



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

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES**

**Division 100—Petroleum Storage Tank
Insurance Fund Board of Trustees
Chapter 2—Definitions**

10 CSR 100-2.010 Definitions

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

(1) Unless defined otherwise, the definitions provided in 10 CSR 20-10.012 shall apply.

(2) "Aboveground storage tank" means any one 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 aboveground 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.

(11) "Fund" means the Petroleum Storage Tank Insurance Fund.

(12) "Fund beneficiary" means any person who takes responsibility for cleanup of property where tanks previously were in use, but were taken out of use prior to December 31,

1997, and who qualifies to receive monies from the Petroleum Storage Tank Insurance Fund under section 319.131.9 or 319.131.10, RSMo.

(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 product 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.

AUTHORITY: section 319.129, RSMo Supp. 2006. Original rule filed April 1, 1999, effective Nov. 30, 1999. Amended: Filed March 31, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 3, 2003, effective May 30, 2004. Amended: Filed Sept. 1, 2006, effective July 30, 2007.*

**Original authority: 319.129, RSMo 1989, amended 1991, 1996, 1998, 2001.*