by the wholesaler and that includes the sale or giving of merchandise for the purpose of promoting the sale of motive fuel.

Section 15 replaced: O.I.C. 1999-526, N.S. Reg. 121/99.

Discharge of security document

16 (1) In this Section,

(a) "creditor" means a person who has advanced value to an approval holder under these regulations in consideration of or on the basis of a security document;

(b) "debtor" means an approval holder under these regulations who has received value from a creditor;

(c) "security document" means any written document, [written] including a lease or a mortgage, under which a debtor is required to make payments to a creditor in repayment or partial repayment of an advance of value while all or any part of the advance is outstanding or unpaid and includes any trading or other covenants that are contained in or are supplemental, incidental or referable to the written document;

(d) "value" includes money and valuable consideration.

(2) Every debtor shall have the right to pay off and discharge a security document 5 years after the date of execution of the security document upon payment of all amounts owing on the security document.

(3) Where a debtor exercises the right conferred by subsection (2), the creditor shall furnish the debtor with a release and discharge of the security document and every liability and obligation of the debtor under the security document shall cease.

(4) Where a creditor refuses to release and discharge a security document pursuant to subsection (3), the debtor may apply to the Minister and the Minister may make an order requiring a release and discharge on such terms and conditions as may be stated in the order.

(5) A creditor who fails to comply with an order made by the Minister pursuant to subsection (4), unless the Minister otherwise orders, forfeits any approval issued under these regulations to the creditor.

Effective date

17 These regulations come into effect on, from and after February 1, 1996.

[*Effective January 22, 2013, the Emergency Spill Regulations, N.S. Reg. 59/95, are replaced by the Environmental Emergency Regulations, N.S. Reg. 16/2013.]