

HOUSE BILL NO. HB0139

Storage tank remediation program.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

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

13

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

15

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

1

2 **35-11-1429. Tank requirements; rulemaking authority.**

3

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

7

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

15

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

19

20 (d) Double wall underground storage tank system lines
21 with interstitial leak monitoring shall be installed
22 whenever any line is installed or modified on any
23 underground storage tank system.

24

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

4
5 **Section 2.** W.S. 35-11-1414(a) and (b),
6 35-11-1415(a)(ix)(D)(I), (II), (N) and by creating new
7 subparagraphs (O) through (Q), 35-11-1419(a)(intro), (ix),
8 by creating a new paragraph (x) and by renumbering (x) as
9 (xi), 35-11-1420(a)(intro) and (b), 35-11-1422(b) and (e),
10 35-11-1424(h)(intro) and (ii), 35-11-1425, 39-17-103(a)(ii)
11 and 39-17-203(a)(ii) are amended to read:

12
13 **35-11-1414. Short title; purpose; department report.**

14
15 (a) This article is known and may be cited as the
16 ~~"Water Pollution from Underground Storage Tanks Corrective~~
17 ~~Action Act of 1990~~ "Storage Tank Act of 2007".

18
19 (b) The legislature recognizes the threat to the
20 public health, safety, welfare and the environment caused
21 by pollution to soil and water from underground and
22 aboveground storage tanks. The purpose of this article is
23 to take primacy of the underground storage tank program and
24 to provide funding to take corrective actions at sites

1 contaminated by underground storage tanks and aboveground
2 storage tanks.

3

4 **35-11-1415. Definitions.**

5

6 (a) As used in this article:

7

8 (ix) "Underground storage tank" means and
9 includes any one (1) or combination of underground storage
10 tanks, including underground pipes connected thereto, used
11 to contain an accumulation of regulated substances, and the
12 volume of which, including the volume of the underground
13 pipes connected thereto, is ten percent (10%) or more
14 beneath the surface of the ground, but does not include:

15

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

18

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

21

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

24

1 (N) Emergency or overflow underground
2 storage tanks;

3
4 (O) An underground storage tank system
5 holding hazardous wastes listed or identified under
6 Subtitle C of the federal Solid Waste Disposal Act or a
7 mixture of such hazardous waste and other regulated
8 substances;

9
10 (P) A wastewater treatment tank system that
11 is part of a wastewater treatment facility regulated under
12 section 307(b) or 402 of the federal Clean Water Act;

13
14 (Q) Any equipment or machinery that
15 contains regulated substances for operational purposes such
16 as hydraulic lift tanks and electrical equipment tanks.

17
18 **35-11-1419. Tank registration; proof of insurance.**

19
20 (a) ~~On or before July 1 of each year either~~ After
21 each new installation or modification of a regulated
22 storage tank system the owner ~~or operator~~ of a tank shall
23 register the tank with the department on forms developed
24 and furnished by the department. The registration form

1 shall be submitted under oath or affirmation. The forms
2 shall include but not be limited to:

3
4 (ix) ~~Whether~~ Proof that the owner ~~or operator~~ of
5 the tank has insurance or other types of financial
6 assurance ~~covering corrective action costs and third party~~
7 ~~damages, the amount of the policy coverage, the period of~~
8 ~~time covered and a copy of the insurance certificate in~~
9 ~~effect~~ to cover at least thirty thousand dollars
10 (\$30,000.00) as specified in W.S. 35-11-1428(c)(i); ~~and~~

11
12 (x) Proof as required by federal law that an
13 owner of more than one hundred (100) underground storage
14 tanks anywhere in the United States has insurance, or other
15 environmental pollution financial responsibility
16 instrument, indicating at least two million dollars
17 (\$2,000,000.00) in liability protection for releases
18 occurring from any of those regulated tanks; and

19
20 ~~(x)~~ (xi) Other information as may be required by
21 rules and regulations.

22
23 **35-11-1420. Tank notification required; change of**
24 **owner; installation requirements; inspections.**

1

2 (a) In the event of ~~transferral of tank ownership~~ the
3 transfer of any tank to a different owner, notification of
4 the transfer shall be provided to the department by the new
5 ~~or~~ and former ~~owner~~ owners. ~~In the event a new operator~~
6 ~~takes control of, or responsibility for, a tank,~~
7 ~~notification shall be provided to the department by the new~~
8 ~~or former operator.~~ Such notifications shall be made on
9 forms developed and provided by the department and shall
10 include:

11

12 (b) No person shall install or substantially modify,
13 or cause to be installed or substantially modified, any new
14 or replacement tank without thirty (30) days prior
15 notification to the department. The department shall within
16 ten (10) days of completion, inspect the site or have the
17 site inspected by a qualified state, local government or
18 private inspector. No tank shall be operated until the
19 department determines the installation or modification
20 meets the applicable standards and the department has
21 issued a written inspection letter to the tank owner
22 stating that the facility, as constructed or modified,
23 meets state standards. If the department has not inspected
24 the tank within the thirty (30) day notification period,

1 the tank may be operated without written notification of
2 the department until the tank is inspected.

3
4 **35-11-1422. Right of entry; inspection.**

5
6 (b) A duplicate sample taken by or for the state for
7 testing shall be provided to the tank owner ~~or operator~~
8 ~~unless waived~~ if requested by the owner. ~~or operator.~~ A
9 duplicate copy of the analytical report from the department
10 pertaining to the samples taken shall be provided as soon
11 as practicable to the tank owner. ~~or operator.~~

12
13 (e) The department shall give a minimum of ~~one (1)~~
14 seven (7) working ~~day's~~ days notice prior to an
15 investigation unless an emergency exists.

16
17 **35-11-1424. Corrective action account created; use of**
18 **monies; cost recovery.**

19
20 (h) The state has a right of subrogation to any
21 insurance policies in existence at the time of the release
22 to the extent of any rights the owner ~~or operator~~ may have
23 had under that policy. This right of subrogation shall
24 apply regardless of the ~~owner or operator's~~ owner's

1 eligibility to use corrective action account monies under
2 subsection (d) of this section. In implementing this
3 section the department shall:

4
5 (ii) Notify all insurance companies which have
6 been identified to the department pursuant to W.S.
7 35-11-1419 and may have issued insurance policies that
8 provide ~~or may provide~~ coverage for contamination from
9 tanks and request copies of any such policies. In
10 notifying insurance companies the department shall provide
11 the insurance company with the name of all known owners,
12 ~~and operators,~~ past and present, and the legal description
13 of the site upon which the tank is or was located. The
14 department notification shall require each insurance
15 company to notify the department whenever there is a change
16 in the insurance policy, including cancellation.

17
18 **35-11-1425. Tank fee; deposit into corrective action**
19 **account; late fee.**

20
21 (a) On or before ~~July~~ January 1 of each year ~~either~~
22 the owner ~~or operator~~ of a tank shall pay a fee to the
23 department of two hundred dollars (\$200.00) per tank owned,
24 ~~or operated,~~ except ~~either~~ the owner ~~or operator~~ of an

1 aboveground storage tank subject to this section that holds
2 five thousand (5,000) gallons or less shall pay a fee of
3 fifty dollars (\$50.00) per tank owned. ~~or operated.~~ This
4 fee shall be deposited in the corrective action account.

5
6 (b) On April 1 of each year the department may assess
7 a late payment fee of one hundred dollars (\$100.00) per
8 tank or contaminated site against any owner who has not
9 paid the annual fee required pursuant to subsection (a) of
10 this section. This late fee shall be paid by the owner and
11 shall be in addition to the annual fee required pursuant to
12 subsection (a) of this section and shall be deposited in
13 the department's corrective action account.

14
15 (c) The change from July 1 to January 1 for the due
16 date of storage tank fees shall be revenue neutral. The
17 department shall collect one-half (1/2) of the annual fee
18 on July 1, 2007 and shall collect the full annual fee on
19 January 1, 2008 and annually thereafter.

20
21 **39-17-103. Imposition.**

22
23 (a) Taxable event. The following shall apply:
24

1 (ii) The tax imposed by W.S. 39-17-104(a)(iii)
2 shall cease to be collected on the first day of the third
3 month following the date the department of environmental
4 quality notifies the director of the department of
5 transportation that the balance of the corrective action
6 account created by W.S. 35-11-1424 exceeds ~~ten million~~
7 ~~dollars (\$10,000,000.00)~~ seventeen million dollars
8 (\$17,000,000.00) and the environmental pollution financial
9 responsibility account created by W.S. 35-11-1427 exceeds
10 one million dollars (\$1,000,000.00). The tax shall again be
11 collected beginning on the first day of the third month
12 following the date the department of environmental quality
13 notifies the director of the department of transportation
14 that the balance of the corrective action account has
15 fallen below ~~four million dollars (\$4,000,000.00)~~ eleven
16 million dollars (\$11,000,000.00).

17

18 **39-17-203. Imposition.**

19

20 (a) Taxable event. The following shall apply:

21

22 (ii) The tax imposed by W.S. 39-17-204(a)(ii)
23 shall cease to be collected on the first day of the third
24 month following the date the department of environmental

1 quality notifies the director of the department of
2 transportation that the balance of the corrective action
3 account created by W.S. 35-11-1424 ~~and the environmental~~
4 ~~pollution financial responsibility account created by W.S.~~
5 ~~35-11-1427 exceed ten million dollars (\$10,000,000.00) in~~
6 ~~each account~~ exceeds seventeen million dollars
7 (\$17,000,000.00) and the balance of the environmental
8 pollution financial responsibility account created by W.S.
9 35-11-1427 exceeds one million dollars (\$1,000,000.00).
10 The tax shall again be collected beginning on the first day
11 of the third month following the date the department of
12 environmental quality notifies the director of the
13 department of transportation that the balance of the
14 corrective action account ~~or the environmental pollution~~
15 ~~financial responsibility account~~ has fallen below ~~four~~
16 ~~million dollars (\$4,000,000.00)~~ eleven million dollars
17 (\$11,000,000.00);

18

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

20

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

22

23

(END)