Rules of
Department of Natural Resources
Division 100—Petroleum Storage Tank Insurance Fund
Board of Trustees
Chapter 2—Definitions

Title Page

<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 CSR 100-2.010 Definitions</td>
<td>3</td>
</tr>
</tbody>
</table>
Chapter 2—Definitions

PURPOSE: This rule defines certain terms used in this division.

(1) Unless defined otherwise, the definitions provided in 10 CSR 26-2.012 shall apply.

(2) “Aboveground storage tank” means any one (1) or a combination of tanks, including pipes connected thereto, used to contain an accumulation of petroleum and the volume of which, including the volume of the above-ground pipes connected thereto, is ninety percent (90%) or more above the surface of the ground, and is utilized for the sale of products regulated by Chapter 414, RSMo. It does not include:

(A) A farm or residential tank of one thousand one hundred (1,100) gallons or less used for storing motor fuel for noncommercial purposes;

(B) Tanks used for storing heating oil for consumptive use on the premises where stored;

(C) Septic tanks;

(D) Pipeline facilities, including gathering lines, regulated under—

1. The federal Natural Gas Pipeline Safety Act of 1968 (P.L. 90-481), as amended; or

2. The federal Hazardous Liquid Pipeline Act of 1979 (P.L. 96-129), as amended;

(E) Pipeline facilities regulated under state laws comparable to the provisions of law referred to in subsection (D) of this section;

(F) Surface impoundments, pits, ponds, or lagoons;

(G) Storm water or waste water collection systems;

(H) Flow-through process tanks;

(I) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

(J) Storage tanks 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; and

(K) Transformers, circuit breakers, or other electrical equipment.

(3) “Airline company” means any person, firm, partnership, corporation, trustee, receiver or assignee, and all other persons, whether or not in a representative capacity, undertaking to engage in the carriage of persons or cargo for hire by commercial aircraft pursuant to certificates of convenience and necessity issued by the federal Civil Aeronautics Board, or successor thereof, or any noncertificated air carrier authorized to engage in irregular and infrequent air transportation by the federal Civil Aeronautics Board, or successor thereof.

(4) “Annual aggregate” means the dollar amount of all benefits available to a fund participant for the period of time stated on the declarations page of each participation agreement issued by the board, regardless of how many separate occurrences, releases or third party claims may occur during this same period. State law establishes the annual aggregate at two (2) million dollars.

(5) “Board” means the board of trustees of the Petroleum Storage Tank Insurance Fund, or its employee, designated agent, or representative.

(6) “Bodily injury” means physical injury, sickness, disease or damage to the body sustained by a person, including death resulting from any of these at any time. It does not include any loss or damage of an intangible nature, such as pain and suffering, mental distress, or loss of use of any benefit. Nor does it mean personal injury.

(7) “Claim” means a written demand for money or services, including the service of a lawsuit, which is filed and adjudicated in a manner consistent with Missouri law.

(8) “Cleanup” consists of all actions necessary to investigate, contain, control, analyze, assess, treat, remediate or mitigate the risks of a petroleum release to achieve risk-based standards established by the Department of Natural Resources.

(9) “Deductible” means that portion of a covered loss borne by a fund participant for each occurrence before the participant is entitled to recovery from the fund for that occurrence.

(10) “Emergency response” means immediate actions taken to contain a release or eliminate a serious hazard.


(12) “Fund beneficiary” means any person from a room, dwelling, premises, or cargo for hire by commercial aircraft

(13) “Fund participant” means an owner or operator of a tank who has applied for and been accepted by the board as a person for whom the Petroleum Storage Tank Insurance Fund is serving as the financial responsibility mechanism required by section 319.114, RSMo, or for whom the Petroleum Storage Tank Insurance Fund is providing insurance coverage for releases from aboveground storage tanks; or the owner of land upon which such a tank is located, if such person is named as an additional insured; or any other person named as an additional insured by the board.

(14) “In use” means the tank contains an accumulation of petroleum which is more than a de minimus amount; that is, the tank is not empty.

(15) “Marine terminal” means a large storage facility which receives products via barge or similar conveyance. It does not mean bulk storage facilities located near lakes or rivers, such as are used by petroleum distributors, and which typically receive product via truck.

(16) “Occurrence” means any sudden or non-sudden accidental release of petroleum from a tank that results in a covered loss.

(17) “Out of use” means the tank is empty—that is, it does not contain more than a de minimus amount of petroleum—and is no longer regularly being used to store petroleum.

(18) “Personal injury” means injury, other than bodily injury, arising out of one (1) or more of the following offenses:

(A) False arrest, detention, imprisonment;

(B) Malicious prosecution;

(C) Wrongful entry into or eviction of a person from a room, dwelling, premises, or property that the person occupies; or

(D) Invasion of right of private occupancy.

(19) “Pipeline terminal” means a large storage facility which receives product via pipeline.

(20) “Property damage” means physical injury to or destruction of tangible property, excluding all resulting loss of use of that property. It does not include loss or damage of an intangible nature. Loss or damage of an...
intangible nature includes, but is not limited to, loss or interruption of business, pain and suffering, lost income, mental distress, loss of use of any benefit, and punitive damages.

(21) “Railroad corporation” means all corporations, companies or individuals now owning or operating, or which may hereafter own or operate, any railroad in this state.

(22) “Site” means real property held under one (1) deed, except that in exceptional circumstances involving very large tracts of land, the board may, at its discretion, recognize separate portions of a large tract as separate tank sites.

(23) “Tank” means—
   (A) An underground storage tank, as defined in section 319.100, RSMo, which is used to store petroleum; or
   (B) An aboveground storage tank, as defined in this rule.
