

74-4-3. Definitions.

As used in the Hazardous Waste Act:

A. "above ground storage tank" means a single tank or combination of tanks, including underground pipes connected thereto, that are used to contain petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure of sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute, and the volume of which is more than ninety percent above the surface of the ground. "Above ground storage tank" does not include any:

(1) farm, ranch or residential tank used for storing motor fuel for noncommercial purposes;

(2) pipeline facility, including gathering lines, regulated under the federal Natural Gas Pipeline Safety Act of 1968 or the federal Hazardous Liquid Pipeline Safety Act of 1979 or that is an intrastate pipeline facility regulated under state laws comparable to either act;

(3) surface impoundment, pit, pond or lagoon;

(4) storm water or wastewater collection system;

(5) flow-through process tank;

(6) liquid trap, tank or associated gathering lines or other storage methods or devices related to oil, gas or mining exploration, production, transportation, refining, processing or storage, or to oil field service industry operations;

(7) tank used for storing heating oil for consumptive use on the premises where stored;

(8) pipes connected to any tank that is described in Paragraphs (1) through (7) of this subsection; or

(9) tanks or related pipelines and facilities owned or used by a refinery, natural gas processing plant or pipeline company in the regular course of their refining, processing or pipeline business;

B. "board" means the environmental improvement board;

C. "corrective action" means an action taken in accordance with rules of the board to investigate, minimize, eliminate or clean up a release to protect the public health, safety and welfare or the environment;

D. "director" or "secretary" means the secretary of environment;

E. "disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

F. "division" or "department" means the department of environment;

G. "federal agency" means any department, agency or other instrumentality of the federal government and any independent agency or establishment of that government, including any government corporation and the government printing office;

H. "generator" means any person producing hazardous waste;

I. "hazardous agricultural waste" means hazardous waste generated as part of the licensed

activity by any person licensed pursuant to the Pesticide Control Act [Chapter 76, Articles 1 through 9 NMSA 1978] or hazardous waste designated as hazardous agricultural waste by the board, but does not include animal excrement in connection with farm, ranch or feedlot operations;

J. "hazardous substance incident" means any emergency incident involving a chemical or chemicals, including but not limited to transportation wrecks, accidental spills or leaks, fires or explosions, which incident creates the reasonable probability of injury to human health or property;

K. "hazardous waste" means any solid waste or combination of solid wastes that because of their quantity, concentration or physical, chemical or infectious characteristics may:

(1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. "Hazardous waste" does not include any of the following, until the board determines that they are subject to Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.:

(a) drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil or natural gas or geothermal energy;

(b) fly ash waste;

(c) bottom ash waste;

(d) slag waste;

(e) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(f) solid waste from the extraction, beneficiation or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore; or

(g) cement kiln dust waste;

L. "manifest" means the form used for identifying the quantity, composition, origin, routing and destination of hazardous waste during transportation from point of generation to point of disposal, treatment or storage;

M. "person" means an individual, trust, firm, joint stock company, federal agency, corporation, including a government corporation, partnership, association, state, municipality, commission, political subdivision of a state or any interstate body;

N. "regulated substance" means:

(1) a substance defined in Section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, but not including a substance regulated as a hazardous waste under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended; and

(2) petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure of sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute;

O. "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, 86 Stat. 880, or source, special nuclear or byproduct material as defined by the federal Atomic Energy Act of 1954, as amended, 68 Stat. 923;

P. "storage" means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste;

Q. "storage tank" means an above ground storage tank or an underground storage tank;

R. "tank installer" means any individual who installs or repairs a storage tank;

S. "transporter" means a person engaged in the movement of hazardous waste, not including movement at the site of generation, disposal, treatment or storage;

T. "treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous waste so as to neutralize the waste or so as to render the waste nonhazardous, safer for transport, amenable to recovery, amenable to storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

U. "underground storage tank" means a single tank or combination of tanks, including underground pipes connected thereto, that are used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected thereto, is ten percent or more beneath the surface of the ground. "Underground storage tank" does not include any:

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

(2) septic tank;

(3) pipeline facility, including gathering lines, that is regulated under the federal Natural Gas Pipeline Safety Act of 1968 or the federal Hazardous Liquid Pipeline Safety Act of 1979 or that is an intrastate pipeline facility regulated under state laws comparable to either act;

(4) surface impoundment, pit, pond or lagoon;

(5) storm water or wastewater collection system;

(6) flow-through process tank;

(7) liquid trap, tank or associated gathering lines directly related to oil or gas production and gathering operations;

(8) storage tank 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 undesignated floor;

(9) tank used for storing heating oil for consumptive use on the premises where stored;

(10) tank exempted by rule of the board after finding that the type of tank is adequately regulated under another federal or state law; or

(11) pipes connected to any tank that is described in Paragraphs (1) through (10) of this subsection; and

V. "used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

History: 1953 Comp., § 12-9B-3, enacted by Laws 1977, ch. 313, § 3; 1981 (1st S.S.), ch. 8, § 2; 1987, ch. 179, § 1; 1989, ch. 322, § 1; 1991, ch. 25, § 33; 1992, ch. 43, § 1; 2001, ch. 325, § 2; 2002, ch. 47, § 1; 2010, ch. 27, § 1.