**Section 731.110 Applicability**

a) This Part applies to all owners and operators of an Underground Storage Tank (UST) system as defined in Section 731.112, except as otherwise provided in subsection (b) or (c).

1) Previously Deferred UST Systems. Airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of this Part as follows:

A) Airport hydrant fuel distribution systems and UST systems with field-constructed tanks must meet the requirements in Subpart K of this Part.

B) This subsection (a)(1)(B) corresponds with 40 CFR 280.11(a)(1)(ii), which subjects UST systems that store fuel solely for use by emergency power generators installed on or before October 13, 2015 to release detection requirements that are outside the scope of the Board's regulations. This statement maintains structural consistency with the federal regulations.

C) UST systems that store fuel solely for use by emergency power generators installed after October 13, 2015 must meet all applicable requirements of this Part at the time of installation.

2) This subsection (a)(2) subjects various partially excluded UST systems to specified installation requirements outside the scope of the Board regulations. This statement maintains structural consistency with the federal regulations.

b) Exclusions. The following UST systems are excluded from the requirements of this Part:

1) Any UST system holding hazardous waste or a mixture of such hazardous waste and other regulated substances.

2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 12(f) of the Act [415 ILCS 5/12(f)].

3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

4) Any UST system whose capacity is 110 gallons or less.

5) Any UST system that contains a de minimis concentration of regulated substances.

6) Any emergency spill or overflow containment UST system that is expeditiously emptied after used.

c) Partial Exclusions

1) Section 731.122 and Subpart K do not apply to any of the following:

A) Wastewater treatment tank systems not covered under subsection (b)(2);

B) Aboveground storage tanks associated with either of the following:

i) Airport hydrant fuel distribution systems regulated under Subpart K; and

ii) UST systems with field-constructed tanks regulated under Subpart K;

C) Any UST systems containing radioactive materials that are regulated by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954 (42 USC 2011 et seq.); and

D) Any UST system that is part of an emergency generator system at nuclear power generation facilities licensed by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to 10 CFR 50.

2) Owners and operators subject to Title XVI of the Act are required to respond to releases in accordance with 35 Ill. Adm. Code 734 instead of Subpart F of this Part.

d) Heating Oil USTs

1) Definitions. The following definitions apply to this subsection (d) only:

"Beneath the surface of the ground" is as defined in Section 731.112.

"Consumptive use" with respect to heating oil means consumed on the premises.

*"Heating Oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, or No. 6 technical grades of fuel oil; and other residual fuel oils including navy special fuel oil and bunker C.* (Section 57.2 of the Act [415 ILCS 5/57.2])

*"Heating Oil Underground Storage Tank" or "Heating Oil UST" means an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit.* (Section 57.2 of the Act [415 ILCS 5/57.2])

"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.

"Pipe" or "piping" is as defined in Section 731.112.

"Regulated substance" is as defined in Section 731.112.

"Tank" is as defined in Section 731.112.

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 per centum or more beneath the surface of the ground.

2) Subsections (a) through (c) notwithstanding, *this Part applies to owners and operators of any heating oil UST.* (Section 22.4(d)(4) of the Act [415 ILCS 5/22.4(d)(4)])

3) The owner or operator of a heating oil UST must comply with the same requirements as the owner or operator of a petroleum UST, as defined in Section 731.112, any other provisions of this Part notwithstanding.

BOARD NOTE: This subsection (d) implements Section 22.4(d)(4) of the Act [415 ILCS 5/22.4(d)], which requires that this Part be applicable to "heating oil USTs," as that term is defined in Section 57.2 of the Act [415 ILCS 5/57.2]. However, that and related terms are used in a manner that is inconsistent with the definitions and usage in this Part. The definitions used in this applicability statement are therefore limited to this subsection (d).

BOARD NOTE: Owners and operators of heating oil USTs are subject to Title XVI of the Act [415 ILCS 5/Title XVI] and therefore are required to respond to releases in accordance with 35 Ill. Adm. Code 734 instead of Subpart F of this Part.

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)