

455B.471 Definitions.

As used in this part unless the context otherwise requires:

1. “Board” means the Iowa comprehensive petroleum underground storage tank fund board.

2. “Corrective action” means an action taken to reduce, minimize, eliminate, clean up, control, or monitor a release to protect the public health and safety or the environment. Corrective action includes, but is not limited to, excavation of an underground storage tank for purposes of repairing a leak or removal of a tank, removal of contaminated soil, disposal or processing of contaminated soil, cleansing of groundwaters or surface waters, natural biodegradation, institutional controls, and site management practices. Corrective action does not include replacement of an underground storage tank. Corrective action specifically excludes third-party liability.

3. “Fund” means the Iowa comprehensive petroleum underground storage tank fund.

4. “Nonoperational storage tank” means an underground storage tank in which regulated substances will not be deposited or from which regulated substances will not be dispensed after July 1, 1985.

5. “Operator” means a person in control of, or having responsibility for, the daily operation of the underground storage tank.

6. a. “Owner” means:

(1) In the case of an underground storage tank in use on or after July 1, 1985, a person who owns the underground storage tank used for the storage, use, or dispensing of regulated substances.

(2) In the case of an underground storage tank in use before July 1, 1985, but no longer in use on that date, a person who owned the tank immediately before the discontinuation of its use.

b. To the extent consistent with the federal Resource Conservation and Recovery Act, as amended to January 1, 1994, 42 U.S.C. § 6901 et seq., “owner” does not include a person who holds indicia of ownership in the underground storage tank or the tank site property if all of the following apply:

(1) The person holds indicia of ownership primarily to protect that person’s security interest in the underground storage tank or tank site property, where such indicia of ownership was acquired either for the purpose of securing payment of a loan or other indebtedness, or in the course of protecting the security interest. The term “*primarily to protect that person’s security interest*” includes but is not limited to ownership interests acquired as a consequence of that person exercising rights as a security interest holder in the underground storage tank or tank site property, where such exercise is necessary or appropriate to protect the security interest, to preserve the value of the collateral, or to recover a loan or indebtedness secured by such interest. The person holding indicia of ownership in the underground storage tank or tank site property and who acquires title or a right to title to such underground storage tank or tank site property upon default under the security arrangement, or at, or in lieu of, foreclosure, shall continue to hold such indicia of ownership primarily to protect that person’s security interest so long as subsequent actions taken by that person with respect to the underground storage tank or tank site property are intended to protect the collateral secured by the interest, and demonstrate that the person is seeking to sell or liquidate the secured property rather than holding the property for investment purposes.

(2) The person does not exhibit managerial control of, or managerial responsibility for, the daily operation of the underground storage tank or tank site property through the actual, direct, and continual or recurrent exercise of managerial control over the underground storage tank or tank site property in which that person holds a security interest, which managerial control materially divests the borrower, debtor, owner or operator of the underground storage tank or tank site property of such control.

(3) The person has taken no subsequent action with respect to the site which causes or exacerbates a release or threatened release of a hazardous substance.

7. “Petroleum” means petroleum, including crude oil or any fraction of crude oil which

is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute).

8. “*Regulated substance*” means an element, compound, mixture, solution or substance which, when released into the environment, may present substantial danger to the public health or welfare or the environment. Regulated substance includes substances designated in 40 C.F.R., pts. 61 and 116, and 40 C.F.R. § 401.15, and petroleum including crude oil or any fraction of crude oil which is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute). However, regulated substance does not include a substance regulated as a hazardous waste under the Resource Conservation and Recovery Act of 1976. Substances may be added or deleted as regulated substances by rule of the commission pursuant to section 455B.474.

9. “*Release*” means spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a regulated substance, including petroleum, from an underground storage tank into groundwater, surface water, or subsurface soils.

10. “*Tank site*” means a tank or grouping of tanks within close proximity of each other located on the facility for the purpose of storing regulated substances.

11. a. “*Underground storage tank*” means one or a combination of tanks, including underground pipes connected to the tanks which are used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes, is ten percent or more beneath the surface of the ground.

b. (1) “*Underground storage tank*” does not include:

(a) Farm or residential tanks of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes.

(b) Tanks used for storing heating oil for consumptive use on the premises where stored.

(c) Residential septic tanks.

(d) Pipeline facilities regulated under the Natural Gas Pipeline Safety Act of 1968, as amended to January 1, 1985, codified at 49 U.S.C. § 1671 et seq., the Hazardous Liquid Pipeline Safety Act of 1979, as amended to January 1, 1985, codified at 49 U.S.C. § 2001 et seq., or an intrastate pipeline facility regulated under chapter 479.

(e) A surface impoundment, pit, pond, or lagoon.

(f) A storm water or wastewater collection system.

(g) A flow-through process tank.

(h) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

(i) A storage tank situated in an underground area including but not limited to a basement, cellar, mineworking, drift, shaft, or tunnel if the storage tank is situated upon or above the surface of the floor.

(2) “*Underground storage tank*” does not include pipes connected to a tank described in paragraph “b”, subparagraph (1).

85 Acts, ch 162, §1; 89 Acts, ch 131, §33 – 35; 93 Acts, ch 42, §5; 94 Acts, ch 1067, §1; 95 Acts, ch 215, §4; 2011 Acts, ch 25, §106; 2012 Acts, ch 1023, §59

Referred to in §101.1, 101.21, 455B.473, 455B.474, 455B.751, 455B.752, 455G.13, 558.69

[T] Subsection 11 amended