

ILLINOIS POLLUTION CONTROL BOARD  
January 23, 1992

IN THE MATTER OF: )  
 )  
UST UPDATE ) R91-14  
USEPA REGULATIONS ) (Identical in  
(1/1/91 - 6/30/91) ) Substance Rulemaking)

PROPOSAL FOR PUBLIC COMMENT

OPINION AND ORDER OF THE BOARD (by J. Anderson):

On January 9, 1992, the Board adopted a Proposed Opinion and Order in this underground storage tank (UST) update Docket. As is detailed in the Proposed Opinion, this Docket mainly addresses recent changes in statutory authority for Board rules, pursuant to P.A. 87-323. Although the Proposed Opinion and Order addressed the reductions in the scope of Board rules made by P.A. 87-323, it failed to address the increase in scope mandated by Section 22.4(d)(5), which requires the Board to amend its rules to make them applicable "to any heating oil underground storage tank." On its own motion, the Board will therefore enter this Order amending the Proposal to address heating oil USTs. The Proposal will be revised to reflect both this Order and the January 9, 1992, Order for publication in the Illinois Register.

The statutory directive to include heating oil UST's into the Board's federally derived RCRA UST program creates some difficulties that are addressed below.

BACKGROUND

The complete history of the UST program is contained in the January 9, 1992, Proposed Opinion. The following prior Board Opinion is specifically referenced in this Order:

R88-27 April 27, 1989; 13 Ill. Reg. 9519, effective June 12, 1989 (9/23/88 Technical Standards)

As defined in the federal RCRA Act, and in 40 CFR 280.12, the term "UST" excludes any "Tank used for storing heating oil for consumptive use on the premises where stored". The Board adopted this definition in R88-27. Since the term "UST" defines the scope of the program in 40 CFR 280.10 and Section 731.110, neither the USEPA nor Board rules apply to excluded heating oil USTs.

When the Fire Marshal adopted its version of the UST rules, it modified the RCRA definition of "UST" so as to exclude only those heating oil tanks "of 1,100 gallons or less capacity". In other words, the Fire Marshal's UST rules included tanks used for storing heating oil for consumptive use on the premises where

stored, if they were over 1,100 gallons in capacity, regardless of whether they were residential or non-residential tanks.

Then, P.A. 86-1050, effective July 11, 1990, amended the definition of "UST" in both the Gasoline Storage Act and the Environmental Protection Act. It added heating oil tanks greater than 1,100 gallons "serving other than residential units" to the definitions of "UST" in the Gasoline Storage Act and in Section 22.18(e) of the Act, which is the Section that deals with the UST State Fund. Although this was evidently intended as a legislative ratification of the Fire Marshal's inclusion of certain heating oil tanks in its regulatory program, the statutory mandate did not square with the Fire Marshal's regulations.

In addition, P.A. 86-1050 failed to authorize the Board to modify its identical in substance UST regulations to add, to the State's authorized UST regulations, heating oil USTs. Section 7.2(a) of the Act defines "identical in substance" as "State regulations which require the same actions ... by the same group of affected persons as would federal regulations if USEPA administered the subject program in Illinois". In the absence of a specific mandate, the definition of "identical in substance" continued to control the scope of the Board's regulations.

#### P.A. 87-323

P.A. 87-323 has made two major changes with respect to heating oil USTs. First, it has added paragraph (5) to Section 22.4(d) of the Act, which requires the Board to adopt "identical in substance" UST rules. The change specifically mandates the Board to make the UST rules applicable to "any heating oil underground storage tank". Second, it has modified the State Fund provisions in the Act [at Section 22.18(e)(1)], as well as the Gasoline Storage Act, to define "heating oil underground storage tank" (as set out below). Among other things, the new definition: eliminates the "1,100 gallon" limitation; and, excludes farm and residential heating oil USTs, regardless of size.

These amendments raise serious questions as what "heating oil tanks" the Board rules are supposed to apply to, and whether the other exclusions in the rules apply to the regulated heating oil tanks. These are discussed in greater detail below.

#### DEFINITION OF "HEATING OIL"

As amended in P.A. 87-323, Section 22.18(e), the definitions applicable to the State Fund, now define "UST" as including "heating oil underground storage tanks", regardless of size. Section 22.18(e)(1)(H) and (I) add the following definitions:

"Heating oil" means petroleum that is No. 1, No. 2, No. 4 light, No. 4 heavy, No. 5 light, No. 5 heavy, or No. 6 technical grades of fuel oil; other residual fuel oils including Navy Special Fuel Oil and Bunker C.

"Heating oil underground storage tank" means an underground storage tank serving other than farms or residential units that is used exclusively to store heating oil for consumptive use on the premises where stored.

In other words, "heating oil USTs" are now eligible for reimbursement under the State Fund, and, for purposes of the State Fund, "heating oil USTs" include all non-farm, non-residential USTs storing heating oil for consumptive use on the premises, regardless of size. For example, while a 20,000 gallon farm or residential tank is ineligible, a 500 gallon non-farm, non-residential tank is eligible.

There is another complexity. The definition of "heating oil" in Section 22.18(e)(1)(H) is not identical to the existing definition of "heating oil" in the USEPA and Board rules [40 CFR 280.12 and Section 731.112]. The federally derived Board regulatory definition reads as follows, with the additional language in the Board and USEPA definitions in bold:

"Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy or No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); or **other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.**

There are three major differences between the new statutory definition and the federally derived Board regulatory definition. First, the federally derived definition includes a substitute "catch-all" which is absent from the statutory definition. Second, the statutory definition has moved the limitation as to purpose into a new definition of "heating oil UST". Third, the concept that "heating oil" as defined is that typically used in "boilers or furnaces" has been lost altogether. In other words, the definition of "heating oil" is narrower (without the catch-all), but is broader in the sense that "heating oil" itself includes no limitation as to purpose. Moreover, even used in conjunction with "heating oil UST", tanks used for storing oil for boilers or industrial process furnaces have an ambiguous status.

#### WHAT TYPE OF HEATING OIL TANKS SHOULD BE REGULATED?

Section 22.4(d)(5) directs the Board to make its UST rules

applicable "to any heating oil underground storage tank". Does this mean "heating oil UST" as defined in Section 22.18(e) of the Act, or does it mean "UST" and "heating oil", as defined within the RCRA rules?

As a general rule, the Board does not alter the federally derived definitions in the identical in substance rules so as to be consistent with terms defined in the Act. The Board has long held that attempting to so modify definitions within such programs would modify the scope of the federally derived programs and the way the parts of the program fit together, so that the Board could not comply with the "identical in substance" mandate. However, in this situation, the Board is faced with a specific mandate that it modify the scope of the program to add additional tanks. Tanks, we note, that are specifically excluded in the federal program. The questions then become: what scope is intended; and how can the change in scope best be effectuated, without changing the way the parts of the program fit together?

Since the revision to the statutory mandate in Section 22.4(d)(5) was effected in the same Public Act which added the definitions to Section 22.18, it seems most likely that the intent was to include those "heating oil USTs" now eligible for reimbursement under the State fund. The Board has therefore proposed to make its UST rules applicable to "heating oil USTs" as defined in Section 22.18.

There are two basic ways of changing the scope of the UST rules. The first approach would be to modify the definitions in Section 731.112 to make them consistent with Section 22.18(e), and then add "heating oil USTs" to the applicability statement in Section 731.110. The second approach, which the Board is proposing to follow, would use the statutory definitions within the applicability statement [Section 731.110], thus retaining the USEPA definitions in Section 731.112, for use within the body of the rules.

The Board has rejected the first approach because, as discussed above, it carries a risk of introducing fundamental changes in the way the USEPA-derived rules relate to each other (and in the scope of rules not directly related to the heating oil question). In addition, it would make it difficult to maintain the rule set in routine update Dockets, since it would be necessary to continuously guard against USEPA amendments either to the definitions involved, or to Sections using the terms with non-USEPA definitions.

The Board has therefore proposed to follow the second approach, using the statutory definitions within the applicability statement, while retaining the USEPA definitions in Section 731.112, for use within the body of the rules. However, this poses potential problems, in that essential terms, including

"heating oil", would have two different meanings within Part 731. As discussed below, the Board has drafted the proposed rule so as to clearly delineate the two definition sets.

#### APPLICABILITY DEFINITIONS

As discussed above, the Board has proposed to state the applicability of Part 731 to "heating oil USTs" by means of limited use definitions drawn from Section 22.18(e) of the Act. It turns out that this is easier said than done, since the definitions in Section 22.18(e) themselves use terms which, although undefined in the Act, are defined in the existing, federally-derived Board rules. It is fairly clear that P.A. 87-232 was drawing on these rules for the more basic terms. It is therefore necessary to bring some of these terms into the definitions used in the applicability statement.

The main term which must be drawn from the existing, federally-derived rules is "UST".<sup>1</sup> Since, as defined in Section 731.112, this includes the heating oil exception, it cannot simply be referenced in. Rather, the Board has proposed to repeat the general part of the text of this definition.

Several additional terms are used in the definition of "UST". These include "beneath the surface of the ground", "pipe", "regulated substance" and "tank". These are simply referenced in the applicability definitions.

Two other terms used in the definitions in Section 22.18(e) of the Act are defined in the rules. These are "consumptive use" and "on the premises where stored". The Board has proposed to move the text of these definitions from the federally-derived definitions of Section 731.112 to the applicability definition set. These terms are no longer needed in the general definitions, since they were used only to state the heating oil exemption in those rules. The Board has added "Board notes" at their places in the definition list, to aid future comparison with the USEPA rules, and as an important cross reference to aid readers accustomed to finding the heating oil exclusion in the USEPA rules.

Within the USEPA-derived regulations, the heating oil exclusion is located as an exclusion from the definition of "UST". The Board has proposed to strike the text of the

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<sup>1</sup>Actually, Section 22.18(e) includes a definition of "UST". However, this references the definition in the RCRA Act, which is implemented in 40 CFR 280, which in turn is implemented in Section 731.112. The Board has proposed to shorten this loop by directly setting forth the definition.

exclusion. A "Board note" will be left, cross referencing the applicability statement in Section 731.110(e).

The applicability definition set reads as follows:

Section 731.110(e)(1):

Definitions. The following definitions apply to this subsection only:

"Beneath the surface of the ground" is as defined in Section 731.112.

"Consumptive use" with respect to heating oil means consumed on the premises.

"HEATING OIL" MEANS PETROLEUM THAT IS NO. 1, NO. 2, NO. 4 LIGHT, NO. 4 HEAVY, NO. 5 LIGHT, NO. 5 HEAVY, OR NO. 6 TECHNICAL GRADES OF FUEL OIL; OTHER RESIDUAL FUEL OILS INCLUDING NAVY SPECIAL FUEL OIL AND BUNKER C. (Section 22.18(e)(1)(H) of the Act)

"HEATING OIL UNDERGROUND STORAGE TANK" or "heating oil UST" MEANS AN UNDERGROUND STORAGE TANK SERVING OTHER THAN FARMS OR RESIDENTIAL UNITS THAT IS USED EXCLUSIVELY TO STORE HEATING OIL FOR CONSUMPTIVE USE ON THE PREMISES WHERE STORED. (Section 22.18(e)(1)(I) of the Act)

"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

"Pipe" or "piping" is as defined in Section 731.112.

"Regulated substance" is as defined in Section 731.112.

"Tank" is as defined in Section 731.112.

"Underground storage tank" ("UST") means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten per centum or more beneath the surface of the ground.

TEXT OF EXCLUSION

With the applicability definitions so stated, the applicability statement becomes relatively straightforward. The proposed text reads as follows:

Section 731.110(e):

- 2) Subsection (a) - (c) notwithstanding, THIS PART APPLIES TO OWNERS AND OPERATORS OF ANY HEATING OIL UST. (Section 22.4(d)(5) of the Act)
- 3) The owner or operator of a heating oil UST shall comply with the same requirements as the owner or operator of a "petroleum UST", as defined in Section 731.112, any other provisions of this Part notwithstanding.

BOARD NOTE: This subsection implements Section 22.4(d)(5) of the Act, which requires that this Part be applicable to "heating oil USTs", as that term is defined in Section 22.18(e) of the Act. However, that and related terms are used in a manner which is inconsistent with the definitions and usage in this Part. The definitions used in this applicability statement are therefore limited to this subsection.

#### GLOBAL EXCLUSIONS

The USEPA, and Board, UST rules contain six exclusions, and a number of deferrals [Section 731.110(b) and (c)]. One of these is the exclusion for USTs of 110 gallons or less. However, Section 22.4(d)(5) of the Act appears to leave no room for this exclusion. The Board's rules must apply to "any heating oil UST", a term which is defined in the statute without reference to the exclusions.<sup>2</sup> Therefore, the way the Proposal is structured, the exclusions do not apply to heating oil tanks.

#### ORDER

The text of proposed Sections 731.110 and 731.112 follow. These are drawn from the January 9, 1992 Proposed Order, so that changes made in that Order also appear in this Order. The text of Proposed Rules which will appear in the Illinois Register will be formed by inserting these Sections into the January 9 Order, replacing the prior text. The complete Proposal will appear in the Illinois Register in the near future.

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<sup>2</sup>The Board has above held that Section 22.4(d)(5), as added by P.A. 87-323, intended to reference the statutory definitions added to Section 22.18(e). If P.A. 87-323 had been intended to reference the regulatory definitions, the exclusions would arguably apply.

## Section 731.110      Applicability

- a) This Part applies to owners and operators of an Underground Storage Tank (UST) system as defined in Section 731.112 except as otherwise provided in subsections (b), ~~(e) or (d)~~. ~~Any UST system listed in subsection (e) must meet the requirements of Section 731.111 or (c).~~
- b) The following UST systems are excluded from the requirements of this Part:
- 1) Any UST system holding hazardous waste or a mixture of such hazardous waste and other regulated substances.
  - 2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 12(f) of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1012(f)).
  - 3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.
  - 4) Any UST system whose capacity is 110 gallons or less.
  - 5) Any UST system that contains a de minimus concentration of regulated substances.
  - 6) Any emergency spill or overflow containment UST system that is expeditiously emptied after used.
- c) Deferrals. ~~Subparts B, C, D, E and G of Section 731.122~~ does not apply to any of the following types of UST systems:
- 1) Wastewater treatment tank systems;
  - 2) Any UST systems containing radioactive materials that are regulated by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);
  - 3) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50, Appendix A, incorporated by reference in Section 731.113;



- 4) Airport hydrant fuel distribution systems; and
- 5) UST systems with field-constructed tanks.
- d) ~~Deferrals. Subpart D does not apply to any UST system that stores fuel solely for use by emergency power generators.~~
- e) Heating oil USTs.
  - 1) Definitions. The following definitions apply to this subsection only:

"Beneath the surface of the ground" is as defined in Section 731.112.

"Consumptive use" with respect to heating oil means consumed on the premises.

"HEATING OIL" MEANS PETROLEUM THAT IS NO. 1, NO. 2, NO. 4 LIGHT, NO. 4 HEAVY, NO. 5 LIGHT, NO. 5 HEAVY, OR NO. 6 TECHNICAL GRADES OF FUEL OIL; OTHER RESIDUAL FUEL OILS INCLUDING NAVY SPECIAL FUEL OIL AND BUNKER C. (Section 22.18(e)(1)(H) of the Act)

"HEATING OIL UNDERGROUND STORAGE TANK" or "heating oil UST" MEANS AN UNDERGROUND STORAGE TANK SERVING OTHER THAN FARMS OR RESIDENTIAL UNITS THAT IS USED EXCLUSIVELY TO STORE HEATING OIL FOR CONSUMPTIVE USE ON THE PREMISES WHERE STORED. (Section 22.18(e)(1)(I) of the Act)

"Heating oil" means petroleum that is No. 1, No. 2, No. 4 light, No. 4 heavy, No. 5 light, No. 5 heavy, or No. 6 technical grades of fuel oil; other residual fuel oils including Navy Special Fuel Oil and Bunker C.

"Heating oil underground storage tank" means an underground storage tank serving other than farms or residential units that is used exclusively to store heating oil for consumptive use on the premises where stored.

"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

"Pipe" or "piping" is as defined in Section 731.112.

"Regulated substance" is as defined in Section 731.112.

"Tank" is as defined in Section 731.112.

"Underground storage tank" ("UST") is means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten per centum or more beneath the surface of the ground.

- 2) Subsections (a) - (c) notwithstanding, THIS PART APPLIES TO OWNERS AND OPERATORS OF ANY HEATING OIL UST. (Section 22.4(d)(5) of the Act)
- 3) The owner or operator of a heating oil UST shall comply with the same requirements as the owner or operator of a "petroleum UST", as defined in Section 731.112, any other provisions of this Part notwithstanding.

BOARD NOTE: This subsection implements Section 22.4(d)(5) of the Act, which requires that this Part be applicable to "heating oil USTs", as that term is defined in Section 22.18(e) of the Act. However, that and related terms are used in a manner which is inconsistent with the definitions and usage in this Part. The definitions used in this applicability statement are therefore limited to this subsection.

(Source: Amended at 16 Ill. Reg. , effective )

Section 731.112 Definitions

"Aboveground release" means any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system.

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1001 et seq.).

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves and pumps used to distribute, meter or control the flow of regulated substances to and from an UST.

"Belowground release" means any release to the subsurface of the land and to groundwater. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

"Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

"Board" means the Illinois Pollution Control Board.

~~"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.~~

~~"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure to soil potential and component electrical isolation measurements of buried metal piping and tank systems.~~

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.)

~~"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.~~

"Connected piping" means all underground piping including valves, elbows, joints, flanges and flexible

connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems must be allocated equally between them.

~~"Consumptive use" with respect to heating oil means consumed on the premises. BOARD NOTE: For "consumptive use" see Section 731.110(e).~~

~~"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person shall be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.~~

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping).

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"ESDA" means the Illinois Emergency Services and Disaster Agency.

"Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, wall and floor of the pit and trenches into which the UST system is placed at the time of installation.

~~"Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988. Installation is considered to have commenced if:~~

~~The owner or operator has obtained all federal,~~

~~state and local approvals or permits necessary to begin physical construction of the site or installation of the tank system;~~

~~And, if either:~~

~~A continuous on-site physical construction or installation program has begun; or,~~

~~The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction at the site or installation of the tank system to be completed within a reasonable time.~~

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

"Fire Marshal" means the Office of the State Fire Marshal.

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Free product" refers to a regulated substance that is present as a nonaqueous liquid phase (e.g., liquid not dissolved in water.)

"Gasoline Storage Act" means ~~"An Act To Regulate The Storage, Transportation, Sale And Use Of Gasoline And Volatile Oils"~~, as amended (Ill. Rev. Stat. 1987<sup>9</sup>, ch. 127 1/2, par. 151 et seq.) as amended by P.A. 87-323.

"Gathering lines" means any pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Hazardous substance" means any substance listed in 40 CFR 302.4, incorporated by reference in Section 731.113

(but not including any substance regulated as a hazardous waste under 35 Ill. Adm. Code 721).

BOARD NOTE: This definition is derived from the definition of "hazardous substance UST system" in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, and "hazardous substance" in Section 101(14) of CERCLA. The United States Environmental Protection Agency (USEPA) regulations which implement the statutes cited in CERCLA have been inserted in place of the authorizing statutes.

"Hazardous substance UST system" means an underground storage tank system that contains a "hazardous substance", or any mixture of "hazardous substances" and "petroleum" which is not a "petroleum UST system".

BOARD NOTE: This definition is derived from the corresponding definition in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, inserting terms defined elsewhere in this Section.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy or No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); or other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

BOARD NOTE: For the applicability of these rules to heating oil USTs, see Section 731.110(e).

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevator and other similar devices.

~~"Implementing agency". See Section 731.114.~~

"Liquid trap" means sumps, well cellars and other traps used in association with oil and gas production, gathering and extraction operations (including gas production plants), for the purpose of collecting oil, water and other liquid. These liquid traps may temporarily collect liquids for subsequent disposition for reinjection into a production or pipeline stream, or may collect and separate liquids from gas stream.

~~"Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.~~

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol, and is typically used in the operation of a motor engine.

"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988. (See also "Existing Tank System.")

"Noncommercial purposes" with respect to motor fuel means not for resale.

~~"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used. BOARD NOTE: For the definition of "on the premises where stored", see Section 731.110(e).~~

~~"Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under Subpart G.~~

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means:

In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use or dispensing of regulated substances; and

In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation, state, unit of local government, commission, political subdivision of a state or any interstate body. Person, also includes a consortium, a joint venture, a commercial entity and the United States Government.

"Petroleum" means crude oil or any fraction thereof

which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). The term "petroleum" includes, but is not limited to, petroleum and petroleum-based substances comprising a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

BOARD NOTE: This definition is derived from the definitions of "petroleum UST system" and "regulated substance" in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of "petroleum" with de minimus quantities of other "regulated substances".

BOARD NOTE: This definition is derived from the corresponding definition in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, inserting terms defined elsewhere in this Section.

"Pipe" or "Piping" means a hollow cylinder or tabular conduit that is constructed of non-earthern materials.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities or buildings.

"Regulated substance" means any "hazardous substance" or "petroleum".

BOARD NOTE: This definition is derived from the corresponding definition in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, inserting terms defined elsewhere in this Section.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into groundwater, surface water or subsurface soils.

~~"Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.~~

~~"Repair" means to restore a tank or UST system~~



~~component that has caused a release of product from the UST system.~~

"Residential tank" is a tank located on property used primarily for dwelling purposes.

"Septic tank" is a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Storm water or wastewater collection system" means piping, pumps, conduits and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.

"Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

"Underground release" means any below-ground release.

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten per centum or more beneath the surface of the ground. Such term does not include any:

Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

~~Tank used for storing heating oil for consumptive use on the premises where stored.~~ BOARD NOTE: For the applicability of these rules to heating oil tanks, see Section 731.110(e).

Septic tank.

Pipeline facility (including gathering lines) regulated under:

The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.A. 1671 et seq. (1987 and 1987 Supp.)), or

The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C.A. 2001 et seq. (1987)), or

The Illinois Gas Pipeline Safety Act (Ill. Rev. Stat. 1987, ch. 111 2/3, pars. 551 et seq.).

Surface impoundment, pit, pond or lagoon.

Storm-water or wastewater collection system.

Flow-through process tank.

Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations. Or,

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term "underground storage tank" does not include any pipes connected any tank which is described in the above subparagraphs.

~~"Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining or spill and overflow controls to improve the ability of an underground storage tank system to prevent the release of product.~~

"USEPA" means United States Environmental Protection Agency.

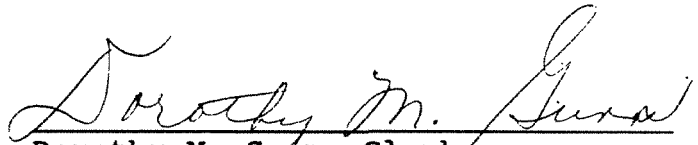
"UST system" or "Tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical or biological methods.

(Source: Amended at 16 Ill. Reg. , effective ).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 29<sup>th</sup> day of January, 1992, by a vote of 5-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board