

ENROLLED ACT NO. 53, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

AN ACT relating to environmental quality; creating tank requirements for regulated substances; amending the underground storage tank program name; limiting the definition of "underground storage tank"; expanding rulemaking authority; modifying the deadline for tank registration; modifying insurance requirements; amending the tank operation requirements; expanding notice requirements; establishing a late payment penalty; expanding the limits of the corrective action account; repealing the requirement that the state attorney general dismiss certain suits and the release of certain obligations; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-11-1429 is created to read:

35-11-1429. Tank requirements; rulemaking authority.

(a) Cathodic protection shall be installed and operated on all internally lined underground storage tanks no later than June 30, 2008.

(b) All underground storage tank systems that dispense more than five hundred thousand (500,000) gallons per month of a regulated substance shall be replaced with double wall tanks and lines with interstitial leak monitoring no later than June 30, 2012, or thirty (30) years from the date of installation of the underground storage tank, whichever is later.

(c) Double wall underground storage tanks and lines with interstitial leak monitoring shall be installed whenever any underground storage tank is installed.

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(d) Double wall underground storage tank system lines with interstitial leak monitoring shall be installed whenever any line is installed on any underground storage tank system.

(e) The council may promulgate rules and regulations to administer this section after recommendation from the director.

Section 2. W.S. 35-11-1414(a) and (b), 35-11-1415(a)(ix)(D)(I), (II), (N) and by creating new subparagraphs (O) through (Q), 35-11-1419(a)(intro), (ix), by creating a new paragraph (x) and by renumbering (x) as (xi), 35-11-1420(a)(intro) and (b), 35-11-1422(b) and (e), 35-11-1424(h)(intro) and (ii), 35-11-1425, 39-17-103(a)(ii) and 39-17-203(a)(ii) are amended to read:

35-11-1414. Short title; purpose; department report.

(a) This article is known and may be cited as the ~~"Water Pollution from Underground Storage Tanks Corrective Action Act of 1990"~~ "Storage Tank Act of 2007".

(b) The legislature recognizes the threat to the public health, safety, welfare and the environment caused by pollution to soil and water from underground and aboveground storage tanks. The purpose of this article is to take primacy of the underground storage tank program and to provide funding to take corrective actions at sites contaminated by underground storage tanks and aboveground storage tanks.

35-11-1415. Definitions.

(a) As used in this article:

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(ix) "Underground storage tank" means and includes any one (1) or combination of underground storage tanks, including underground pipes connected thereto, 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 (10%) or more beneath the surface of the ground, but does not include:

(D) A pipeline facility, including gathering lines, regulated under:

(I) The ~~Natural Gas Pipeline Safety Act of 1968~~ Pipeline Safety Improvement Act of 2002;

(II) The Hazardous Liquid Pipeline Safety Act of ~~1979~~ 1995;

(N) Emergency or overflow underground storage tanks;~~-~~

(O) An underground storage tank system holding hazardous wastes listed or identified under Subtitle C of the federal Solid Waste Disposal Act or a mixture of such hazardous waste and other regulated substances;

(P) A wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 307(b) or 402 of the federal Clean Water Act;

(Q) Any equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

35-11-1419. Tank registration; proof of insurance.

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(a) ~~On or before July 1 of each year either~~ After each new installation or modification of a regulated storage tank system the owner ~~or operator~~ of a tank shall register the tank with the department on forms developed and furnished by the department. The registration form shall be submitted under oath or affirmation. The forms shall include but not be limited to:

(ix) Whether the owner ~~or operator~~ of the tank has insurance or other types of financial assurance ~~covering corrective action costs and third party damages, the amount of the policy coverage, the period of time covered and a copy of the insurance certificate in effect to cover at least thirty thousand dollars (\$30,000.00) as specified in W.S. 35-11-1428(c)(i); and~~

(x) Proof as required by federal law that an owner of more than one hundred (100) underground storage tanks anywhere in the United States has insurance, or other environmental pollution financial responsibility instrument, indicating at least two million dollars (\$2,000,000.00) in liability protection for releases occurring from any of those regulated tanks; and

~~(x)~~ (xi) Other information as may be required by rules and regulations.

35-11-1420. Tank notification required; change of owner; installation requirements; inspections.

(a) In the event of ~~transferral of tank ownership~~ the transfer of any tank to a different owner, notification of the transfer shall be provided to the department by the new ~~or and~~ former owner owners. ~~In the event a new operator takes control of, or responsibility for, a tank, notification shall be provided to the department by the new~~

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~~or former operator.~~ Such notifications shall be made on forms developed and provided by the department and shall include:

(b) No person shall install or substantially modify, or cause to be installed or substantially modified, any new or replacement tank without thirty (30) days prior notification to the department. Upon completion of the installation or modification the owner shall notify the department and the department shall within ten (10) days of receiving notification of completion, inspect the site or have the site inspected by a qualified state, local government or private inspector. No tank shall be operated until the department determines the installation or modification meets the applicable standards and the department has issued a written inspection letter to the tank owner stating that the facility, as constructed or modified, meets state standards, except that if the department has not inspected the tank within fifteen (15) days after receiving notice of completion, the tank may be operated without written notification of the department until the tank is inspected.

35-11-1422. Right of entry; inspection.

(b) A duplicate sample taken by or for the state for testing shall be provided to the tank owner ~~or operator unless waived if requested~~ by the owner. ~~or operator.~~ A duplicate copy of the analytical report from the department pertaining to the samples taken shall be provided as soon as practicable to the tank owner. ~~or operator.~~

(e) The department shall give a minimum of ~~one (1)~~ seven (7) working ~~day's~~ days notice prior to an investigation unless an emergency exists.

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35-11-1424. Corrective action account created; use of monies; cost recovery.

(h) The state has a right of subrogation to any insurance policies in existence at the time of the release to the extent of any rights the owner ~~or operator~~ may have had under that policy. This right of subrogation shall apply regardless of the ~~owner or operator's~~ owner's eligibility to use corrective action account monies under subsection (d) of this section. In implementing this section the department shall:

(ii) Notify all insurance companies which have been identified to the department pursuant to W.S. 35-11-1419 and may have issued insurance policies that provide ~~or may provide~~ coverage for contamination from tanks and request copies of any such policies. In notifying insurance companies the department shall provide the insurance company with the name of all known owners, and operators, past and present, and the legal description of the site upon which the tank is or was located. The department notification shall require each insurance company to notify the department whenever there is a change in the insurance policy, including cancellation.

35-11-1425. Tank fee; deposit into corrective action account; late fee.

(a) On or before ~~July~~ January 1 of each year ~~either~~ the owner ~~or operator~~ of a tank shall pay a fee to the department of two hundred dollars (\$200.00) per tank owned, ~~or operated~~, except ~~either~~ the owner ~~or operator~~ of an aboveground storage tank subject to this section that holds five thousand (5,000) gallons or less shall pay a fee of fifty dollars (\$50.00) per tank owned. ~~or operated.~~ This fee shall be deposited in the corrective action account.

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(b) On April 1 of each year the department may assess a late payment fee of one hundred dollars (\$100.00) per tank or contaminated site against any owner who has not paid the annual fee required pursuant to subsection (a) of this section. This late fee shall be paid by the owner and shall be in addition to the annual fee required pursuant to subsection (a) of this section and shall be deposited in the department's corrective action account.

(c) The change from July 1 to January 1 for the due date of storage tank fees shall be revenue neutral. The department shall collect one-half (1/2) of the annual fee on July 1, 2007 and shall collect the full annual fee on January 1, 2008 and annually thereafter.

39-17-103. Imposition.

(a) Taxable event. The following shall apply:

(ii) The tax imposed by W.S. 39-17-104(a)(iii) shall cease to be collected on the first day of the third month following the date the department of environmental quality notifies the director of the department of transportation that the balance of the corrective action account created by W.S. 35-11-1424 exceeds ~~ten million dollars (\$10,000,000.00)~~ seventeen million dollars (\$17,000,000.00) and the environmental pollution financial responsibility account created by W.S. 35-11-1427 exceeds one million dollars (\$1,000,000.00). The tax shall again be collected beginning on the first day of the third month following the date the department of environmental quality notifies the director of the department of transportation that the balance of the corrective action account has fallen below ~~four million dollars (\$4,000,000.00)~~ eleven million dollars (\$11,000,000.00).

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39-17-203. Imposition.

(a) Taxable event. The following shall apply:

(ii) The tax imposed by W.S. 39-17-204(a)(ii) shall cease to be collected on the first day of the third month following the date the department of environmental quality notifies the director of the department of transportation that the balance of the corrective action account created by W.S. 35-11-1424 ~~and the environmental pollution financial responsibility account created by W.S. 35-11-1427 exceed ten million dollars (\$10,000,000.00) in each account~~ exceeds seventeen million dollars (\$17,000,000.00) and the balance of the environmental pollution financial responsibility account created by W.S. 35-11-1427 exceeds one million dollars (\$1,000,000.00). The tax shall again be collected beginning on the first day of the third month following the date the department of environmental quality notifies the director of the department of transportation that the balance of the corrective action account ~~or the environmental pollution financial responsibility account~~ has fallen below ~~four million dollars (\$4,000,000.00)~~ eleven million dollars (\$11,000,000.00);

Section 3. W.S. 35-11-1418 is repealed.

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Section 4. This act is effective July 1, 2007.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk