



DIRECTIVE NUMBER: 9610.2

TITLE: Clarification of the Definition of "Underground Storage Tank"

APPROVAL DATE: 4/7/86

EFFECTIVE DATE: 4/7/86

ORIGINATING OFFICE: OUST

☒ **FINAL**

☐ **DRAFT**

STATUS:

REFERENCE (other documents):

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<div style="display: inline-block; vertical-align: middle; margin-left: 10px;"> United States Environmental Protection Agency Washington, DC 20460 </div>		Interim Directive Number 9610.2
OSWER Directive Initiation Request		
Originator Information		
Name of Contact Person Virginia Cummings	Mail Code WH-562A	Telephone Number 382-7925
Lead Office <input type="checkbox"/> OERR <input type="checkbox"/> OSW	<input checked="" type="checkbox"/> OUST <input type="checkbox"/> OWPE <input type="checkbox"/> AA-OSWER	<div style="text-align: center;">Approved for Review</div> <div style="display: flex; justify-content: space-between;"> <div> Signature of Office Director </div> <div> Date 4/2/86 </div> </div>
Title Clarification of the Definition of "Underground Storage Tank"		
Summary of Directive <p style="margin-left: 40px;">List of terms to clarify the definition of "underground storage tank" and related words. This list is to be used by HQ and Regional staff as well as State personnel in answering questions from tank owners about whether they must notify or not. The clarification of these terms is badly needed to clear up confusion over the interpretation of what is an underground storage tank.</p> <p style="margin-left: 40px;">This list of definitions represents the Agency's policy until we propose them in the <u>Federal Register</u> and take public comment on them.</p>		
Type of Directive (Manual, Policy Directive, Announcement, etc.) Policy directive		Status <input type="checkbox"/> Draft <input checked="" type="checkbox"/> Final <input type="checkbox"/> New <input type="checkbox"/> Revision
Does this Directive Supersede Previous Directive(s)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Does It Supplement Previous Directive(s)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes" to Either Question, What Directive (number, title)		
Review Plan <input type="checkbox"/> AA-OSWER <input checked="" type="checkbox"/> OUST <input type="checkbox"/> OECM <input type="checkbox"/> Other (Specify) <input type="checkbox"/> OERR <input type="checkbox"/> OWPE <input type="checkbox"/> OGC <input type="checkbox"/> OSW <input type="checkbox"/> Regions <input type="checkbox"/> OPPE		
This Request Meets OSWER Directives System Format		
Signature of Lead Office Directives Officer 		Date Apr. 4, 86
Signature of OSWER Directives Officer		Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 7 1986

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Clarification of the Definition of
"Underground Storage Tank"

FROM: *J. Winston Porter*
J. Winston Porter
Assistant Administrator

TO: EPA Regional Administrators

Please find attached to this memo definitions of key terms for the purpose of implementing the notification process for underground storage tanks. As the May 8 deadline for notification approaches, it has become clear that we need consistent answers for the questions frequently asked by the States and regulated community.

Please forward a copy of this information list to each of your states. I have provided the list to the RCRA/ Superfund hotline.

Should you have any questions concerning these terms, or if you are aware of remaining definitional issues, please contact Virginia Cummings of my staff (382-7925) or Carrie Wehling of the General Counsel's office (475-8067).

Attachment

LIST OF UST DEFINITIONS AND EXEMPTIONS

- I. Under Section 9001 of the 1984 RCRA Amendments, Underground Storage Tank 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 10 percent or more beneath the surface of the ground."

Definition

1. tank is a stationary device which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

Discussion

The basis of this definition is the definition of tank under Subtitle C of RCRA (40 CFR 260.10).

Under this definition, just about every type of container (e.g., small metal boxes, underground sumps, and dump tanks) would be considered tanks. The fact that they are small or unusual tanks may not be of particular relevance when the issue is releases to proximate groundwater sources.

2. used to contain an accumulation of regulated substances.

Definition

An underground storage tank that contains regulated substances for any period of time, no matter how small the amount, is within the jurisdiction of Subtitle I.

Discussion

For the purposes of UST jurisdiction, there is no "de minimus" or small quantities exclusion, although such an exclusion is likely to be included in later technical regulation of USTs.

3. pipes connected thereto

Definition

Connected piping includes all piping connected to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual tank, the piping which joins the two tanks should be allocated equally between them.

(2)

Discussion

The definition of connected piping addresses two issues: (1) where the connected piping begins, and (2) how the connected piping should be allocated between tanks. To be consistent with the RCRA Subtitle C tank rules, the starting point of the "connected piping" is the point at which the regulated substance is introduced into the system.

This means that if there is an exempt tank between the point of introduction and an underground storage tank, the connected piping is allocated between them. Equal allocation of piping between tanks is also the basis of determining whether the volume of an individual tank is 10% or more beneath the surface of the ground.

4. beneath the surface of the ground

Definition

A tank is 10% or more beneath the surface of the ground if its volume (including the volume of its connected piping) is either (1) 10% or more below ground surface or grade, or (2) 10% or more beneath ground surface or otherwise covered with material so that expeditious inspection is precluded.

Discussion

This definition addresses two situations in which a tank would be considered to be underground. First, a tank may be considered an underground storage tank even if 10% or more of its volume is not covered by ground material as for example a tank that is in a below grade containment area (such as a swimming pool or a ditch).

Second, if 10% or more of the tank volume is covered by ground material, either below or above grade, the tank is within UST jurisdiction. This means that tanks that are above ground but mounded over with dirt (to comply with local fire codes) are within UST jurisdiction.

II. The definition of underground storage tank excludes nine types of tanks which would otherwise be subject to UST regulation.

A. The first group of tanks excluded by the statute is "farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes."

(3)

- Definition 1. 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.
- Discussion The definition of farm is based upon that used by the Internal Revenue Service in connection with tax exclusions for farmers. To be exempt from UST jurisdiction, a farm tank must be located on the farm property. "Farm" includes fish hatcheries and rangeland. "Farm" does not include laboratories where animals are raised, land used to grow timber, or pesticide aviation operations.
- Definition 2. Residential tank is a tank which is located on property primarily used for dwelling purposes.
- Discussion The language of the exclusion indicates Congressional intent to remove from UST jurisdiction small gasoline tanks located on property used for dwelling purposes (i.e., residential property). A private school storing motor fuel on site for school buses would not be excluded from UST jurisdiction because the primary use of the property is not residential.
- Definition 3. Noncommercial purposes means where the motor fuel is not for resale.
- Discussion The exclusion is limited to motor fuel stored on farmland or residential property and which is not for resale. Tanks at gas stations located on "residential" or "farm" property as defined above are not excluded because the motor fuel is stored for resale.
- B. The second group of tanks excluded from UST jurisdiction by statute is tanks used for storing heating oil for consumptive use on the premises where stored.

(These definitions are forthcoming.)

(4)

C. The third group of excluded tanks covers any "septic tank."

Definition

A 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. Settled solids and scum are pumped out periodically and hauled to a treatment facility for disposal.

Discussion

The definition of septic tank is based on common and technical usage. There are two issues which have been raised with respect to the definition of "septic tank": (1) does the septic tank exclusion include all septic tanks or only residential ones? (2) does the exclusion refer only to a septic tank or does it refer to the septic system? Based on the history of this provision, the "septic tank" exclusion applies to all septic tanks. In addition, the entire septic system which may include other types of tanks such as a distribution box, dosing tank, and grease trap - is exempt.

D. The fourth exclusion covers any "pipeline facility" (including gathering lines) regulated under (1) the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.), (2) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or (3) which is an intrastate pipeline facility regulated under State laws comparable to the provisions of laws referred to above."

Definition

Pipeline facilities include without limitation, new and existing pipe rights-of-way and any equipment, facility, or building used in the transportation of gas (or hazardous liquids, which includes petroleum and any other liquid designated by the Secretary of Transportation) or the treatment of gas or designated hazardous liquids during the course of transportation.

Discussion

This definition was borrowed from the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979. "Pipeline facility" may also include any such facility as defined and regulated under State laws comparable to these two federal statutes.

(5)

- E. The fifth exclusion covers any "surface impoundment, pit, pond, or lagoon."

Definition

A 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).

Discussion

This definition was borrowed from Subtitle C (40 CFR 260.10). Because the statute uses the somewhat specialized Subtitle C terms "surface impoundment, pit, pond, and lagoon" to define this exclusion, it is likely that Congress also intended to borrow the meaning of surface impoundment from Subtitle C.

Examples of structures excluded from UST jurisdiction are holding, storage, settling, and aeration pits, ponds, and lagoons.

- F. The sixth exclusion covers a "storm water or waste water collection system."

Definition

A "stormwater or wastewater collection system" is defined as piping, pumps, conduits and any other equipment used to receive and convey surface water runoff resulting from precipitation or domestic, commercial, and industrial wastewater. The collection of stormwater or wastewater must be directed towards conveyance, and does not include storage or treatment of stormwater or wastewater except where incidental to conveyance.

Discussion

Excluded from UST jurisdiction under this definition are tanks associated with stormwater or wastewater sewer systems. Tanks that are part of wastewater collection systems at industrial facilities are also excluded under this definition so long as the tanks are primarily used for collection and conveyance of wastewater or storm water. Tanks used for storage or treatment of stormwater or wastewater not incidental to collection and conveyance, such as wastewater treatment tanks at industrial facilities or municipal water treatment works, are not excluded under this definition.

This definition excludes sumps when they are part of stormwater/wastewater overflow or conveyance.

(6)

- G. The seventh exclusion covers any "flow-through process tank."

Definition

A flow through process tank is a tank which forms an integral part of a manufacturing process and through which there is a steady or uninterrupted flow of materials during operation of the manufacturing process. The term "flow through process tank" does not include tanks used to store regulated substances prior to their introduction into the manufacturing operation, or to store regulated substances as products or by-products from the manufacturing process.

Discussion

There are two key concepts associated with this term: (1) "flow-through" means steady or regular flow. That is, the fluid level is subject to constant change during operation of the process. (2) "process" means integral to manufacturing process (as opposed to a process in the tank).

Concerning the first concept, defining "flow through" as including regularly occurring flows as well as continuous flows the use of a retention-time limitation was rejected on the grounds that this would be too complicated. The dividing line between "flow through" and storage would be very difficult to determine.

Concerning the concept of "process", the only tanks that are excluded as flow-through process tanks are those tanks that are integral to the manufacturing process. This means that tanks that hold raw materials prior to processing and tanks holding products, byproducts, or wastes after the processing may be subject to UST jurisdiction.

- H. The eighth exclusion covers "liquid trap or associated gathering lines directly related to oil or gas production and gathering operations."

Definition

The liquid trap exclusion refers to tanks used for the purpose of the collection and removal of water and other liquid impurities from oil and gas during oil and gas production operations and their attendant production lines.

(7)

Discussion

Although liquid traps are often used in activities other than oil and gas production, the only type of liquid trap excluded from UST jurisdiction under the statute is a liquid trap used for the purpose of separating unused oil and gas liquids from water at oil and gas producing facilities.

However, not all tanks at oil and gas producing facilities will qualify for this exclusion. For example, after removal of oil in a liquid trap, the water (containing some oil residue) may be stored prior to discharge. This oily water would be subject to UST jurisdiction if stored in an underground storage tank. Tanks associated with gas delivery lines that connect the liquid trap to an underground storage tank may be subject to the pipeline facilities exclusion. (See definition of "pipeline facilities" above.)

"Liquid traps" such as grease and oil traps at gas stations as well as methane gas produced at landfills are not within this exclusion and would be subject to UST jurisdiction.

- I. The ninth exclusion covers "storage tanks situated in an underground area (such as a basement, cellar, mine working, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor."

Definition

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

Discussion

This exclusion applies to "underground rooms" where tanks are located on or above the floor surface. The purpose of this exclusion is to remove from UST jurisdiction tanks which are technically underground but which are in a practical sense no different from above ground tanks. They are situated so that, to the same extent as tanks above ground, physical inspection for leakage is possible. Thus, the requirement to be able to physically inspect the tank for leakage is consistent with the purpose of this exclusion.

Tanks located in a below grade structural vault, cellar, basement, mine or other underground room would be subject to the UST exclusion as long as the tank sits on or above the surface of the floor and there is sufficient space to enable physical inspection of the tank.