

No. 1996-34

AN ACT

SB 638

Amending the act of July 6, 1989 (P.L.169, No.32), entitled "An act providing for the regulation of storage tanks and tank facilities; imposing additional powers and duties on the Department of Environmental Resources and the Environmental Quality Board; and making an appropriation," further providing for definitions and for aboveground storage tank requirements; and providing for a feasibility study.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definitions of "aboveground storage tank," "storage tank facility" and "underground storage tank" in section 103 of the act of July 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill Prevention Act, amended June 26, 1995 (P.L.79, No.16), are amended to read:

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Aboveground storage tank." Any one or combination of stationary tanks with a capacity in excess of 250 gallons, including underground pipes and dispensing systems connected thereto within the [storage tank facility] *emergency containment area*, which is or was used to contain an accumulation of regulated substances, and the volume of which, including the volume of all piping within the storage tank facility, is greater than 90% above the surface of the ground. The term includes any tank which can be visually inspected, from the exterior, in an underground area. The term shall not include any of the following:

- (1) A tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes or motor oil.
- (2) A tank used for storing heating oil for consumptive use on the premises where stored.
- (3) A pipeline facility, including gathering lines, regulated under:
 - (i) the Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481, 82 Stat. 720, 49 U.S.C. App. § 1671 et seq.);
 - (ii) the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989, 49 U.S.C. § 2001 et seq.); or
 - (iii) an interstate or intrastate pipeline facility regulated under State laws comparable to the provisions of law referred to in subparagraph (i) or (ii).
- (4) A surface impoundment, pit, pond or lagoon.
- (5) A storm water or wastewater collection system.

(6) A flow-through process tank, including, but not limited to, a pressure vessel or process vessel and oil and water separators.

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

(8) Tanks which are used to store brines, crude oil, drilling or frac fluids and similar substances or materials and are directly related to the exploration, development or production of crude oil or natural gas regulated under the act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act.

(9) Tanks regulated under the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act.

(10) Tanks used for the storage of products which are regulated pursuant to the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.).

(11) Tanks [permitted] *regulated* pursuant to the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, including, but not limited to, piping, tanks, collection and treatment systems used for leachate, methane gas and methane gas condensate management.

(12) A tank of 1,100 gallons or less in capacity located on a farm used solely to store or contain substances that are used to facilitate the production of crops, livestock and livestock products on such farm.

(13) Tanks which are used to store propane gas.

(14) Any other tank excluded by regulations promulgated pursuant to this act.

The term shall not include any pipes connected to any tank described in paragraphs (1) through (13).

* * *

“Storage tank facility.” One or more stationary tanks, including any associated intrafacility pipelines, fixtures, monitoring devices and other equipment. A facility may include aboveground tanks, underground tanks or a combination of both. *For the purposes of this act, the associated intrafacility pipelines, fixtures, monitoring devices and other equipment for an aboveground storage tank shall be that which lies within the emergency containment area.*

* * *

“Underground storage tank.” Any one or combination of tanks (including underground pipes connected thereto) which are used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10% or more beneath the surface of the ground. The term shall not include:

(1) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

(2) Tanks used for storing heating oil for consumptive use on the premises where stored unless they are specifically required to be regulated by Federal law.

- (3) A septic or other subsurface sewage treatment tank.
- (4) A pipeline facility (including gathering lines) regulated under:
 - (i) The Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481, 82 Stat. 720, 49 U.S.C. App. § 1671 et seq.).
 - (ii) The Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989, 49 U.S.C. § 2001 et seq.).
- (5) An interstate or intrastate pipeline facility regulated under State laws comparable to the provisions of law in paragraph (4).
- (6) Surface impoundments, pits, ponds or lagoons.
- (7) Storm water or wastewater collection systems.
- (8) Flow-through process tanks.
- (9) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.
- (10) Storage tanks situated in an underground area (such as a basement, cellar, mine working, drift, shaft or tunnel) if the tank is situated upon or above the surface of the floor.
- (11) **[Tanks permitted]** *Except for tanks subject to the requirements of 40 CFR 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)), tanks regulated* pursuant to the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, including, but not limited to, piping, tanks, collection and treatment systems used for leachate, methane gas and methane gas condensate management.
- (12) Any underground storage tank system whose capacity is 110 gallons or less.
- (13) Any other tank excluded by policy or regulations promulgated pursuant to this act.

Section 2. Section 301(a)(2) of the act is amended to read:

Section 301. Aboveground storage tank requirements.

(a) Minimum program requirements.—The department shall, by regulation, adopt and implement an aboveground storage tank program that, at a minimum, requires all of the following:

* * *

(2) Methods and procedures for the operation of aboveground storage tanks and the early detection, by owners, of releases or potential releases, including testing on new or substantially modified aboveground storage tanks and out-of-service inspection at least once every **[ten years for existing and new aboveground storage tanks] twenty years or more frequently in accordance with nationally recognized standards, provided that new or existing aboveground storage tanks have an in-service inspection in accordance with API or other nationally recognized standards by a Pennsylvania certified inspector at least every five years as well as monthly maintenance inspections by the owner/operator or his designated representative.** Testing of aboveground storage tanks after initial installation may be by hydrostatic means or, in instances where

wastewater would be generated or materials stored in the tank might be water reactive, other methods of testing such as the radioactive method, the magnetic particle method, the ultrasonic method or the liquid penetrant method, in accordance with API standards, may be used. A new aboveground storage tank not exceeding 21,000 gallon capacity may meet the initial testing requirements if the tank is fully assembled, inspected and tested at the plant where it is manufactured.

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Section 3. The Underground Storage Tank Indemnification Board shall conduct a study to determine the feasibility of a low-interest loan program from the Underground Storage Tank Indemnification Fund. Such study shall determine feasibility of using the Underground Storage Tank Indemnification Fund for underground storage tank (UST) owners to bring their underground storage tank (UST) facilities into compliance with 40 CFR 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)) and other uses that the board may determine appropriate. The study shall be completed and reported to the General Assembly no later than August 15, 1996.

Section 4. This act shall take effect in 60 days.

APPROVED—The 10th day of May, A.D. 1996.

THOMAS J. RIDGE