

IC 13-18-5.5

Chapter 5.5. Reporting of Above Ground Storage Tanks

IC 13-18-5.5-1

"Above ground storage tank" (AST)

Sec. 1. As used in this chapter, "above ground storage tank" or "AST" means a device:

- (1) at least ten percent (10%) of the outer surface of which is exposed above the ground; and
- (2) that is designed to contain more than six hundred sixty (660) gallons above ground of a matter that is a liquid.

As added by P.L.112-2015, SEC.10.

IC 13-18-5.5-2

"Agribusiness"

Sec. 2. As used in this chapter, "agribusiness" means a business that is primarily engaged in:

- (1) the distribution of farm equipment and supplies; or
- (2) the processing, storage, and distribution of farm commodities.

As added by P.L.112-2015, SEC.10.

IC 13-18-5.5-3

"Critical zone of concern"

Sec. 3. (a) As used in this chapter, "critical zone of concern" means:

- (1) an area in which a hazardous material could:
 - (A) travel to a water intake of a public water system that uses surface water as a source of drinking water; and
 - (B) cause a disruption; or
- (2) another area designated in subsection (b) as a critical zone of concern.

(b) The term includes the following:

- (1) In the case of a flowing stream on which an intake of a public water system is located, the area:
 - (A) within one-quarter (1/4) mile of each bank of the stream and of every tributary of the stream from the location of the intake on the main stream to the point on the main stream and on each tributary twenty-five (25) miles upstream of the intake; and
 - (B) within one-quarter (1/4) mile of each bank of the main stream from the intake to fifty (50) feet downstream of the intake.
- (2) In the case of a reservoir or lake other than Lake Michigan on which an intake of a public water system is located, the area:
 - (A) within one-quarter (1/4) mile of each bank of the reservoir or lake; and
 - (B) within one-quarter (1/4) mile of each bank of every

- stream or tributary flowing into the lake or reservoir from the point where the stream or tributary flows into the lake or reservoir to the point twenty-five (25) miles upstream of where the stream or tributary flows into the lake or reservoir.
- (3) In the case of a stream or tributary flowing into Lake Michigan, the area that is:
- (A) within one-quarter (1/4) mile of each bank of the stream or tributary; and
 - (B) within five (5) miles of an intake of a public water system.
- (4) In the case of Lake Michigan, the area of land that is within one-quarter (1/4) mile of the ordinary high water mark of Lake Michigan.
- (5) Any other areas established by the board in rules adopted by the board under section 9 of this chapter.

As added by P.L.112-2015, SEC.10.

IC 13-18-5.5-4

"Discharge"

Sec. 4. As used in this chapter, "discharge" has the meaning set forth in IC 13-11-2-55.

As added by P.L.112-2015, SEC.10.

IC 13-18-5.5-5

"Disruption"

Sec. 5. As used in this chapter, "disruption" means an interruption in the ability of a public water system to provide safe drinking water at a rate adequate to meet the demand on the public water system for a period exceeding twenty-four (24) hours.

As added by P.L.112-2015, SEC.10.

IC 13-18-5.5-6

"Hazardous material"

Sec. 6. As used in this chapter, "hazardous material" means a liquid that:

- (1) contains a hazardous material (as defined in IC 13-11-2-96(a)); and
- (2) is capable of causing a disruption if discharged from an above ground storage tank.

As added by P.L.112-2015, SEC.10.

IC 13-18-5.5-7

"Liquid"

Sec. 7. As used in this chapter, "liquid" means matter that:

- (1) is in a nongaseous state; and
- (2) will, at:
 - (A) sixty (60) degrees Fahrenheit; and
 - (B) ambient atmospheric pressure;

take the shape of the interior of a container immediately upon being placed in the container.
As added by P.L.112-2015, SEC.10.

IC 13-18-5.5-8

"Public water system"

Sec. 8. As used in this chapter, "public water system" has the meaning set forth in IC 13-11-2-177.3.

As added by P.L.112-2015, SEC.10.

IC 13-18-5.5-9

Report concerning AST; supplemental report; no report required if existence of AST reported previously

Sec. 9. (a) Except as provided in subsection (c) and sections 10(b)(3) and 11 of this chapter, the owner or operator of an above ground storage tank located in a critical zone of concern shall report to the department the following information concerning the AST:

- (1) The location of the AST.
- (2) The materials stored in the AST.
- (3) The capacity of the AST.
- (4) The name and contact information of a person who may be contacted for information about the AST.

The owner or operator shall submit the report before January 1, 2016.

(b) After submitting a report under subsection (a), the owner or operator of an above ground storage tank shall submit to the department a supplemental report concerning the AST whenever:

- (1) the location of the AST;
- (2) the classification of the materials stored in the AST;
- (3) the capacity of the AST; or
- (4) the name or contact information of the person who may be contacted for information about the AST;

is changed, so that the information concerning the AST in the possession of the department will remain accurate.

(c) If the owner or operator of an above ground storage tank has reported the existence of the AST to the department or another agency of the state pursuant to another statute or administrative rule, the owner or operator is not required to report to the department concerning the AST under this chapter.

(d) The owner or operator of an above ground storage tank who is required to report under this chapter shall report to the department concerning the AST:

- (1) according to rules adopted by the board under section 10 of this chapter; and
- (2) either:
 - (A) on a form adopted by the board or the department; or
 - (B) through an electronic mail or Internet based means established by the board or the department;

until rules concerning reporting are adopted under section 10 of this chapter.

As added by P.L.112-2015, SEC.10. Amended by P.L.149-2016, SEC.46.

IC 13-18-5.5-10

Rules concerning reporting

Sec. 10. (a) The board shall adopt rules under IC 13-14-9 and IC 4-22-2 concerning the reporting required under this chapter.

(b) The rules adopted by the board under this section must do the following:

(1) Establish at least three (3) different classifications of above ground storage tanks for the purposes of this chapter, according to the relative danger of a disruption from an AST discharge, based on:

- (A) the liquid stored in the AST;
- (B) the capacity and location of the AST; and
- (C) the proximity of the AST to the water intake of a public water system.

(2) Require reports to the department under this chapter concerning all ASTs that:

- (A) are used to store hazardous materials; and
- (B) are located in a critical zone of concern.

(3) Establish certain conditions under which an AST shall be recognized as exempt from the reporting requirements of this chapter because the AST does not pose a threat to cause a disruption from a discharge of the contents of the AST.

(c) The rules adopted under this section must:

- (1) provide for the filing of a supplemental report concerning an AST when a change as described in section 9(b) of this chapter occurs so that the information in the possession of the department concerning the AST will remain accurate; and
- (2) specify the means by which the owner or operator of an AST will comply with the reporting requirements of this chapter, as described in section 9(d)(2) of this chapter.

(d) Notwithstanding subsection (a), the board may adopt emergency rules under IC 4-22-2-37.1 to create a temporary reporting form for use under this chapter.

As added by P.L.112-2015, SEC.10.

IC 13-18-5.5-11

Exempt from AST reporting requirements

Sec. 11. The following are exempt from the reporting requirements of this chapter:

- (1) An AST used to contain only uncontaminated drinking water, demineralized water, noncontact or circulating cooling water, or water stored for fire or emergency purposes.
- (2) An AST located on a farm or the premises of an

agribusiness, the contents of which are:

- (A) used by the AST owner or operator for farming purposes; or
 - (B) produced as an agricultural commodity.
- (3) An AST:
- (A) that is located on a farm, the premises of an agribusiness, or residential property;
 - (B) the capacity of which is not more than ten thousand (10,000) gallons; and
 - (C) that is used for storing motor fuel for noncommercial purposes.
- (4) An AST:
- (A) the capacity of which is not more than one thousand one hundred (1,100) gallons; and
 - (B) that is used for storing heating oil for consumption on the premises on which the AST is located.
- (5) An AST that is used for storing heating oil, natural gas, or propane and that is regulated under NFPA 58-30A or NFPA 58-30B of the Liquefied Petroleum Gas Code of the National Fire Protection Association through 49 CFR 192.11(b).
- (6) An AST that is part of a stormwater or wastewater collection and treatment system.
- (7) An AST located on a site regulated under IC 14-34.
- (8) Machinery and equipment containing integral operating fluids that are necessary for the proper operation of the machinery or equipment, including, but not limited to, hydraulic reservoirs, lubricating oil reservoirs, electrical equipment, heating and cooling equipment, and fuel tanks for emergency generators and fire pumps.
- (9) An AST that is:
- (A) located inside a building; and
 - (B) resting on or elevated above a floor of the building;
- a discharge from which would be contained in a secondary containment structure or would, through other means, be prevented from escaping in a manner that could cause a disruption.
- (10) An AST that:
- (A) is regulated by the United States Department of Transportation; and
 - (B) is located on a particular site for less than one hundred eighty (180) consecutive calendar days.
- (11) A surface impoundment, pit, pond, or lagoon.
- (12) An AST:
- (A) that is otherwise regulated through individual, site specific permits issued under the National Pollutant Discharge Elimination System or another regulatory program; or
 - (B) for which appropriate containment and diversionary

structures or equipment to prevent unregulated discharge of materials from reaching the waters of Indiana are in place in compliance with law or administrative rules.

- (13) An AST that is regulated under section 1321 of the federal Water Pollution Control Act (section 311 of the federal Clean Water Act, 33 U.S.C. 1321) and the regulations adopted thereunder, 40 CFR 112, et seq.
- (14) Any flow-through or process AST, including, but not limited to, a pressure vessel and oil and water separators.
- (15) A pipeline facility, including gathering lines, that:
 - (A) is regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.);
 - (B) is regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 60101 et seq.); or
 - (C) is an intrastate pipeline facility regulated under state laws comparable to the laws identified in clauses (A) and (B).
- (16) Electrical equipment such as transformers, circuit breakers, and voltage regulators.
- (17) An AST used in a process operation:
 - (A) in which liquids are altered through biological, chemical, or physical means; or
 - (B) that is used strictly to regulate liquid volumes in a process operation.
- (18) An AST containing pesticides or fertilizers regulated by the state chemist under 355 IAC.
- (19) An emergency spill or overflow containment AST that is maintained to preserve its capacity.
- (20) An AST that contains a de minimis concentration of hazardous material.
- (21) An AST that is used for the storage of products that are regulated under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq.
- (22) A device that is subject to IC 13-23 or other laws, rules, or regulations concerning underground storage tanks (as defined in IC 13-11-2-241).
- (23) An AST containing mineral oil used solely for dust suppression.
- (24) Any other AST exempted by a rule adopted by the board under section 10(b)(3) of this chapter.

As added by P.L.112-2015, SEC.10.

IC 13-18-5.5-12

Confidentiality of reported information

Sec. 12. Information about above ground storage tanks that is reported to the department under this chapter may be considered confidential under IC 5-14-3-4(a)(1), IC 5-14-3-4(a)(4), IC 5-14-3-4(a)(8), or IC 5-14-3-4(b)(19) for purposes of public

disclosure. However, the information may be disclosed to a responsible person developing or updating a surface water quality threat minimization and response plan for a public water system under IC 13-18-16-7.5.

As added by P.L.112-2015, SEC.10.