



ADMINISTRATIVE RULES OF MONTANA

17.56.101 DEFINITIONS

For the purposes of this chapter and unless otherwise provided, the following terms have the meanings given to them in this rule and must be used in conjunction with those definitions in 75-11-203, 75-11-302, and 75-11-503, MCA.

- (1) "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 or tank system and aboveground releases associated with overfills and transfer operations as the regulated substances moves to or from an UST system.
- (2) "Aboveground storage tank" or "AST" means any one or a combination of tanks that is used to contain an accumulation of petroleum or petroleum products, and the volume of which is 90% or more above the surface of the ground.
- (3) "Active tank" means, for the purpose of determining operating permit and compliance inspection requirements in subchapter 3 and closure requirements in subchapter 7, an underground storage tank that is being used, or is capable of being used, for dispensing, depositing or storing a regulated substance and is not inactive as defined in (31).
- (4) "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.
- (5) "Belowground release" means any release to the subsurface of the land and to ground water. 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.
- (6) "Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.
- (7) "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.
- (8) "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 must 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.

- (9) "CERCLA" means the Comprehensive, Environmental Response, Compensation, and Liability Act of 1980, as amended.
- (10) "Closure" or "to close" means the process of properly removing or filling in place an underground storage tank that is no longer in service.
- (11) "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.
- (12) "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 should be allocated equally between them.
- (13) "Consumptive use" with respect to heating oil means consumed on the premises.
- (14) "Containment sump" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps and related components in the containment area. Containment sumps may be single walled or secondarily contained and may be located at the top of the tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).
- (15) "Corrective action" means investigation, monitoring, cleanup, restoration, abatement, removal, and other actions necessary to respond to a release.
- (16) "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 must 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.
- (17) "Department" means the Department of Environmental Quality created by 2-15-3501, MCA.
- (18) "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).
- (19) "Dispenser" means equipment located aboveground that dispenses regulated substances from the UST system.
- (20) "Dispenser system" means the dispenser and the equipment necessary to connect the dispenser to the underground storage tank system.
- (21) "Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.
- (22) "Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

- (23) "Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before November 3, 1989. Installation is considered to have commenced if:
- (a) 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
 - (b) 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 canceled or modified without substantial loss, for physical construction at the site or installation of the tank system to be completed within a reasonable time.
- (24) "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.
- (25) "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 byproducts from the production process.
- (26) "Free product" refers to a regulated substance that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water).
- (27) "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.
- (28) "Ground water" means water below the land surface in a zone of saturation.
- (29) "Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance defined in section 101(14) of CERCLA (but not including any substance regulated as a hazardous waste under subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system.
- (30) "Hazardous waste" means a hazardous waste as defined by 75-10-403, MCA.
- (31) "Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including navy special fuel oil and bunker C); and 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.
- (32) "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, elevators, and other similar devices.
- (33) "Inactive tank" means, for the purpose of determining operating permit and compliance inspection requirements in subchapter 3 and closure requirements in subchapter 7, an underground storage tank for which the department has received written notice, in accordance with ARM 17.56.701, that the tank is currently not being used for dispensing, depositing, or storing a regulated substance.
- (34) "Installation" or "to install" means the placement of an underground storage tank system, including excavation, tank placement, backfilling, and piping of underground portions of the underground storage tank system that store or convey regulated substances. Installation includes

repair or modification of an underground storage tank system through such means as tank relining or the repair or replacement of valves, fillpipes, piping, vents, or in-tank liquid-level monitoring systems. Installation also means installation, repair, or modification of a leak detection device that is external to and not attached to the underground storage tank system and the installation, repair, or modification of a cathodic protection system. The terms "installation" and "to install" do not include the process of conducting a precision (tightness) test to establish the integrity of the underground storage tank system.

- (35) "Installer" means an individual who installs or closes underground storage tank systems.
- (36) "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 liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.
- (37) "Local governmental unit" means a city, town, county, or fire district.
- (38) "Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.
- (39) "Motor fuel" means a complex blend of hydrocarbons typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances (for example: motor gasoline blended with alcohol).
- (40) "New tank performance standards" includes design, construction, installation, release detection, and compatibility standards.
- (41) "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 November 3, 1989.
- (42) "Noncommercial purposes" with respect to motor fuel means not for resale.
- (43) "Oil/water separator" means a flow-through tank designed to separate petroleum from water. The term does not include piping or tanks that contain petroleum effluent.
- (44) "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.
- (45) "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 subchapter 7.
- (46) "Operator" means:
 - (a) for purposes of administration of Title 75, chapter 11, parts 2 and 5, MCA, the term as defined in 75-11-203, MCA; and
 - (b) for purposes of administration of Title 75, chapter 11, part 3, MCA, the term as defined in 75-11-302, MCA.
- (47) "Out of service" means that the normal operation of the UST system is discontinued as characterized by the fact that no regulated substances are being deposited into or drawn from the system, and:
 - (a) leak detection or leak prevention procedures are not conducted in a manner normally associated with an in-service system of a similar type and purpose; or

- (b) for emergency generator tanks, used oil tanks, heating oil tanks, or hazardous substance tanks, the infrequent use of the UST system cannot be justified as part of its purpose.
- (48) "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.
- (49) "Owner" means:
 - (a) for purposes of administration of Title 75, chapter 11, part 2, MCA, the term as defined in 75-11-203, MCA;
 - (b) for purposes of administration of Title 75, chapter 11, part 3, MCA, the term as defined in 75-11-302, MCA; and
 - (c) unless otherwise provided in statute or rule, for purposes of administration of Title 75, chapter 11, part 5, MCA, any person who:
 - (i) holds title to, controls, or possesses an interest in an UST system; or
 - (ii) owns the property on which an UST system is located. The term does not include a person who holds an interest in a storage tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank.
- (50) "Person" means:
 - (a) for purposes of administration of Title 75, chapter 11, part 2, MCA, the term as defined in 75-11-203, MCA;
 - (b) for purposes of administration of Title 75, chapter 11, part 3, MCA, the term as defined in 75-11-302, MCA; and
 - (c) for purposes of administration of Title 75, chapter 11, part 5, MCA, the term as defined in 75-11-503, MCA.
- (51) "Petroleum mixing zone" has the meaning given in 75-11-503, MCA.
- (52) "Petroleum storage tank" or "PST" means a tank that contains or contained petroleum or petroleum products and that is:
 - (a) an underground storage tank as defined in 75-11-503, MCA;
 - (b) a storage tank that is situated in an underground area such as a basement, cellar, mine, draft, shaft, or tunnel;
 - (c) an aboveground storage tank with a capacity less than 30,000 gallons; or
 - (d) aboveground pipes associated with tanks under (50)(b) and (c), except that pipelines regulated under the following laws are excluded:
 - (i) the Natural Gas Pipeline Safety Act of 1968 (49 USC 1671 et seq.);
 - (ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC 2001 et seq.); and
 - (iii) state law comparable to the provisions of law referred to in (50)(d)(i) and (ii), if the facility is intrastate.

- (53) "Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.
- (54) "Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of nonearthen materials.
- (55) "Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.
- (56) "Primary leak detection method" means the leak detection method, approved under this chapter, that is:
- (a) specified by the owner or operator and recorded by the compliance inspector as the primary leak detection method in the most recent UST program compliance inspection; or
 - (b) specified by the owner or operator in writing or e-mail to the department as the primary leak detection method.
- (57) "Public water supply system" means a public water supply system as defined in 75-6-102, MCA.
- (58) "RCRA" means the federal Resource Conservation and Recovery Act of 1986.
- (59) "Regulated substance" means a hazardous substance as defined in 75-10-602, MCA; or petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60 ° F and 14.7 pounds per square inch absolute); does not include a substance regulated as a hazardous waste under Title 75, chapter 10, part 4, MCA.
- (60) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a tank system into ground water, surface water, surface soils, or subsurface soils.
- (61) "Release detection" means determining whether a release of a regulated substance has occurred from the tank system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.
- (62) "Repair" means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other UST system component that has caused a release of product from the UST system or has failed to function properly.
- (63) "Replaced" means:
- (a) for a tank - to remove a tank and install another tank.
 - (b) for piping - to remove 50 percent or more of piping and install other piping, excluding connectors, connected to a single tank. For tanks with multiple piping runs, this definition applies independently to each piping run.
- (64) "Residential tank" is a tank located on property used primarily for dwelling purposes.
- (65) "Safe Drinking Water Act" means the federal Safe Drinking Water Act, as amended, 42 USC 300f, et seq., and implementing regulations in 40 CFR Parts 141 and 142.
- (66) "SARA" means the Superfund Amendments and Reauthorization Act of 1986.
- (67) "Secondary containment" means:

- (a) a liquid-tight (secondary) shell or jacket that extends around the inner (primary) shell of a tank or piping that is designed, constructed, and installed to contain any leak from any part of the tank or piping that routinely contains a regulated substance. Secondary containment must be designed, constructed, and installed to:
 - (i) prevent releases to the environment;
 - (ii) allow for monitoring of releases between the primary and secondary shells; and
 - (iii) allow for detection of any leak; and
 - (b) liquid-tight tank sumps, transition sumps, or under-dispenser containment sumps that will contain a leak from any part of the tank or piping that routinely contains a regulated substance until detection.
- (68) "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.
- (69) "Significant noncompliance" means the existence of one or more violations that:
- (a) cause, or may cause, a substantial, continuing risk to public health and the environment;
 - (b) substantially deviate from a requirement of this chapter; or
 - (c) include failure to install, maintain, or operate equipment essential to preventing or detecting leaks.
- (70) "State fire marshal" means the state fire marshal as provided for in 2-15-2005, MCA.
- (71) "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.
- (72) "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.
- (73) "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.
- (74) "Terminal piping" means piping that:
- (a) is located within a facility with a North American Industry Classification System (NAICS) code of 424710 (Petroleum Bulk Stations and Terminals) (2017), 486110 (Pipeline Transportation of Crude Oil) (2017), 486910 (Pipeline Transportation of Refined Petroleum Products) (2017), or 482111 (Line-Haul Railroads) (2017);
 - (b) is underground, or is above ground, if the above ground piping:
 - (i) cannot be segregated, disconnected, or isolated from subject underground piping; and
 - (ii) is connected to ancillary equipment including, but not limited to, pumps, valves, or meters;

- (c) is connected to a storage tank, whether the storage tank is entirely above ground, partially above ground, or entirely underground;
 - (d) is used to contain or transport a regulated substance; and
 - (e) has a normal operating pressure greater than 50 psi or a piping capacity greater than 362 gallons for diesel and 316 gallons for gasoline.
 - (f) Copies of the NACIS codes listed in (a) are available at <https://www.naics.com/contact-us/> or by calling 1-888-756.2427. Copies are also available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.
- (75) "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.
- (76) "Underground release" means any belowground release.
- (77) "Under-dispenser containment" means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or ground water (see ARM 17.56.204).
- (78) "Underground storage tank" or "UST" has the meaning given in 75-11-503, MCA.
- (79) "Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of product.
- (80) "UST system" or "tank system" means an underground storage tank or petroleum storage tank, as appropriate, ancillary equipment designed to prevent, detect, or contain a release from an UST system, the equipment necessary to connect dispensers to product piping, and containment system, if any.
- (81) "Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

Authorizing statute(s): 75-11-204, 75-11-319, 75-11-505, MCA

Implementing statute(s): 75-11-203, 75-11-302, 75-11-319, 75-11-505, MCA

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