



The Legislature
of the
State of New Mexico

49th Legislature, 2nd Session

LAWS 2010

CHAPTER 27

HOUSE BILL 81, as amended

Introduced by

REPRESENTATIVE JOHN A. HEATON

REPRESENTATIVE PATRICIA A. LUNDSTROM
REPRESENTATIVE NICK L. SALAZAR
REPRESENTATIVE JIM R. TRUJILLO
REPRESENTATIVE ANTONIO LUJAN
REPRESENTATIVE JACK E. THOMAS
REPRESENTATIVE RAY BEGAYE
REPRESENTATIVE ANDY NUÑEZ
REPRESENTATIVE WILLIAM J. GRAY
REPRESENTATIVE SHIRLEY A. TYLER



Chapter 27

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING SECTIONS OF THE
HAZARDOUS WASTE ACT AND THE GROUND WATER PROTECTION ACT TO
CLARIFY DEFINITIONS OF STORAGE TANKS AND TO PROVIDE FOR
COMPLIANCE WITH THE FEDERAL ENERGY POLICY ACT OF 2005.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-4-3 NMSA 1978 (being Laws 1977,
Chapter 313, Section 3, as amended) is amended to read:

"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

1 Act of 1979 or that is an intrastate pipeline facility
2 regulated under state laws comparable to either act;

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

5 (4) storm water or wastewater collection
6 system;

7 (5) flow-through process tank;

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

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

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

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

21 B. "board" means the environmental improvement
22 board;

23 C. "corrective action" means an action taken in
24 accordance with rules of the board to investigate, minimize,
25 eliminate or clean up a release to protect the public health,

1 safety and welfare or the environment;

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

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

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

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

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

19 I. "hazardous agricultural waste" means hazardous
20 waste generated as part of the licensed activity by any person
21 licensed pursuant to the Pesticide Control Act or hazardous
22 waste designated as hazardous agricultural waste by the board,
23 but does not include animal excrement in connection with farm,
24 ranch or feedlot operations;

25 J. "hazardous substance incident" means any

1 emergency incident involving a chemical or chemicals,
2 including but not limited to transportation wrecks, accidental
3 spills or leaks, fires or explosions, which incident creates
4 the reasonable probability of injury to human health or
5 property;

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

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

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

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

24 (b) fly ash waste;

25 (c) bottom ash waste;

1 (d) slag waste;

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

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

9 (g) cement kiln dust waste;

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

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

19 N. "regulated substance" means:

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

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

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

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

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

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

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

4 T. "treatment" means any method, technique or
5 process, including neutralization, designed to change the
6 physical, chemical or biological character or composition of a
7 hazardous waste so as to neutralize the waste or so as to
8 render the waste nonhazardous, safer for transport, amenable
9 to recovery, amenable to storage or reduced in volume.

10 "Treatment" includes any activity or processing designed to
11 change the physical form or chemical composition of hazardous
12 waste so as to render it nonhazardous;

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

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

23 (2) septic tank;

24 (3) pipeline facility, including gathering
25 lines, that is regulated under the federal Natural Gas

1 Pipeline Safety Act of 1968 or the federal Hazardous Liquid
2 Pipeline Safety Act of 1979 or that is an intrastate pipeline
3 facility regulated under state laws comparable to either act;

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

6 (5) storm water or wastewater collection
7 system;

8 (6) flow-through process tank;

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

12 (8) storage tank situated in an underground
13 area, such as a basement, cellar, mineworking drift, shaft or
14 tunnel, if the storage tank is situated upon or above the
15 surface of the undesignated floor;

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

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

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

23 and

24 V. "used oil" means any oil that has been refined
25 from crude oil, or any synthetic oil, that has been used and

1 as a result of such use is contaminated by physical or
2 chemical impurities."

3 Section 2. Section 74-4-4 NMSA 1978 (being Laws 1977,
4 Chapter 313, Section 4, as amended) is amended to read:

5 "74-4-4. DUTIES AND POWERS OF THE BOARD.--

6 A. The board shall adopt rules for the management
7 of hazardous waste, as may be necessary to protect public
8 health and the environment, that are equivalent to and no more
9 stringent than federal regulations adopted by the federal
10 environmental protection agency pursuant to the federal
11 Resource Conservation and Recovery Act of 1976, as amended:

12 (1) for the identification and listing of
13 hazardous wastes, taking into account toxicity, persistence
14 and degradability, potential for accumulation in tissue and
15 other related factors, including flammability, corrosiveness
16 and other hazardous characteristics; provided that, except as
17 authorized by Sections 74-4-3.3 and 74-8-2 NMSA 1978, the
18 board shall not identify or list any solid waste or
19 combination of solid wastes as a hazardous waste that has not
20 been listed and designated as a hazardous waste by the federal
21 environmental protection agency pursuant to the federal
22 Resource Conservation and Recovery Act of 1976, as amended;

23 (2) establishing standards applicable to
24 generators identified or listed under this subsection,
25 including requirements for:

1 (a) furnishing information on the
2 location and description of the generator's facility and on
3 the production or energy recovery activity occurring at that
4 facility;

5 (b) recordkeeping practices that
6 accurately identify the quantities of hazardous waste
7 generated, the constituents of the waste that are significant
8 in quantity or in potential harm to human health or the
9 environment and the disposition of the waste;

10 (c) labeling practices for any
11 containers used for the storage, transport or disposal of the
12 hazardous waste that will identify accurately the waste;

13 (d) use of safe containers tested for
14 safe storage and transportation of the hazardous waste;

15 (e) furnishing the information on the
16 general chemical composition of the hazardous waste to persons
17 transporting, treating, storing or disposing of the waste;

18 (f) implementation of programs to
19 reduce the volume or quantity and toxicity of the hazardous
20 waste generated;

21 (g) submission of reports to the
22 secretary at such times as the secretary deems necessary,
23 setting out the quantities of hazardous waste identified or
24 listed pursuant to the Hazardous Waste Act that the generator
25 has generated during a particular time period and the

1 disposition of all hazardous waste reported, the efforts
2 undertaken during a particular time period to reduce the
3 volume and toxicity of waste generated and the changes in
4 volume and toxicity of waste actually achieved during a
5 particular time period in comparison with previous time
6 periods; and

7 (h) the use of a manifest system and
8 any other reasonable means necessary to assure that all
9 hazardous waste generated is designated for treatment, storage
10 or disposal in, and arrives at, treatment, storage or disposal
11 facilities, other than facilities on the premises where the
12 waste is generated, for which a permit has been issued
13 pursuant to the Hazardous Waste Act; that the generator of
14 hazardous waste has a program in place to reduce the volume or
15 quality and toxicity of waste to the degree determined by the
16 generator to be economically practicable and that the proposed
17 method of treatment, storage or disposal is that practicable
18 method currently available to the generator that minimizes the
19 present and future threat to human health and the environment;

20 (3) establishing standards applicable to
21 transporters of hazardous waste identified or listed under
22 this subsection or of fuel produced from any such hazardous
23 waste or of fuel from such waste and any other material, as
24 may be necessary to protect human health and the environment,
25 including but not limited to requirements for:

1 (a) recordkeeping concerning the
2 hazardous waste transported and its source and delivery
3 points;

4 (b) transportation of the hazardous
5 waste only if properly labeled;

6 (c) compliance with the manifest system
7 referred to in Subparagraph (h) of Paragraph (2) of this
8 subsection; and

9 (d) transportation of all the hazardous
10 waste only to the hazardous waste treatment, storage or
11 disposal facility that the shipper designates on the manifest
12 form to be a facility holding a permit issued pursuant to the
13 Hazardous Waste Act or the federal Resource Conservation and
14 Recovery Act of 1976, as amended;

15 (4) establishing standards applicable to
16 distributors or marketers of any fuel produced from hazardous
17 waste, or any fuel that contains hazardous waste, for:

18 (a) furnishing the information stating
19 the location and general description of the facility; and

20 (b) furnishing the information
21 describing the production or energy recovery activity carried
22 out at the facility;

23 (5) establishing performance standards as
24 may be necessary to protect human health and the environment
25 applicable to owners and operators of facilities for the

1 treatment, storage or disposal of hazardous waste identified
2 or listed under this section, distinguishing, where
3 appropriate, between new facilities and facilities in
4 existence on the date of promulgation, including requirements
5 for:

6 (a) maintaining the records of all
7 hazardous waste identified or listed under this subsection
8 that is treated, stored or disposed of, as the case may be,
9 and the manner in which the waste was treated, stored or
10 disposed of;

11 (b) satisfactory reporting, monitoring,
12 inspection and compliance with the manifest system referred to
13 in Subparagraph (h) of Paragraph (2) of this subsection;

14 (c) treatment, storage or disposal of
15 all such waste and any liquid that is not a hazardous waste,
16 except with respect to underground injection control into deep
17 injection wells, received by the facility pursuant to such
18 operating methods, techniques and practices as may be
19 satisfactory to the secretary;

20 (d) location, design and construction
21 of hazardous waste treatment, disposal or storage facilities;

22 (e) contingency plans for effective
23 action to minimize unanticipated damage from any treatment,
24 storage or disposal of any hazardous waste;

25 (f) maintenance and operation of the

1 facilities and requiring any additional qualifications as to
2 ownership, continuity of operation, training for personnel and
3 financial responsibility, including financial responsibility
4 for corrective action, as may be necessary or desirable;

5 (g) compliance with the requirements of
6 Paragraph (6) of this subsection respecting permits for
7 treatment, storage or disposal;

8 (h) the taking of corrective action for
9 all releases of hazardous waste or constituents from a solid
10 waste management unit at a treatment, storage or disposal
11 facility, regardless of the time at which waste was placed in
12 the unit; and

13 (i) the taking of corrective action
14 beyond a facility's boundaries where necessary to protect
15 human health and the environment unless the owner or operator
16 of that facility demonstrates to the satisfaction of the
17 secretary that, despite the owner's or operator's best
18 efforts, the owner or operator was unable to obtain the
19 necessary permission to undertake such action. Rules adopted
20 and promulgated under this subparagraph shall take effect
21 immediately and shall apply to all facilities operating under
22 permits issued under Paragraph (6) of this subsection and to
23 all landfills, surface impoundments and waste pile units,
24 including any new units, replacements of existing units or
25 lateral expansions of existing units, that receive hazardous

1 waste after July 26, 1982. No private entity shall be
2 precluded by reason of criteria established under Subparagraph
3 (f) of this paragraph from the ownership or operation of
4 facilities providing hazardous waste treatment, storage or
5 disposal services where the entity can provide assurance of
6 financial responsibility and continuity of operation
7 consistent with the degree and duration of risks associated
8 with the treatment, storage or disposal of specified hazardous
9 waste;

10 (6) requiring each person owning or
11 operating, or both, an existing facility or planning to
12 construct a new facility for the treatment, storage or
13 disposal of hazardous waste identified or listed under this
14 subsection to have a permit issued pursuant to requirements
15 established by the board;

16 (7) establishing procedures for the
17 issuance, suspension, revocation and modification of permits
18 issued under Paragraph (6) of this subsection, which rules
19 shall provide for public notice, public comment and an
20 opportunity for a hearing prior to the issuance, suspension,
21 revocation or major modification of any permit unless
22 otherwise provided in the Hazardous Waste Act;

23 (8) defining major and minor modifications;
24 and

25 (9) establishing procedures for the

1 inspection of facilities for the treatment, storage and
2 disposal of hazardous waste that govern the minimum frequency
3 and manner of the inspections, the manner in which records of
4 the inspections shall be maintained and the manner in which
5 reports of the inspections shall be filed; provided, however,
6 that inspections of permitted facilities shall occur no less
7 often than every two years.

8 B. The board shall adopt rules:

9 (1) concerning hazardous substance
10 incidents; and

11 (2) requiring notification to the department
12 of any hazardous substance incidents.

13 C. The board shall adopt rules concerning storage
14 tanks as may be necessary to protect public health and the
15 environment and that, in the case of underground storage
16 tanks, are equivalent to and no more stringent than federal
17 regulations adopted by the federal environmental protection
18 agency pursuant to the federal Resource Conservation and
19 Recovery Act of 1976, as amended.

20 D. The board shall adopt rules concerning storage
21 tanks that implement the federal Energy Policy Act of 2005,
22 Pub. L. 109-58, as amended, and that are equivalent to and no
23 more stringent than the Energy Policy Act and its grant
24 guidelines and regulations.

25 E. Rules adopted pursuant to this section shall

1 include:

2 (1) standards for the installation,
3 operation, maintenance, repair and replacement of storage
4 tanks;

5 (2) requirements for financial
6 responsibility;

7 (3) standards for inventory control;

8 (4) standards for the detection of leaks
9 from and the integrity-testing and monitoring of storage
10 tanks;

11 (5) standards for the closure and
12 dismantling of storage tanks;

13 (6) requirements for recordkeeping;

14 (7) requirements for the reporting,
15 containment and remediation of all leaks from any storage
16 tanks; and

17 (8) criteria and procedures for classifying
18 a storage tank facility as ineligible, and reclassifying a
19 storage tank facility as eligible, for the delivery, deposit,
20 acceptance or sale of petroleum products.

21 F. The criteria and procedures adopted by the
22 board pursuant to this section shall require the department to
23 classify a storage tank facility as ineligible for delivery,
24 deposit, acceptance or sale of petroleum products if the
25 storage tank facility has not installed required equipment for

1 spill prevention, overfill protection, leak detection or
2 corrosion protection, including required corrosion protection
3 equipment for a buried metal flexible connector.

4 G. The criteria and procedures adopted by the
5 board pursuant to this section may allow the department to
6 classify a storage tank facility as ineligible for delivery,
7 deposit, acceptance or sale of petroleum products when the
8 owner or operator has failed to comply with a written warning
9 within a reasonable period of time and the warning concerns:

10 (1) improper operation or maintenance of
11 required equipment for spill prevention, overfill protection,
12 leak detection or corrosion protection;

13 (2) failure to maintain required financial
14 responsibility for corrective action; or

15 (3) operation of the storage tank facility
16 in a manner that creates an imminent threat to the public
17 health and the environment.

18 H. Rules adopted by the board pursuant to this
19 section shall defer classifying a storage tank facility as
20 ineligible for delivery, deposit, acceptance or sale of
21 petroleum products if the ineligible classification would
22 jeopardize the availability of, or access to, motor fuel in
23 any rural and remote areas.

24 I. Rules adopted by the board pursuant to this
25 section shall allow the department to authorize delivery or

1 deposit of petroleum products to:

2 (1) an emergency generator tank that is
3 otherwise ineligible for delivery or deposit if a commercial
4 power failure or other declared state of emergency exists and
5 the emergency generator tank provides power supply, stores
6 petroleum and is used solely in connection with an emergency
7 system, legally required standby system or optional standby
8 system; or

9 (2) a storage tank facility that is
10 otherwise ineligible for delivery or deposit if the delivery
11 or deposit is necessary to test or calibrate a tank.

12 J. Notwithstanding the provisions of Subsection A
13 of this section, the board may adopt rules for the management
14 of hazardous waste and hazardous waste transformation that are
15 more stringent than federal regulations adopted by the federal
16 environmental protection agency pursuant to the federal
17 Resource Conservation and Recovery Act of 1976, as amended, if
18 the board determines, after notice and public hearing, that
19 such federal regulations are not sufficient to protect public
20 health and the environment. As used in this subsection,
21 "transformation" means incineration, pyrolysis, distillation,
22 gasification or biological conversion other than composting.

23 K. The board shall adopt rules concerning the
24 management of used oil that are equivalent to and no more
25 stringent than federal regulations adopted by the federal

1 environmental protection agency pursuant to the federal
2 Resource Conservation and Recovery Act of 1976, as amended.

3 L. In the event the board wishes to adopt rules
4 that are identical with regulations adopted by an agency of
5 the federal government, the board, after notice and hearing,
6 may adopt such rules by reference to the federal regulations
7 without setting forth the provisions of the federal
8 regulations."

9 Section 3. Section 74-6B-3 NMSA 1978 (being Laws 1990,
10 Chapter 124, Section 3, as amended) is amended to read:

11 "74-6B-3. DEFINITIONS.--As used in the Ground Water
12 Protection Act:

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

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

24 (2) pipeline facility, including gathering
25 lines, that are regulated under the federal Natural Gas

1 Pipeline Safety Act of 1968 or the federal Hazardous Liquid
2 Pipeline Safety Act of 1979 or that is an intrastate pipeline
3 facility regulated under state laws comparable to either act;

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

6 (4) storm water or wastewater collection
7 system;

8 (5) flow-through process tank;

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

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

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

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

22 B. "board" means the environmental improvement
23 board;

24 C. "corrective action" means an action taken in
25 accordance with rules of the board to investigate, minimize,

1 eliminate or clean up a release to protect the public health,
2 safety and welfare or the environment;

3 D. "department" means the department of
4 environment;

5 E. "operator" means any person in control of or
6 having responsibility for the daily operation of a storage
7 tank;

8 F. "owner":

9 (1) means:

10 (a) in the case of a storage tank in
11 use or brought into use on or after November 8, 1984, a person
12 who owns a storage tank used for storage, use or dispensing of
13 regulated substances; and

14 (b) in the case of a storage tank in
15 use before November 8, 1984 but no longer in use after that
16 date, a person who owned the tank immediately before the
17 discontinuation of its use; and

18 (2) excludes, for purposes of tank
19 registration requirements only, a person who:

20 (a) had an underground storage tank
21 taken out of operation on or before January 1, 1974;

22 (b) had an underground storage tank
23 taken out of operation after January 1, 1974 and removed from
24 the ground prior to November 8, 1984; or

25 (c) had an above ground storage tank

1 taken out of operation on or before July 1, 2001;

2 G. "person" means an individual or any legal
3 entity, including all governmental entities;

4 H. "regulated substance" means:

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

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

15 I. "release" means a spilling, leaking, emitting,
16 discharging, escaping, leaching or disposing from a storage
17 tank into ground water, surface water or subsurface soils in
18 amounts exceeding twenty-five gallons;

19 J. "secretary" means the secretary of environment;

20 K. "site" means a place where there is or was at a
21 previous time one or more storage tanks and may include areas
22 contiguous to the actual location or previous location of the
23 tanks;

24 L. "storage tank" means an above ground storage
25 tank or an underground storage tank; and

1 M. "underground storage tank" means a single tank
2 or combination of tanks, including underground pipes connected
3 thereto, that are used to contain an accumulation of regulated
4 substances and the volume of which, including the volume of
5 the underground pipes connected thereto, is ten percent or
6 more beneath the surface of the ground. The term does not
7 include any:

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

11 (2) septic tank;

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

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

19 (5) storm water or wastewater collection
20 system;

21 (6) flow-through process tank;

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

25 (8) storage tank situated in an underground

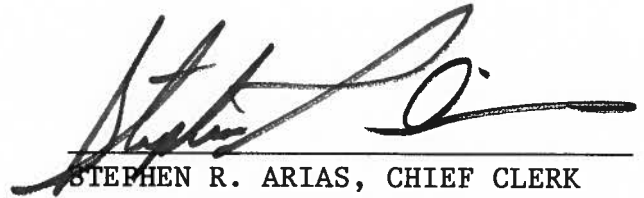
1 area, such as a basement, cellar, mineworking drift, shaft or
2 tunnel, if the storage tank is situated upon or above the
3 surface of the undesignated floor;


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

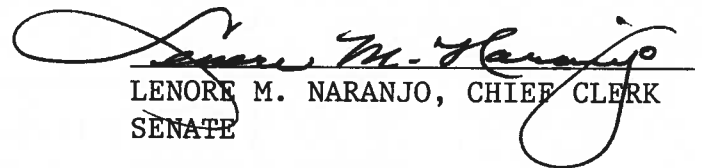
6 (10) tank exempted by rule of the board
7 after finding that the type of tank is adequately regulated
8 under another federal or state law; or

9 (11) pipes connected to any tank that is
10 described in Paragraphs (1) through (10) of this subsection." =



BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES


STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES


DIANE D. DENISH, PRESIDENT
SENATE


LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 3rd day of March, 2010


BILL RICHARDSON, GOVERNOR
OFFICE OF THE GOVERNOR
STATE OF NEW MEXICO

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SECRETARY OF STATE
OFFICE OF

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