

HB0018S01 compared with HB0018

{Omitted text} shows text that was in HB0018 but was omitted in HB0018S01

inserted text shows text that was not in HB0018 but was inserted into HB0018S01

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1 **Petroleum Storage Tank Amendments**

. 2025 GENERAL SESSION

. STATE OF UTAH

. **Chief Sponsor: Steve Eliason**

2

3 **LONG TITLE**

4 **General Description:**

5 This bill addresses the regulation of petroleum storage tanks.

6 **Highlighted Provisions:**

7 This bill:

- 11 ▶ modifies definitions;
- 12 ▶ changes terms "underground" and "petroleum" as appropriate;
- 13 ▶ provides that the Petroleum Storage Tank Restricted Account earns interest to be deposited into that account;
- 15 ▶ addresses registration of underground storage tanks and aboveground petroleum storage tanks;
- 17 ▶ addresses the Petroleum Storage Tank Fund, including authorization to request certain legislative appropriations;
- 19 ▶ modifies assessment of an environmental assurance fee based on the cash balance of the Petroleum Storage Tank Fund;
- 21 ▶ modifies the petroleum storage tank fee provisions;
- 22 ▶ provides for certificates of compliance;
- 23 ▶ clarifies restrictions on petroleum storage tank installation companies;

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- 24 ▶ directs certain monies be deposited into the Petroleum Storage Tank Cleanup Fund;
- 25 ▶ addresses claims not covered by the Petroleum Storage Tank Fund;
- 26 ▶ clarifies language regarding liability;
- 27 ▶ addresses eligibility for participation in the Petroleum Storage Tank Fund; and
- 28 ▶ makes technical and conforming amendments.

26 Money Appropriated in this Bill:

- 27 ▶ This bill appropriates \$4,000,000 in restricted fund and account transfers for fiscal year
- 28 2026, all of which is from the various sources as detailed in this bill.

29 None

32 AMENDS:

- 33 **19-1-105 (Effective 05/07/25)**, as last amended by Laws of Utah 2015, Chapter 451 (**Effective**
- 34 **05/07/25**), as last amended by Laws of Utah 2015, Chapter 451
- 35 **19-2a-103 (Effective 05/07/25)**, as renumbered and amended by Laws of Utah 2018, Chapter
- 36 **120 (Effective 05/07/25)**, as renumbered and amended by Laws of Utah 2018, Chapter 120
- 37 **19-6-105 (Effective 05/07/25)**, as last amended by Laws of Utah 2021, Chapter 202 (**Effective**
- 38 **05/07/25**), as last amended by Laws of Utah 2021, Chapter 202
- 39 **19-6-402 (Effective 05/07/25)**, as last amended by Laws of Utah 2022, Chapter 451 (**Effective**
- 40 **05/07/25**), as last amended by Laws of Utah 2022, Chapter 451
- 41 **19-6-403 (Effective 05/07/25)**, as last amended by Laws of Utah 2021, Chapter 202 (**Effective**
- 42 **05/07/25**), as last amended by Laws of Utah 2021, Chapter 202
- 43 **19-6-404 (Effective 05/07/25)**, as last amended by Laws of Utah 2014, Chapter 227 (**Effective**
- 44 **05/07/25**), as last amended by Laws of Utah 2014, Chapter 227
- 45 **19-6-405.5 (Effective 05/07/25)**, as last amended by Laws of Utah 1998, Chapter 95 (**Effective**
- 46 **05/07/25**), as last amended by Laws of Utah 1998, Chapter 95
- 47 **19-6-407 (Effective 05/07/25)**, as last amended by Laws of Utah 2021, Chapter 202 (**Effective**
- 48 **05/07/25**), as last amended by Laws of Utah 2021, Chapter 202
- 49 **19-6-409 (Effective 05/07/25)**, as last amended by Laws of Utah 2022, Chapter 451 (**Effective**
- 50 **05/07/25**), as last amended by Laws of Utah 2022, Chapter 451
- 51 **19-6-410.5 (Effective 05/07/25)**, as last amended by Laws of Utah 2022, Chapter 451 (**Effective**
- 52 **05/07/25**), as last amended by Laws of Utah 2022, Chapter 451

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- 19-6-411 (Effective 05/07/25), as last amended by Laws of Utah 2022, Chapter 451 (Effective 05/07/25), as last amended by Laws of Utah 2022, Chapter 451
- 45 19-6-412 (Effective 05/07/25), as last amended by Laws of Utah 2012, Chapter 360 (Effective 05/07/25), as last amended by Laws of Utah 2012, Chapter 360
- 46 19-6-416.5 (Effective 05/07/25), as last amended by Laws of Utah 2012, Chapter 360 (Effective 05/07/25), as last amended by Laws of Utah 2012, Chapter 360
- 47 19-6-420 (Effective 05/07/25), as last amended by Laws of Utah 2021, Chapter 202 (Effective 05/07/25), as last amended by Laws of Utah 2021, Chapter 202
- 48 19-6-424 (Effective 05/07/25), as last amended by Laws of Utah 2012, Chapter 360 (Effective 05/07/25), as last amended by Laws of Utah 2012, Chapter 360
- 49 19-6-426 (Effective 05/07/25), as last amended by Laws of Utah 1997, Chapter 172 (Effective 05/07/25), as last amended by Laws of Utah 1997, Chapter 172
- 50 19-6-428 (Effective 05/07/25), as last amended by Laws of Utah 2021, Chapter 202 (Effective 05/07/25), as last amended by Laws of Utah 2021, Chapter 202
- 51 19-8-113 (Effective 05/07/25), as last amended by Laws of Utah 2005, Chapter 200 (Effective 05/07/25), as last amended by Laws of Utah 2005, Chapter 200
- 52 19-8-119 (Effective 05/07/25), as last amended by Laws of Utah 2024, Chapter 158 (Effective 05/07/25), as last amended by Laws of Utah 2024, Chapter 158
- 53 63G-4-102 (Effective 05/07/25), as last amended by Laws of Utah 2024, Chapter 147 (Effective 05/07/25), as last amended by Laws of Utah 2024, Chapter 147
- 54 63I-1-219 (Effective 05/07/25), as last amended by Laws of Utah 2024, Third Special Session, Chapter 5 (Effective 05/07/25), as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

56 REPEALS:

60 ~~19-6-401, as renumbered and amended by Laws of Utah 1991, Chapter 112, as renumbered and amended by Laws of Utah 1991, Chapter 112}~~

57 ~~19-6-401 (Effective 05/07/25), as renumbered and amended by Laws of Utah 1991, Chapter 112 (Effective 05/07/25), as renumbered and amended by Laws of Utah 1991, Chapter 112~~

59

60 *Be it enacted by the Legislature of the state of Utah:*

61 Section 1. Section 19-1-105 is amended to read:

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62 **19-1-105. Divisions of department -- Control by division directors.**

66 (1) The following divisions are created within the department:

67 (a) the Division of Air Quality, to administer [~~Title 19, Chapter 2, Air Conservation Act~~] Chapter 2, Air Conservation Act;

69 (b) the Division of Drinking Water, to administer [~~Title 19, Chapter 4, Safe Drinking Water Act~~] Chapter 4, Safe Drinking Water Act;

71 (c) the Division of Environmental Response and Remediation, to administer:

72 (i) [~~Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act~~] Chapter 6, Part 3, Hazardous Substances Mitigation Act; and

74 (ii) [~~Title 19, Chapter 6, Part 4, Underground Storage Tank Act~~] Chapter 6, Part 4, Petroleum Storage Tank Act;

76 (d) the Division of Waste Management and Radiation Control, to administer:

77 (i) [~~Title 19, Chapter 3, Radiation Control Act~~] Chapter 3, Radiation Control Act;

78 (ii) [~~Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act~~] Chapter 6, Part 1, Solid and Hazardous Waste Act;

80 (iii) [~~Title 19, Chapter 6, Part 2, Hazardous Waste Facility Siting Act~~] Chapter 6, Part 2, Hazardous Waste Facility Siting Act;

82 (iv) [~~Title 19, Chapter 6, Part 5, Solid Waste Management Act~~] Chapter 6, Part 5, Solid Waste Management Act;

84 (v) [~~Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal~~] Chapter 6, Part 6, Lead Acid Battery Disposal;

86 (vi) [~~Title 19, Chapter 6, Part 7, Used Oil Management Act~~] Chapter 6, Part 7, Used Oil Management Act;

88 (vii) [~~Title 19, Chapter 6, Part 8, Waste Tire Recycling Act~~] Chapter 6, Part 8, Waste Tire Recycling Act;

90 (viii) [~~Title 19, Chapter 6, Part 10, Mercury Switch Removal Act~~] Chapter 6, Part 10, Mercury Switch Removal Act;

92 (ix) [~~Title 19, Chapter 6, Part 11, Industrial Byproduct Reuse~~] Chapter 6, Part 11, Industrial Byproduct Reuse; and

94 (x) [~~Title 19, Chapter 6, Part 12, Disposal of Electronic Waste Program~~] Chapter 6, Part 12, Disposal of Electronic Waste Program; and

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- 96 (e) the Division of Water Quality, to administer [~~Title 19, Chapter 5, Water Quality Act~~] Chapter 5,
100 Water Quality Act.
- 98 (2) Each division is under the immediate direction and control of a division director appointed by the
executive director.
- 100 (3)
- . (a) A division director shall possess the administrative skills and training necessary to perform the
duties of division director.
- 102 (b) A division director shall hold one of the following degrees from an accredited college or university:
- 104 (i) a four-year degree in physical or biological science or engineering;
- 105 (ii) a related degree; or
- 106 (iii) a degree in law.
- 107 (4) The executive director may remove a division director at will.
- 108 (5) A division director shall serve as the executive secretary to the policymaking board, created in
Section 19-1-106, that has rulemaking authority over the division director's division.
- 109 Section 2. Section **19-2a-103** is amended to read:
- 110 **19-2a-103. Gasoline vapor recovery -- Penalties.**
- 113 (1) As used in this section:
- 114 (a) "Gasoline cargo tank" means a tank that:
- 115 (i) is intended to hold gasoline;
- 116 (ii) has a capacity of 1,000 gallons or more; and
- 117 (iii) is attached to or intended to be drawn by a motor vehicle.
- 118 (b) "Operator" means an individual who controls a motor vehicle:
- 119 (i) to which a gasoline cargo tank is attached; or
- 120 (ii) that draws a gasoline cargo tank.
- 121 (c) [~~"Underground"~~] "Petroleum storage tank" means the same as that term is defined in Section
[~~19-6-102~~] 19-6-402.
- 123 (2) The operator of a gasoline cargo tank shall comply with requirements of this section if the operator:
- 125 (a) permits the loading of gasoline into the gasoline cargo tank; or
- 126 (b) loads [~~an underground~~] a petroleum storage tank with gasoline from the gasoline cargo tank.
- 128

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- (3) Except as provided in Subsection (6), the operator of a gasoline cargo tank may permit the loading of gasoline into a tank described in Subsection (2) or load [~~an underground~~] a petroleum storage tank with gasoline from the gasoline cargo tank described in Subsection (1) only if:
- 132 (a) emissions from the tank that dispenses 10,000 gallons or more in any one calendar month are controlled by the use of:
- 134 (i) a properly installed and maintained vapor collection and control system that is equipped with fittings that:
- 136 (A) make a vapor-tight connection; and
- 137 (B) prevent the release of gasoline vapors by automatically closing upon disconnection; and
- 139 (ii) submerged filling or bottom filling methods; and
- 140 (b) the resulting vapor emitted into the air does not exceed the levels described in Subsection (4).
- 142 (4) Vapor emitted into the air as a result of the loading of a tank under Subsection (3) may not exceed 0.640 pounds per 1,000 gallons transferred.
- 144 (5)
- . (a) The department may fine an operator who violates this section:
- 145 (i) up to \$1,000 for a first offense; or
- 146 (ii) up to \$2,000 for a second offense.
- 147 (b) An operator who violates this section is guilty of a class C misdemeanor for a third or subsequent offense.
- 149 (6) If a facility at which [~~an underground~~] a petroleum storage tank is located does not have the equipment necessary for an operator of a gasoline cargo tank to comply with Subsection (3), the operator is excused from the requirements of Subsections (3) and (4) and may not be fined or penalized under Subsection (5).
- 151 Section 3. Section **19-6-105** is amended to read:
- 152 **19-6-105. Rules of board.**
- 155 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 157 (a) establishing minimum standards for protection of human health and the environment, for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites;

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- 161 (b) identifying wastes that are determined to be hazardous, including wastes designated as hazardous
under Sec. 3001 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C., Sec. 6921, et
seq.;
- 164 (c) governing generators and transporters of hazardous wastes and owners and operators of hazardous
waste treatment, storage, and disposal facilities, including requirements for keeping records,
monitoring, submitting reports, and using a manifest, without treating high-volume wastes such as
cement kiln dust, mining wastes, utility waste, gas and oil drilling muds, and oil production brines in
a manner more stringent than they are treated under federal standards;
- 170 (d) requiring an owner or operator of a treatment, storage, or disposal facility that is subject to a plan
approval under Section 19-6-108 or that received waste after July 26, 1982, to take appropriate
corrective action or other response measures for releases of hazardous waste or hazardous waste
constituents from the facility, including releases beyond the boundaries of the facility;
- 175 (e) specifying the terms and conditions under which the director shall approve, disapprove, revoke, or
review hazardous wastes operation plans;
- 177 (f) governing public hearings and participation under this part;
- 178 (g) establishing standards governing underground storage tanks and aboveground petroleum storage
tanks, in accordance with [~~Title 19, Chapter 6, Part 4, Underground Storage Tank Act~~] Chapter 6,
Part 4, Petroleum Storage Tank Act;
- 181 (h) relating to the collection, transportation, processing, treatment, storage, and disposal of infectious
waste in health facilities in accordance with the requirements of Section 19-6-106;
- 184 (i) defining closure plans, modification requests, or both for hazardous waste, as class I, class I with
prior director approval, class II, or class III;
- 186 and
- 187 (j) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste
substance of any kind to be thrown, or remain upon or in a street, road, ditch, canal, gutter, public
place, private premises, vacant lot, watercourse, lake, pond, spring, or well.
- 191 (2) If any of the following are determined to be hazardous waste and are therefore subjected to the
provisions of this part, the board shall, in the case of landfills or surface impoundments that
receive the solid wastes, take into account the special characteristics of the wastes, the practical
difficulties associated with applying requirements for other wastes to the wastes, and site-specific
characteristics, including the climate, geology, hydrology, and soil chemistry at the site, if the

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modified requirements assure protection of human health and the environment and are no more stringent than federal standards applicable to waste:

- 199 (a) solid waste from the extraction, beneficiation, or processing of ores and minerals, including
phosphate rock and overburden from the mining of uranium;
- 201 (b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily
from the combustion of coal or other fossil fuels; and
- 203 (c) cement kiln dust waste.
- 204 (3) The board shall establish criteria for siting commercial hazardous waste treatment, storage, and
disposal facilities, including commercial hazardous waste incinerators. Those criteria shall apply to
any facility or incinerator for which plan approval is required under Section 19-6-108.

206 Section 4. Section **19-6-402** is amended to read:

209

Part 4. Petroleum Storage Tank Act

19-6-402. Definitions.

As used in this part:

- 212 (1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate:
- 213 (a) a release from a petroleum storage tank; or
- 214 (b) the damage caused by that release.
- 215 (2) "Aboveground petroleum storage tank" means a storage tank that is, by volume, less than 10%
buried in the ground, including the pipes connected to the storage tank and:
- 217 (a)
- . (i) has attached underground piping; or
- 218 (ii) rests directly on the ground;
- 219 (b) contains regulated substances;
- 220 (c) has the capacity to hold 501 gallons or more; and
- 221 (d) is not:
- 222 (i) used in agricultural operations, as defined by the board by rule made in accordance with Title 63G,
Chapter 3, Utah Administrative Rulemaking Act;
- 224 (ii) used for heating oil for consumptive use on the premises where stored;
- 225 (iii) related to a petroleum facility under SIC Code 2911 or 5171 of the 1987 Standard Industrial
Classification Manual of the federal Executive Office of the President, Office of Management and
Budget;

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- 228 (iv) directly related to oil or gas production and gathering operations; [~~or~~]
- 229 (v) used in the fueling of aircraft or ground service equipment at a commercial airport that serves
passengers or cargo, with commercial airport defined in Section 72-10-102[~~;~~] or
- 232 (vi) exempted from the definition of "aboveground petroleum storage tank" by rule made by the board
in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, because the storage
tank is outside the purposes of this part.
- 235 (3) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.
- 237 (4) "Bodily injury" means bodily harm, sickness, disease, or death sustained by [~~a person~~] an individual.
- 239 (5) "Certificate of compliance" means a certificate issued to a facility by the director:
- 240 (a) demonstrating that an owner or operator of a facility containing one or more petroleum storage tanks
has met the requirements of this part; and
- 242 (b) listing petroleum storage tanks at the facility, specifying:
- 243 (i) which tanks may receive petroleum; and
- 244 (ii) which tanks have not met the requirements for compliance.
- 245 (6) "Certificate of registration" means a certificate issued to a facility by the director demonstrating that
an owner or operator of a facility containing one or more petroleum storage tanks has:
- 248 (a) registered the tanks; and
- 249 (b) paid the annual tank fee.
- 250 (7)
- . (a) "Certified petroleum storage tank consultant" means a person who:
- 251 (i) for a fee, or in connection with services for which a fee is charged, provides or contracts to
provide information, opinions, or advice relating to [~~underground~~] petroleum storage tank
release:
- 254 (A) management;
- 255 (B) abatement;
- 256 (C) investigation;
- 257 (D) corrective action; or
- 258 (E) evaluation;
- 259 (ii) has submitted an application to the director;
- 260 (iii) received a written statement of certification from the director; and
- 261

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(iv) meets the education and experience standards established by the board under Subsection 19-6-403(1)(a)(vii).

263 (b) "Certified petroleum storage tank consultant" does not include:

264 (i)

. (A) an employee of the owner or operator of the [~~underground~~] petroleum storage tank; or

266 (B) an employee of a business operation that has a business relationship with the owner or operator of the [~~underground~~] petroleum storage tank, and markets petroleum products or manages [~~underground~~] petroleum storage tanks; or

269 (ii) [~~a person~~] an individual licensed to practice law in this state who offers only legal advice on [~~underground~~] petroleum storage tank release:

271 (A) management;

272 (B) abatement;

273 (C) investigation;

274 (D) corrective action; or

275 (E) evaluation.

276 (8) "Closed" means a petroleum storage tank that is no longer in use that has been:

277 (a) emptied and cleaned to remove the liquids and accumulated sludges; and

278 (b)

. (i) removed along with all underground components; or

279 (ii) filled with an inert solid material, and in the case of piping, secured and capped.

280 (9) "Corrective action plan" means a plan for correcting a release from a petroleum storage tank that includes provisions for any of the following:

282 (a) cleanup or removal of the release;

283 (b) containment or isolation of the release;

284 (c) treatment of the release;

285 (d) correction of the cause of the release;

286 (e) monitoring and maintenance of the site of the release;

287 (f) provision of alternative water supplies to a person whose drinking water has become contaminated by the release; or

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- (g) temporary or permanent relocation, whichever is determined by the director to be more cost-effective, of a person whose dwelling has been determined by the director to be no longer habitable due to the release.
- 292 (10) "Costs" means money expended for:
- 293 (a) investigation;
- 294 (b) abatement action;
- 295 (c) corrective action;
- 296 (d) judgments, awards, and settlements for bodily injury or property damage to third parties;
- 298 (e) legal and claims adjusting costs incurred by the state in connection with judgments, awards, or settlements for bodily injury or property damage to third parties; or
- 300 (f) costs incurred by the state risk manager in determining the actuarial soundness of the fund.
- 302 (11) "Covered by the fund" means the requirements of Section 19-6-424 have been met.
- 303 (12) "Director" means the director of the Division of Environmental Response and Remediation.
- 305 (13) "Division" means the Division of Environmental Response and Remediation, created in Subsection 19-1-105(1)(c).
- 307 (14) "Dwelling" means a building that is usually occupied by a person lodging there at night.
- 309 (15) "Enforcement proceedings" means a civil action or the procedures to enforce orders established by Section 19-6-425.
- 311 (16) "Facility" means the petroleum storage tanks located on a single parcel of property or on any property adjacent or contiguous to that parcel.
- 313 (17) "Fund" means the Petroleum Storage Tank Fund created in Section 19-6-409.
- 314 (18) "Operator" means a person in control of or who is responsible on a daily basis for the maintenance of a petroleum storage tank that is in use for the storage, use, or dispensing of a regulated substance.
- 317 (19) "Owner" means:
- 318 (a) in the case of an underground storage tank in use on or after November 8, 1984, a person who owns an underground storage tank used for the storage, use, or dispensing of a regulated substance;
- 321 (b) in the case of an underground storage tank in use before November 8, 1984, but not in use on or after November 8, 1984, a person who owned the tank immediately before the discontinuance of its use for the storage, use, or dispensing of a regulated substance; and
- 325 (c) in the case of an aboveground petroleum storage tank, a person who owns the aboveground petroleum storage tank.

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- 327 (20) "Petroleum" includes crude oil or a fraction of crude oil that is liquid at:
328 (a) 60 degrees Fahrenheit; and
329 (b) a pressure of 14.7 pounds per square inch absolute.
- 330 (21) "Petroleum storage tank" means a tank that:
331 (a) is an underground storage tank;
332 (b) is an aboveground petroleum storage tank; or
333 (c) is a tank containing regulated substances that is voluntarily submitted for participation in the
[Petroleum Storage Tank Fund] fund under Section 19-6-415.
- 335 (22) "Petroleum storage tank installation company" means a person or governmental entity that installs
petroleum storage tanks.
- 337 (23) "Petroleum storage tank installation company permit" means a permit issued by the director to a
petroleum storage tank installation company.
- 339 [(22)] (24) "Petroleum Storage Tank Restricted Account" means the account created in Section
19-6-405.5.
- 341 [(23)] (25) "Program" means the [Environmental Assurance Program] environmental assurance
program under Section 19-6-410.5.
- 343 [(24)] (26) "Property damage" means physical injury to, destruction of, or loss of use of tangible
property.
- 345 [(25)] (27)
- . (a) "Regulated substance" means petroleum and petroleum-based substances comprised of a complex
blend of hydrocarbons derived from crude oil through processes of separation, conversion,
upgrading, and finishing.
- 348 (b) "Regulated substance" includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils,
lubricants, petroleum solvents, and used oils.
- 350 [(26)] (28)
- . (a) "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing a
regulated substance from a petroleum storage tank into ground water, surface water, or subsurface
soils.
- 353 (b) A release of a regulated substance from a petroleum storage tank is considered a single release from
that tank system.
- 355 [(27)] (29)

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- . (a) "Responsible party" means a person who:
- 356 (i) is the owner or operator of a facility;
- 357 (ii) owns or has legal or equitable title in a facility or a petroleum storage tank;
- 358 (iii) owned or had legal or equitable title in a facility at the time petroleum was received or
contained at the facility;
- 360 (iv) operated or otherwise controlled activities at a facility at the time petroleum was received or
contained at the facility; or
- 362 (v) is [~~an underground~~] a petroleum storage tank installation company.
- 363 (b) "Responsible party," [~~is~~] as defined in Subsections [~~(27)(a)(i);~~] (29)(a)(i), (ii), and (iii), does not
include:
- 365 (i) a person who is not an operator and, without participating in the management of a facility and
otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership:
- 368 (A) primarily to protect the person's security interest in the facility; or
- 369 (B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an employee
benefit plan; or
- 371 (ii) governmental ownership or control of property by involuntary transfers as provided in CERCLA
Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).
- 373 (c) The exemption created by Subsection [~~(27)(b)(i)(B)~~] (29)(b)(i)(B) does not apply to actions taken by
the state or [~~its~~] the state's officials or agencies under this part.
- 375 (d) The terms and activities "indicia of ownership," "primarily to protect a security interest,"
"participation in management," and "security interest" under this part are in accordance with 40
C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9).
- 379 (e) The terms "participate in management" and "indicia of ownership" as defined in 40 C.F.R. Part 280,
Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and apply to the fiduciaries listed in
Subsection [~~(27)(b)(i)(B)~~] (29)(b)(i)(B).
- 382 [~~(28)~~] (30) "Rests directly on the ground" means that at least some portion of a petroleum storage tank
situated aboveground is in direct contact with soil.
- 384 [~~(29)~~] (31) "Soil test" means a test, established or approved by board rule, to detect the presence of
petroleum in soil.

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[(30)] (32) "State cleanup appropriation" means money appropriated by the Legislature to the department to fund the investigation, abatement, and corrective action regarding releases not covered by the fund.

389 [(31)] (33) "Underground piping" means piping that is buried in the ground that is in direct contact with soil and connected to an aboveground petroleum storage tank.

391 [(32)] (34) "Underground storage tank" means a tank regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:

393 (a) underground pipes and lines connected to a storage tank;

394 (b) underground ancillary equipment;

395 (c) a containment system; and

396 (d) each compartment of a multi-compartment storage tank.

397 ~~[(33) "Underground storage tank installation company" means a person, firm, partnership, corporation, governmental entity, association, or other organization that installs underground storage tanks.]~~

400 ~~[(34) "Underground storage tank installation company permit" means a permit issued to an underground storage tank installation company by the director.]~~

402 ~~[(35) "Underground storage tank technician" means a person employed by and acting under the direct supervision of a certified petroleum storage tank consultant to assist in carrying out the functions described in Subsection (7)(a).]~~

403 Section 5. Section **19-6-403** is amended to read:

404 **19-6-403. Powers and duties of board.**

The board shall regulate a petroleum storage tank by:

408 (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that:

410 (a) provide for the:

411 (i) certification of ~~[an underground]~~ a petroleum storage tank installer, inspector, tester, or remover;

413 (ii) registration of an underground storage tank operator;

414 (iii) registration of ~~[an underground]~~ a petroleum storage tank;

415 (iv) administration of the petroleum storage tank program;

416 (v) format of, and required information in, a record kept by an underground storage or petroleum storage tank owner or operator who is participating in the fund;

418 (vi) voluntary participation in the fund for a tank containing regulated substances, but excluded from the definition of a petroleum storage tank as provided in Section 19-6-415;

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- 421 (vii) certification of a petroleum storage tank consultant including:
422 (A) a minimum education or experience requirement; and
423 (B) a recognition of the educational requirement of a professional engineer licensed under Title 58,
Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, as meeting the
education requirement for certification; and
- 427 (viii) compliance with this chapter by an aboveground petroleum storage tank;
428 (b) adopt the requirements for an underground storage tank contained in:
429 (i) the Solid Waste Disposal Act, Subchapter IX, 42 U.S.C. Sec. 6991, et seq., as may be amended in
the future; and
431 (ii) an applicable federal requirement authorized by the federal law referenced in Subsection (1)(b)(i);
and
433 (c) comply with the requirements of the Solid Waste Disposal Act, Subchapter IX, 42 U.S.C. Sec. 6991,
et seq., as may be amended in the future, for the state's assumption of primacy in the regulation of
an underground storage tank; and
- 436 (2) applying the provisions of this part.
- 435 Section 6. Section **19-6-404** is amended to read:
436 **19-6-404. Powers and duties of director.**
- 439 (1) The director shall:
440 (a) administer the petroleum storage tank program established in this part; and
441 (b) as authorized by the board and subject to the provisions of this part, act as executive secretary of the
board under the direction of the chairman of the board.
- 443 (2) As necessary to meet the requirements or carry out the purposes of this part, the director may:
445 (a) advise, consult, and cooperate with other persons;
446 (b) employ persons;
447 (c) authorize a certified employee or a certified representative of the department to conduct facility
inspections and reviews of records required to be kept by this part and by rules made under this part;
450 (d) encourage, participate in, or conduct studies, investigation, research, and demonstrations;
452 (e) collect and disseminate information;
453 (f) enforce rules made by the board and any requirement in this part by issuing notices and orders;
455 (g) review plans, specifications, or other data;
456

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- (h) under the direction of the executive director, represent the state in ~~[all]~~ matters pertaining to interstate ~~[underground]~~ petroleum storage tank management and control, including entering into interstate compacts and other similar agreements;
- 459 (i) enter into contracts or agreements with political subdivisions for the performance of any of the department's responsibilities under this part if:
- 461 (i) the contract or agreement is not prohibited by state or federal law and will not result in a loss of federal funding; and
- 463 (ii) the director determines that:
- 464 (A) the political subdivision is willing and able to satisfactorily discharge its responsibilities under the contract or agreement; and
- 466 (B) the contract or agreement will be practical and effective;
- 467 (j) take any necessary enforcement action authorized under this part, including filing a lien against the real property, which is subject to cleanup and is owned by a responsible party, for the costs of abatement, investigative and corrective actions taken by the agency, if necessary, and depositing any funds received into the Petroleum Storage Tank Cleanup Fund created in Section 19-6-405.7;
- 472 (k) require an owner or operator of ~~[an underground]~~ a petroleum storage tank to:
- 473 (i) furnish information or records relating to the tank, its equipment, and contents;
- 474 (ii) monitor, inspect, test, or sample the tank, its contents, and any surrounding soils, air, or water; or
- 476 (iii) provide access to the tank at reasonable times;
- 477 (l) take any abatement, investigative, or corrective action as authorized in this part; or
- 478 (m) enter into agreements or issue orders to apportion percentages of liability of responsible parties under Section 19-6-424.5.

478 Section 7. Section **19-6-405.5** is amended to read:

479 **19-6-405.5. Creation of restricted account.**

- 482 (1) There is created in the General Fund a restricted account known as the "Petroleum Storage Tank Restricted Account~~[-]~~," which for purposes of this section is referred to as the "account."
- 485 (2) ~~[AH]~~ The penalties and interest imposed under this part shall be deposited ~~[in]~~ into this account, except as provided in Section 19-6-410.5. Specified program ~~[funds]~~ money under this part that ~~[are]~~ is unexpended at the end of the fiscal year ~~[lapse]~~ lapses into this account.
- 489 (3) The account shall earn interest, which shall be deposited into the account.

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~~[(3)]~~ (4) The Legislature shall appropriate the money in the account to the department for the costs of administering the petroleum storage tank program under this part.

490 Section 8. Section **19-6-407** is amended to read:

491 **19-6-407. Registration -- Change of ownership or operation -- Civil penalty.**

495 (1)

(a) An owner or operator of an underground storage tank shall register the tank with the director if the tank:

497 (i) is in use; or

498 (ii) was closed after January 1, 1974.

499 (b) If a new person assumes ownership or operational responsibilities for an underground storage tank, that person shall inform the director of the change ~~[within]~~ ~~{at least}~~ by no later than 30 days after the change occurs.

502 (c) ~~[Each]~~ An installer of an underground storage tank shall notify the director ~~[of the completed installation within 60 days following]~~ by no later than 30 days before the installation of an underground storage tank.

505 (2)

(a) ~~[The]~~ An owner or operator of an aboveground petroleum storage tank shall ~~[notify the director of the location of the aboveground petroleum storage tank by no later than:]~~ register the aboveground petroleum storage tank with the director if the aboveground petroleum storage tank is in use after May 5, 2021.

509 (b) If a new person assumes ownership or operational responsibilities for an aboveground petroleum storage tank, the new person shall inform the director of the change by no later than 30 days after the change occurs.

512 (c) An installer of an aboveground petroleum storage tank shall notify the director at least 30 days before the installation of an aboveground petroleum storage tank.

514 (d) An owner or operator of an aboveground petroleum storage tank shall register the aboveground petroleum storage tank by no later than:

516 (i) June 30, 2022, if the aboveground petroleum storage tank is installed on or before June 30, 2022; or

518 (ii) if the aboveground petroleum storage tank is installed on or after July 1, 2022, at least 30 days [after] before the day on which installation of the aboveground petroleum storage tank [is installed;] begins.

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- 521 ~~[(iii) 30 days before the aboveground petroleum storage tank is closed; or]~~
522 ~~[(iv) within 24 hours of the discovery of a reportable release or suspected release, as defined by rule
made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from an
aboveground petroleum storage tank.]~~
- 525 ~~[(b)]~~ (e) When notifying the director under this Subsection (2), an owner of an aboveground petroleum
storage tank described in this Subsection (2) shall pay a processing fee established under Section
63J-1-504.
- 528 ~~[(e)]~~ (f) Before operating an aboveground petroleum storage tank on or after June 30, 2023, the owner
or operator of the aboveground petroleum storage tank shall provide financial responsibility by
participating in the ~~[Environmental Assurance Program]~~ program under Section 19-6-410.5 or
demonstrating coverage through another method approved by the board by rule made in accordance
with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 534 ~~[(d)]~~ (g)
- . (i) The director shall certify when an owner or operator of an aboveground petroleum storage tank is in
compliance with this Subsection (2).
- 536 (ii) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, providing for the identification, through a tag or other readily identifiable method,
of an aboveground petroleum storage tank under Subsection (2)(a) that is not certified by the
director as in compliance with this Subsection (2).
- 541 (3) The director may issue a notice of agency action assessing a civil penalty in the amount of \$1,000
if an owner, operator, or installer of ~~[a petroleum]~~ an underground storage tank or aboveground
petroleum storage tank fails to register the tank or provide notice as required in Subsection (1) or
(2).
- 545 (4) The penalties collected under authority of this section shall be deposited in the Petroleum Storage
Tank Restricted Account created in Section 19-6-405.5.
- 545 Section 9. Section **19-6-409** is amended to read:
- 546 **19-6-409. Petroleum Storage Tank Fund -- Source of revenues.**
- 550 (1)
- . (a) There is created an enterprise fund entitled the "Petroleum Storage Tank Fund."
- 551 (b) The sole sources of revenues for the fund are:
- 552 (i) petroleum storage tank fees paid under Section 19-6-411;

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- 553 (ii) [~~underground~~] petroleum storage tank installation company permit fees paid under Section
19-6-411;
- 555 (iii) the environmental assurance fee and penalties paid under Section 19-6-410.5;
- 556 (iv) appropriations to the fund;
- 557 (v) principal and interest received from the repayment of loans made by the director under Subsection
(5); and
- 559 (vi) interest accrued on revenues listed in this Subsection (1)(b).
- 560 (c) Interest earned on fund money is deposited into the fund.
- 561 (2) The director may expend money from the fund to pay costs:
- 562 (a) covered by the fund under Section 19-6-419;
- 563 (b) of administering [~~the:~~] this part;
- 564 [~~(i) fund; and~~]
- 565 [~~(ii) environmental assurance program and fee under Section 19-6-410.5;~~]
- 566 (c) incurred by the state for a legal service or claim adjusting service provided in connection with a
claim, judgment, award, or settlement for bodily injury or property damage to a third party;
- 569 (d) incurred by the director in determining the actuarial soundness of the fund;
- 570 (e) incurred by a third party claiming injury or damages from a release reported on or after May 11,
2010, for hiring a certified petroleum storage tank consultant:
- 572 (i) to review an investigation or corrective action by a responsible party; and
- 573 (ii) in accordance with Subsection (4); and
- 574 (f) allowed under this part that are not listed under this Subsection (2).
- 575 (3) Costs for the administration of [~~the fund and the environmental assurance fee~~] this part shall be as
appropriated by the Legislature.
- 577 (4) The director shall:
- 578 (a) in paying costs under Subsection (2)(e):
- 579 (i) determine a reasonable limit on costs paid based on the:
- 580 (A) extent of the release;
- 581 (B) impact of the release; and
- 582 (C) services provided by the certified petroleum storage tank consultant;
- 583 (ii) pay, per release, costs for one certified petroleum storage tank consultant agreed to by all third
parties claiming damages or injury;

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- 585 (iii) include costs paid in the coverage limits allowed under Section 19-6-419; and
586 (iv) not pay legal costs of third parties;
- 587 (b) review and give careful consideration to reports and recommendations provided by a certified
petroleum storage tank consultant hired by a third party; and
- 589 (c) make reports and recommendations provided under Subsection (4)(b) available on the [~~Division of~~
~~Environmental Response and Remediation's~~] division's website.
- 591 (5) The director may loan, in accordance with this section, money available in the fund to a person to be
used for:
- 593 (a) upgrading [~~an underground~~] a petroleum storage tank;
- 594 (b) replacing [~~an underground~~] a petroleum storage tank; or
- 595 (c) permanently closing [~~an underground~~] a petroleum storage tank.
- 596 (6)
- . (a) A person may apply to the director for a loan under Subsection (5)(c) if [~~all~~] the tanks owned or
operated by that person are in substantial compliance with [~~all~~] state and federal requirements or
will be brought into substantial compliance using money from the fund.
- 600 (b) A person may apply to the director for a loan under Subsection (5)(a) or (b) if:
- 601 (i) the requirements of Subsection (6)(a) are met; and
- 602 (ii) the person participates in the [~~Environmental Assurance Program~~] program under Section
19-6-410.5.
- 604 (7) The director shall consider loan applications under Subsection (6) to meet the following objectives:
- 606 (a) support availability of gasoline in rural parts of the state;
- 607 (b) support small businesses; and
- 608 (c) reduce the threat of a petroleum release endangering the environment.
- 609 (8)
- . (a) A loan made under this section may not be for more than:
- 610 (i) \$300,000 for all tanks at any one facility;
- 611 (ii) \$100,000 per tank; and
- 612 (iii) 80% of the total cost of:
- 613 (A) upgrading [~~an underground~~] a petroleum storage tank;
- 614 (B) replacing [~~an underground~~] a petroleum storage tank; or
- 615 (C) permanently closing [~~an underground~~] a petroleum storage tank.

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- 616 (b) A loan made under this section shall:
- 617 (i) have a fixed annual interest rate of 0%;
- 618 (ii) have a term no longer than 10 years;
- 619 (iii) be made on the condition the loan applicant obtains adequate security for the loan as established by
board rule under Subsection (9); and
- 621 (iv) comply with rules made by the board under Subsection (9).
- 622 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall
make rules establishing:
- 624 (a) form, content, and procedure for a loan application;
- 625 (b) criteria and procedures for prioritizing a loan application;
- 626 (c) requirements and procedures for securing a loan;
- 627 (d) procedures for making a loan;
- 628 (e) procedures for administering and ensuring repayment of a loan, including late payment penalties;
- 630 (f) procedures for recovering on a defaulted loan; and
- 631 (g) the maximum amount of the fund that may be used for loans.
- 632 (10) A decision by the director to loan money from the fund and otherwise administer the fund is not
subject to Title 63G, Chapter 4, Administrative Procedures Act.
- 634 (11) The Legislature shall appropriate money from the fund to the department for the administration
costs associated with making loans under this section.
- 636 (12) The director may enter into an agreement with a public entity or private organization to perform a
task associated with administration of loans made under this section.
- 638 (13) The director may request that the Legislature appropriate money in the fund that is in excess of the
cash balance required for actuarial soundness to the Petroleum Storage Tank Cleanup Fund created
in Section 19-6-405.7.
- 639 Section 10. Section **19-6-410.5** is amended to read:
- 640 **19-6-410.5. Environmental assurance program -- Participant fee -- State Tax Commission
administration, collection, and enforcement of tax.**
- 645 (1) As used in this section:
- 646 (a) "Cash balance" means cash plus investments and current accounts receivable minus current accounts
payable, excluding the liabilities estimated by the executive director.
- 648 (b) "Commission" means the State Tax Commission, as defined in Section 59-1-101.

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- 649 (2)
- . (a) There is created an [~~Environmental Assurance Program~~] environmental assurance program.
- 651 (b) The program shall provide to a participating owner or operator, upon payment of the fee imposed under Subsection (4), assistance with satisfying the financial responsibility requirements of 40 C.F.R., Part 280, Subpart H, by providing [~~funds from the Petroleum Storage Tank Fund~~] money from the fund established in Section 19-6-409, subject to the terms and conditions of this part, and rules implemented under this part.
- 657 (3)
- . (a) Subject to Subsection (3)(b), participation in the program is voluntary.
- 658 (b) An owner or operator seeking to satisfy financial responsibility requirements through the program shall use the program for all petroleum storage tanks that the owner or operator owns or operates.
- 661 (4)
- . (a) There is assessed an environmental assurance fee of 13/20 cent per gallon on the first sale or use of petroleum products in the state.
- 663 (b) The environmental assurance fee and any other revenue collected under this section shall be deposited [~~in the Petroleum Storage Tank Fund~~] into the fund created in Section 19-6-409 and used solely for the purposes listed in Section 19-6-409.
- 666 (5)
- . (a) The commission shall administer, collect, and enforce the fee imposed under this section according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:
- 669 (i) Title 59, Chapter 1, General Taxation Policies; and
- 670 (ii) Title 59, Chapter 12, Part 1, Tax Collection.
- 671 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to establish:
- 673 (i) the method of payment of the environmental assurance fee;
- 674 (ii) the procedure for reimbursement or exemption of an owner or operator that does not participate in the program, including an owner or operator of an [~~above ground~~] aboveground petroleum storage tank; and
- 677 (iii) the procedure for confirming with the department that an owner or operator qualifies for reimbursement or exemption under Subsection (5)(b)(ii).

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- 679 (c) The commission may retain an amount not to exceed 2.5% of fees collected under this section for
the cost to the commission of rendering its services.
- 681 (d) By January 1, 2015, for underground storage tanks, and by July 1, 2026, for aboveground petroleum
storage tanks, the division shall, by rule, create:
- 683 (i) a model for assessing the risk profile of each facility participating in the program, for purposes of
qualifying for a rebate of a portion of the environmental assurance fee described in Subsection (4)
collected from an owner or operator that participates in the program; and
- 687 (ii) a rebate schedule listing the amount of the environmental assurance fee that an owner or operator
participating in the program may qualify for based on risk profiles determined by the model
developed under Subsection (5)(d)(i).
- 690 (e) The rebate described in Subsection (5)(d):
- 691 (i) may not exceed 40% of the actual fee collected from an owner or operator of a low-risk
[~~underground~~] petroleum storage tank as defined in the risk-based model developed under
Subsection (5)(d);
- 694 (ii) is administered on a per facility basis;
- 695 (iii) is based on the facility's risk profile at the end of the prior calendar year;
- 696 (iv) is only applicable to an environmental assurance fee collected after December 30, 2014, for
underground storage tanks, and June 30, 2026, for aboveground petroleum storage tanks; and
- 699 (v) shall be claimed in the form of a refund from the commission.
- 700 (f) The refund described in Subsection (5)(e)(v) may be claimed on a monthly basis.
- 701 (6)
- . (a) The person responsible for payment of the fee under this section shall, by the last day of the month
following the month in which the sale occurs:
- 703 (i) complete and submit the form prescribed by the commission; and
- 704 (ii) pay the fee to the commission.
- 705 (b)
- . (i) The penalties and interest for failure to file the form or to pay the environmental assurance fee are
the same as the penalties and interest under Sections 59-1-401 and 59-1-402.
- 708 (ii) The commission shall deposit penalties and interest collected under this section in the [~~Petroleum
Storage Tank Fund~~] fund.

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(c) The commission shall report to the department a person who is delinquent in payment of the fee under this section.

712 (7)

(a)

(i) If the cash balance of the [~~Petroleum Storage Tank Fund~~] fund on June 30 of any year exceeds [~~\$50,000,000~~] \$60,000,000, the assessment of the environmental assurance fee as provided in Subsection (4) is reduced to 1/4 cent per gallon beginning the following November 1.

716 (ii) If after the environmental assurance fee is reduced under Subsection (7)(a)(i) and the cash balance of the fund on June 30 of any year is less than \$20,000,000, the assessment of the environmental assurance fee reverts back to 13/20 cent per gallon as provided in Subsection (4) beginning the following November 1.

720 [~~(ii) The reduction under this Subsection (7)(a) remains in effect until modified by the Legislature in a general or special session.~~]

722 (b) The commission shall determine the cash balance of the fund each year as of June 30.

723 (c) Before September 1 of each year, the department shall provide the commission with the accounts payable of the fund as of June 30.

723 Section 11. Section **19-6-411** is amended to read:

724 **19-6-411. Petroleum storage tank fee for program participants.**

728 (1) In addition to the [~~underground~~] petroleum storage tank registration fee paid in Section 19-6-408, the owner or operator of a petroleum storage tank who elects to participate in the [~~environmental assurance~~] program under Section 19-6-410.5 shall also pay [~~an annual petroleum storage tank fee~~] the following petroleum storage tank fees to the department for each facility [~~as follows~~]:

733 (a) an annual fee of:

734 (i) \$450 for each tank in a facility with an annual facility throughput rate of 70,000 gallons or less;

736 (ii) \$150 for each tank in a facility with an annual facility throughput rate of greater than 70,000 gallons; and

738 (iii) \$450 for each tank in a facility regarding which:

739 (A) the facility's throughput rate is not reported to the department [~~within~~] fat least ~~no later than~~ 30 days after the date this throughput information is requested by the department; or

742 (B) the owner or operator elects to pay the fee under this Subsection (1)(a)(iii), rather than report under Subsection (1)(a)(i) or (ii); and

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- 744 (b) for any new tank:
- 745 (i) that is installed to replace an existing tank at an existing facility, any annual petroleum storage tank
fee paid for the current fiscal year for the existing tank is applicable to the new tank; and
- 748 (ii) installed at a new facility or at an existing facility, which is not a replacement for another existing
tank, the fees are as provided in Subsection (1)(a)(ii).
- 750 (2)
- . (a) As a condition of receiving a petroleum storage tank installation permit and being eligible for
benefits under Section 19-6-419 from the [~~Petroleum Storage Tank Fund, each underground~~] fund,
a petroleum storage tank installation company shall pay to the department the following fees to be
deposited in the fund:
- 754 (i) an annual fee of:
- 755 (A) \$2,000 per [~~underground~~] petroleum storage tank installation company if the installation company
has installed 15 or fewer [~~underground~~] petroleum storage tanks within the 12 months preceding the
fee due date; or
- 758 (B) \$4,000 per [~~underground~~] petroleum storage tank installation company if the installation company
has installed 16 or more [~~underground~~] petroleum storage tanks within the 12 months preceding the
fee due date; and
- 761 (ii) \$200 for each [~~underground~~] petroleum storage tank installed in the state, to be paid [~~prior to~~
~~completion of installation~~] before installation begins.
- 763 (b) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, specifying which portions of [~~an underground~~] a petroleum storage tank
installation shall be subject to the permitting fees when less than a [~~full underground~~] complete
petroleum storage tank system is installed.
- 767 (3)
- . (a) Fees under Subsection (1) are due on or before July 1 annually.
- 768 (b) If the department does not receive payment of the fee on or before July 1, the department shall
impose a [~~late~~] civil penalty of [~~\$60~~] \$100 per facility.
- 770 (c)
- . (i) The fee and the [~~late~~] civil penalty accrue interest at 12% per annum.
- 771 (ii) If the fee, the [~~late~~] civil penalty, and all accrued interest are not received by the department [~~within~~
~~60 days after July 1~~] at least } by no later than 30 days after the first install of the fiscal year, the

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eligibility of the owner or operator to receive payments for claims against the fund lapses on the ~~[61st day after July 1]~~ 31st day after beginning the first install of the fiscal year.

- 776 (iii) In order for the owner or operator to reinstate eligibility to receive payments for claims against the
fund, the owner or operator shall meet the requirements of Subsection ~~[19-6-428(3)]~~ 19-6-428(2).
- 779 (4)
- . (a)
- . (i) Fees under Subsection (2)(a)(i) are due ~~[on or before July 1 annually]~~ 30 days before the
petroleum storage tank installation company begins the first install of a fiscal year. If the
department does not receive payment of the fees ~~[on or before July 1]~~ 30 days before the
petroleum storage tank installation company begins the first install of a fiscal year, the
department shall impose a ~~[late]~~ civil penalty of ~~[\$60]~~ \$100 per petroleum storage tank
installation company. The fee and the ~~[late]~~ civil penalty accrue interest at 12% per annum.
- 786 (ii) If payment of the fee, [late] civil penalty, and all accrued interest due are not received by
the department ~~[within 60 days after July 1, the underground]~~ by no later than 30 days after
the petroleum storage tank installation company begins the first install of the fiscal year, the
petroleum storage tank installation company's permit and eligibility to receive payments for
claims against the fund lapse on [the 61st day after July 1] the 31st day after the petroleum
storage tank installation company begins the first install of the fiscal year.
- 793 (b)
- . (i) ~~[Fees under Subsection (2)(a)(ii) are due prior to completion of installation]~~ A petroleum storage
tank installation company shall pay the fees under Subsection (2)(a) before installation and issuance
of a petroleum storage tank installation company permit. If the department does not receive
payment of the fees ~~[prior to completion of]~~ before installation, the department shall impose a
~~[late]~~ civil penalty of ~~[\$60 per facility]~~ \$500 per petroleum storage tank. The fee and the ~~[late]~~ civil
penalty accrue interest at 12% per annum.
- 800 (ii) If installation is complete without paying the installation permit fee and having a valid petroleum
storage tank installation company permit, the petroleum storage tank installation company is not
eligible to receive payments for claims against the fund for releases from the petroleum storage tank
being installed that may occur before a certificate of compliance is issued for that petroleum storage
tank.

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- [~~(ii) If the fee, late penalty, and all accrued interest are not received by the department within 60 days after the underground storage tank installation is completed, eligibility to receive payments for claims against the fund for that tank lapse on the 61st day after the tank installation is completed.~~]
- 809 (c) The director may not reissue the [~~underground~~] petroleum storage tank installation company permit until the fee, [~~late~~] civil penalty, and [~~all~~] accrued interest are received by the department.
- 812 (5) If the executive director determines that the fees established in Subsections (1) and (2) and the environmental assurance fee established in Section 19-6-410.5 are insufficient to maintain the fund on an actuarially sound basis, the executive director may petition the Legislature to increase the petroleum storage tank and [~~underground~~] petroleum storage tank installation company permit fees, and the environmental assurance fee to a level that will sustain the fund on an actuarially sound basis.
- 818 (6) The director may waive all or part of the fees required to be paid[~~on or before May 5, 1997;~~] for a petroleum storage tank under this section if no fuel has been dispensed from the tank on or after July 1, 1991.
- 821 (7)
- . (a) The director shall issue a certificate of compliance to the owner or operator of a petroleum storage tank[~~or underground storage tank~~], for which payment of fees has been made and other requirements have been met to qualify for a certificate of compliance under this part.
- 825 (b) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the identification, through a tag or other readily identifiable method, of a petroleum storage tank[~~or underground storage tank~~] under Subsection (7)(a) that does not qualify for a certificate of compliance under this part.
- 828 Section 12. Section **19-6-412** is amended to read:
- 829 **19-6-412. Petroleum storage tank -- Certificate of compliance.**
- 833 (1)
- . [~~(a) Beginning July 1, 1990, an owner or operator of a petroleum storage tank may obtain a certificate of compliance for the facility.~~]
- 835 [~~(b) Effective July 1, 1991, each~~] An owner or operator of a petroleum storage tank shall have a certificate of compliance for the facility.
- 837 (2) The director shall issue a certificate of compliance if:
- 838 (a) the owner or operator has a certificate of registration;

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- 839 (b) the owner or operator demonstrates [it] the owner or operator is participating in the [~~Environmental Assurance Program~~] program under Section 19-6-410.5, or otherwise demonstrates compliance with financial assurance requirements as defined by rule;
- 842 (c) all state and federal statutes, rules, and regulations have been substantially complied with; and
- 844 (d) all tank test requirements of Section 19-6-413 have been met.
- 845 (3) If the ownership of or responsibility for the petroleum storage tank changes, the certificate of compliance is still valid unless it has been revoked or has lapsed.
- 847 (4) The director may issue a certificate of compliance for a period of less than one year to maintain an administrative schedule of certification.
- 849 (5) The director shall reissue a certificate of compliance if the owner or operator of [~~an underground~~] a petroleum storage tank has complied with the requirements of Subsection (2).
- 852 (6) If the owner or operator electing to participate in the program has a number of tanks in an area where the director finds it would be difficult to accurately determine which of the tanks may be the source of a release, the owner may only elect to place all of the tanks in the area in the program, but not just some of the tanks in the area.

854 Section 13. Section **19-6-416.5** is amended to read:

855 **19-6-416.5. Restrictions on petroleum storage tank installation companies -- Civil penalty.**

- 859 (1) [~~After July 1, 1994, no individual or underground~~] An individual or petroleum storage tank installation company may not install [~~an underground~~] a petroleum storage tank without having a valid [~~underground~~] petroleum storage tank installation company permit.
- 863 (2) [~~Any~~] An individual or [~~underground~~] petroleum storage tank installation company who installs [~~an underground~~] a petroleum storage tank in violation of Subsection (1) is subject to a civil penalty of \$500 per [~~underground~~] petroleum storage tank.
- 866 (3) The director shall issue a notice of agency action assessing a civil penalty of \$500 against [~~any underground~~] a petroleum storage tank installation company or [~~person~~] individual who installs [~~an underground~~] a petroleum storage tank in violation of Subsection (1).

868 Section 14. Section **19-6-420** is amended to read:

869 **19-6-420. Releases -- Abatement actions -- Corrective actions.**

- 873 (1) If the director determines that a release from a petroleum storage tank has occurred, the director shall:
- 875 (a) identify and name as many of the responsible parties as reasonably possible; and

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- 876 (b) determine which responsible parties, if any, are covered by the fund regarding the release in
question.
- 878 (2) Regardless of whether the petroleum storage tank generating the release is covered by the fund:
- 880 (a) the director may order the owner or operator to take abatement, or investigative or corrective action,
including the submission of a corrective action plan; and
- 882 (b) if the owner or operator fails to comply with the action ordered by the director under Subsection (2)
(a), the director may take one or more of the following actions:
- 884 (i) subject to the conditions in this part, use money from the fund, if the tank involved is covered by
the fund, state cleanup appropriation, or the Petroleum Storage Tank Cleanup Fund created under
Section 19-6-405.7 to perform investigative, abatement, or corrective action;
- 888 (ii) commence an enforcement proceeding;
- 889 (iii) enter into agreements or issue orders as allowed by Section 19-6-424.5;
- 890 (iv) recover costs from responsible parties equal to their proportionate share of liability as determined
by Section 19-6-424.5; or
- 892 (v) where the owner or operator is the responsible party, revoke the responsible party's certificate of
compliance, as described in Section 19-6-414.
- 894 (3)
- . (a) Subject to the limitations established in Section 19-6-419, the director shall provide money from the
fund for abatement action for a release generated by a tank covered by the fund if:
- 897 (i) the owner or operator takes the abatement action ordered by the director; and
- 898 (ii) the director approves the abatement action.
- 899 (b) If a release presents the possibility of imminent and substantial danger to the public health or the
environment, the owner or operator may take immediate abatement action and petition the director
for reimbursement from the fund for the costs of the abatement action. If the owner or operator
can demonstrate to the satisfaction of the director that the abatement action was reasonable and
timely in light of circumstances, the director shall reimburse the petitioner for costs associated with
immediate abatement action, subject to the limitations established in Section 19-6-419.
- 906 (c) The owner or operator shall notify the director within 24 hours of the abatement action taken.
- 908 (4)
- . (a) If the director determines corrective action is necessary, the director shall order the owner or
operator to submit a corrective action plan to address the release.

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- 910 (b) If the owner or operator submits a corrective action plan, the director shall review the corrective
action plan and approve or disapprove the plan.
- 912 (c) In reviewing the corrective action plan, the director shall consider the following:
- 913 (i) the threat to public health;
- 914 (ii) the threat to the environment; and
- 915 (iii) the cost-effectiveness of alternative corrective actions.
- 916 (5) If the director approves the corrective action plan or develops the director's own corrective action
plan, the director shall:
- 918 (a) approve the estimated cost of implementing the corrective action plan;
- 919 (b) order the owner or operator to implement the corrective action plan;
- 920 (c)
- . (i) if the release is covered by the fund, determine the amount of fund money to be allocated to an
owner or operator to implement a corrective action plan; and
- 922 (ii) subject to the limitations established in Section 19-6-419, provide money from the fund to the owner
or operator to implement the corrective action plan.
- 924 (6)
- . (a) The director may not distribute any money from the fund for corrective action until the owner or
operator obtains the director's approval of the corrective action plan.
- 927 (b) An owner or operator who begins corrective action without first obtaining approval from the
director and who is covered by the fund may be reimbursed for the costs of the corrective action,
subject to the limitations established in Section 19-6-419, if:
- 930 (i) the owner or operator submits the corrective action plan to the director [~~within~~] no later than seven
days after beginning corrective action; and
- 932 (ii) the director approves the corrective action plan.
- 933 (7) If the director disapproves the plan, the director shall solicit a new corrective action plan from the
owner or operator.
- 935 (8) If the director disapproves the second corrective action plan, or if the owner or operator fails to
submit a second plan within a reasonable time, the director may:
- 937 (a) develop an alternative corrective action plan; and
- 938 (b) act as authorized under Subsections (2) and (5).
- 939 (9)

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- . (a) When notified that the corrective action plan has been implemented, the director shall inspect the location of the release to determine whether or not the corrective action has been properly performed and completed.
- 942 (b) If the director determines the corrective action has not been properly performed or completed, the director may issue an order requiring the owner or operator to complete the corrective action within the time specified in the order.
- 945 (10)
- . (a) For releases not covered by the fund, the director may recover from the responsible party expenses incurred by the division for managing and overseeing the abatement, and investigation or corrective action of the release. These expenses shall be:
- 949 (i) billed quarterly per release;
- 950 (ii) due ~~[within]~~ no later than 30 days ~~[of]~~ from billing;
- 951 (iii) deposited ~~[with the division as dedicated credits]~~ into the Petroleum Storage Tank Cleanup Fund established in Section 19-6-405.7;
- 953 (iv) used by the division for the administration of the ~~[underground]~~ petroleum storage tank program outlined in this part; and
- 955 (v) billed per hourly rates as established under Section 63J-1-504.
- 956 (b) If the responsible party fails to pay expenses under Subsection 10(a), the director may:
- 958 (i) revoke the responsible party's certificate of compliance, as described in Section 19-6-414, if the responsible party is also the owner or operator; and
- 960 (ii) pursue an action to collect expenses in Subsection 10(a), including the costs of collection.
- 962 (11) This section does not apply to a release of a substance defined as a regulated substance in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.
- 963 Section 15. Section **19-6-424** is amended to read:
- 964 **19-6-424. Claims not covered by fund.**
- 967 (1) The director may not authorize payments from the fund unless:
- 968 (a) the claim was based on a release occurring during a period for which that tank was covered by the fund;
- 970 (b) there are sufficient revenues in the fund; and
- 971 ~~[(b)]~~ (c) the claim was made:
- 972 ~~[(i) during a period for which that tank was covered by the fund; or]~~

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- 973 [(ii)
974 . (A) ~~within~~
975 (i) no later than one year after that fund-covered tank is closed; or
976 [(B) ~~within~~
977 (ii) no later than six months after the end of the period during which the tank was covered by the fund[;
978 and] .
979 [(e) ~~there are sufficient revenues in the fund.~~]
980 (2) The director may authorize payments from the fund if the claim was made by a responsible party, as
981 determined in accordance with Section 19-6-420 or 19-6-424.5, that:
982 (a) was in good standing with the program under Section 19-6-410.5 at the time ownership ceased; and
983 (b) lost coverage for a release due to the actions or inactions of a subsequent responsible party.
984 (3) The director may not authorize payments from the fund for [~~an underground~~] a petroleum storage
985 tank installation company unless:
986 (a) the claim was based on a release occurring during the period prior to the issuance of a certificate of
987 compliance;
988 (b) the claim was made [~~within~~] no later than 12 months after the date the tank is issued a certificate of
989 compliance for that tank; and
990 (c) there are sufficient revenues in the fund.
991 [(3)] (4) The director may require the claimant to provide additional information as necessary to
992 demonstrate coverage by the fund at the time of submittal of the claim.
993 [(4)] (5) If the Legislature repeals or refuses to reauthorize the program for petroleum storage tanks
994 established in this part, the director may authorize payments from the fund as provided in this
995 part for claims made until the end of the time period established in Subsection (1)[~~or~~] , (2), or (3)
996 provided there are sufficient revenues in the fund.
997 Section 16. Section **19-6-426** is amended to read:
998 **19-6-426. Limitation of liability of state -- Liability of responsible parties -- Indemnification**
999 **agreement involving responsible parties.**
1000 (1) This part [~~is not intended to~~] does not create an insurance program.
1001 (2) The fund established in this part shall only provide funds to finance costs for responsible parties
1002 who meet the requirements of this part when releases from petroleum storage tanks occur.
1003 (3) The assets of the fund, if any, are the sole source of money to pay claims against the fund.
1004

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- 1008 (4) The state is not liable for:
- 1009 (a) any amounts payable from the fund for which the fund does not have sufficient assets;
- 1010 (b) any expenses or debts of the fund; or
- 1011 (c) any claim arising from the creation, management, rate-setting, or any other activity pertaining to the fund.
- 1013 (5) The responsible parties are liable for any costs associated with any release from the [underground] petroleum storage tank system.
- 1015 (6) This part does not preclude a responsible party from enforcing or recovering under any agreement or contract for indemnification associated with a release from the tank or from pursuing any other legal remedies that may be available against any party.
- 1018 (7) If any payment is made under this part, the fund shall be subrogated to all the responsible parties' rights of recovery against any person[~~or organization~~] and the responsible parties shall execute and deliver instruments and papers and do whatever else is necessary to secure the rights. The responsible parties shall do nothing after a release is discovered to prejudice the rights. In the event of recovery by the fund, any amount recovered shall first be used to reimburse the responsible parties for costs they are required to pay pursuant to Section 19-6-419.
- 1025 (8) Parties who elect to participate in the fund do so subject to the conditions and limitations in this section and in this part.
- 1025 Section 17. Section **19-6-428** is amended to read:
- 1026 **19-6-428. Eligibility for participation in the fund.**
- 1029 (1) Subject to [the requirements of]Section 19-6-410.5, an owner or operator of [an existing] a petroleum storage tank[~~that is covered by the fund on May 5, 1997,~~] may elect to[~~continue to~~] participate in the program by meeting the requirements of this part, including paying the tank fees and environmental assurance fee as provided in Sections 19-6-410.5 and 19-6-411.
- 1034 [~~(2) A new petroleum storage tank that is installed after May 5, 1997, or a tank eligible under Section 19-6-415, may elect to participate in the program by complying with the requirements of this part.~~]
- 1037 [~~(3)~~] (2)
- . (a) [~~An owner or operator of a petroleum storage tank who elects to not participate in the program, including by the use of an alternative financial assurance mechanism~~] If an owner or operator elects to participate in the program after a period of non-participation, the owner or operator of the petroleum storage tank shall, in order to subsequently participate in the program:

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- 1042 (i) perform a tank tightness test;
- 1043 (ii) except as provided in Subsection [~~(3)(b);~~] (2)(b), (c), or (d), perform a site check, including soil
and, when applicable, groundwater samples, to demonstrate that no release of petroleum exists
or that there has been adequate remediation of releases as required by board rules;
- 1047 (iii) provide the required tests and samples to the director; and
- 1048 (iv) comply with the requirements of this part.
- 1049 (b) A site check under Subsection [~~(3)(a)(ii)]~~ (2)(a)(ii) is not required if the director determines, with
reasonable cause, that soil and groundwater samples are unnecessary to establish that no petroleum
has been released.
- 1052 (c) [~~For an aboveground petroleum storage tank, a site check under Subsection (3)(a)(ii) is not required
to participate in the program except that if the aboveground petroleum storage tank does not conduct
a site check;~~]
- 1055 (i) For an aboveground petroleum storage tank, a site check under Subsection (2)(a)(ii) is not required
to participate in the program and historic contamination is covered as provided in Subsection (2)(c)
(ii) if the release meets the requirements of this part.
- 1059 [(i) ~~historic~~]
- 1060 [(ii)
- . (A) Historic contamination, as defined by rule made in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act[;] [;]
- . [(A) ~~subject to the other provisions of this Subsection (3)(c);~~] [;] is covered only if the historic
contamination is discovered more than five years after the day the owner or operator elects to
participate in the program[;] .
- 1065 (B) Historic contamination is 20% covered beginning on the five-year date[; ~~and~~] after five years of
continuous participation in the program.
- 1067 (C) Historic contamination is covered at increasing amounts of 20% each year after [the five-year date
~~until at the 10-year date~~] the five years of continuous participation in the program until after 10
years of continuous participation in the program the historic contamination is covered at 100% [;
and] .
- 1071 [(ii) ~~new~~]
- 1072

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- (iii) New releases, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, are covered at 100% beginning on the day the aboveground petroleum storage tank participates in the program.
- 1075 (d)
- . (i) For an underground storage tank that previously elected not to participate in the program, a site check under Subsection [~~(3)(a)(ii)~~] (2)(a)(ii) is not required to begin participating in the program[~~, except that if the underground storage tank does not conduct a site check;~~] and historic contamination is covered as provided in under Subsection (2)(d)(ii) if the release meets the requirements of this part.
- . [(i) ~~historic~~]
- 1081 (ii)
- . (A) Historic contamination, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~,~~];
- . [(A) ~~subject to the other provisions of this Subsection (3)(d);~~] is covered only if the historic contamination is discovered more than five years after the day the owner or operator elects to participate in the program[~~;~~].
- 1086 (B) Historic contamination is 20% covered [~~beginning on the five-year date; and~~] after five years of continuous participation in the program.
- 1088 (C) Historic contamination is covered at increasing amounts of 20% each year after [~~the five-year date until at the 10-year date~~] the five years of continuous participation in the program until after 10 years of continuous participation in the program the historic contamination is covered at 100%[~~;~~ and] .
- . [(ii) ~~new~~]
- 1092 (iii) New releases, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, are covered at 100% beginning on the day the underground storage tank participates in the program.
- 1095 [(4)] (3) The director shall review the tests and samples provided under Subsection [~~(3)(a)(iii)~~] (2)(a)(iii) to determine:
- 1097 (a) whether or not any release of the petroleum has occurred; or
- 1098 (b) if the remediation is adequate.
- 1097 Section 18. Section **19-8-113** is amended to read:

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- 1098 **19-8-113. Applicant's release from liability.**
- 1101 (1)
- . (a) An applicant who is not responsible for the contaminant or contamination under the provisions listed in Subsection (1)(b) at the time the applicant applies to enter into a voluntary cleanup agreement under this chapter is released by issuance of a certificate of completion under Section 19-8-111 from all liability to the state for cleanup of property covered by the certificate and from all liability for claims arising under state law for contribution regarding matters addressed by the certificate of completion, except for any releases or consequences the applicant causes.
- 1108 (b) Provisions referred to in Subsection (1)(a) are:~~[Title 19, Chapter 5, Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act; or Title 19, Chapter 6, Part 4, Underground Storage Tank Act.]~~
- 1112 (i) Chapter 5, Water Quality Act;
- 1113 (ii) Chapter 6, Part 1, Solid and Hazardous Waste Act;
- 1114 (iii) Chapter 6, Part 3, Hazardous Substances Mitigation Act; or
- 1115 (iv) Chapter 6, Part 4, Petroleum Storage Tank Act.
- 1116 (2) There is no release from liability under this chapter if a certificate of completion is obtained by fraud, misrepresentation, or the knowing failure to disclose material information.
- 1119 (3)
- . (a) After a certificate of completion is issued under this chapter, an owner who then acquires property covered by the certificate, or a lender who then makes a loan secured by property covered by the certificate, is released from all liability to the state regarding property covered by the certificate for cleanup of contamination released before the date of the certificate, and from all liability for claims arising under state law for contribution regarding matters addressed by the certificate of completion, except under Subsection (3)(b).
- 1126 (b) A release of liability under Subsection (3)(a) is not available to an owner or lender under Subsection (3)(a) who:
- 1128 (i) was originally responsible for a release or contamination under~~;~~ ~~[~~~~]~~ ~~Title 19, Chapter 5, Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act; or Title 19, Chapter 6, Part 4, Underground Storage Tank Act]~~ ;
- 1132 (A) Chapter 5, Water Quality Act;

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- 1133 (B) Chapter 6, Part 1, Solid and Hazardous Waste Act;
1134 (C) Chapter 6, Part 3, Hazardous Substances Mitigation Act; or
1135 (D) Chapter 6, Part 4, Petroleum Storage Tank Act;
1136 (ii) changes the land use from the use specified in the certificate of completion if the changed use or
uses may reasonably be expected to result in increased risks to human health or the environment; or
1139 (iii) causes further releases on the property covered by the certification.
1140 (c) A release under this Subsection (3) is subject to the limitations of Subsection (2).
1141 (4) The executive director may issue enforceable written assurances to a contiguous property owner
of real property stating that no enforcement action under this part may be initiated against the
contiguous property owner and providing the owner protection from state law cost recovery and
contribution actions.
- 1143 Section 19. Section **19-8-119** is amended to read:
1144 **19-8-119. Apportionment or contribution.**
1147 (1) Any party who incurs costs under a voluntary agreement entered into under this part in excess
of the party's liability may seek contribution in an action in a court with jurisdiction under Title
78A, Judiciary and Judicial Administration, from any other party who is or may be liable under
Subsection 19-6-302(21) or [~~19-6-402(27)~~] 19-6-402(29) for the excess costs after providing written
notice to any other party that the party bringing the action has entered into a voluntary agreement
and will incur costs.
- 1153 (2) In resolving claims made under Subsection (1), the court shall allocate costs using the standards in
Subsection 19-6-310(2).
- 1153 Section 20. Section **63G-4-102** is amended to read:
1154 **63G-4-102. Scope and applicability of chapter.**
1157 (1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding
provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to
every agency of the state and govern:
1160 (a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal
interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify,
annul, withdraw, or amend an authority, right, or license; and
1164 (b) judicial review of the action.
1165 (2) This chapter does not govern:

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- 1166 (a) the procedure for making agency rules, or judicial review of the procedure or rules;
- 1167 (b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;
- 1172 (c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the Office of Substance Use and Mental Health, or a person on probation or parole, or judicial review of the action;
- 1179 (d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;
- 1182 (e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;
- 1184 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;
- 1189 (g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;
- 1194 (h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;
- 1199 (i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

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- 1203 (j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action;
- 1206 (k) the issuance of a notice of violation or order under Title 53, Chapter 2d, Emergency Medical Services Act, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, [Underground] Petroleum Storage Tank Act, [~~or~~] Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;
- 1215 (l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;
- 1217 (m) the initial determination of a person's eligibility for government or public assistance benefits;
- 1219 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;
- 1221 (o) a license for use of state recreational facilities;
- 1222 (p) state agency action under Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;
- 1224 (q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;
- 1226 (r) state agency action relating to the installation, maintenance, and repair of headgates, caps, valves, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;
- 1229 (s) the issuance and enforcement of an initial order under Section 73-2-25;
- 1230 (t)
- . (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and
- 1231 (ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1);
- 1234 (u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action;
- 1237 (v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act;

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- 1239 (w) state environmental studies and related decisions by the Department of Transportation approving state or locally funded projects, or judicial review of the action;
- 1242 (x) the suspension of operations under Subsection 32B-1-304(3);
- 1243 (y) the issuance of a determination of violation by the Governor's Office of Economic Opportunity under Section 11-41-104; or
- 1245 (z) a challenge to an aspect of a distribution management plan under Section 73-33-202.
- 1246 (3) This chapter does not affect a legal remedy otherwise available to:
- 1247 (a) compel an agency to take action; or
- 1248 (b) challenge an agency's rule.
- 1249 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:
- 1251 (a) requesting or ordering a conference with parties and interested persons to:
- 1252 (i) encourage settlement;
- 1253 (ii) clarify the issues;
- 1254 (iii) simplify the evidence;
- 1255 (iv) facilitate discovery; or
- 1256 (v) expedite the proceeding; or
- 1257 (b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.
- 1261 (5)
- . (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.
- 1263 (b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.
- 1265 (6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.
- 1269 (7)
- .

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- (a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.
- 1273 (b) The attorney general shall report the suspension to the Legislature at its next session.
- 1274 (8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.
- 1276 (9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.
- 1279 (10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.
- 1282 (11) Subsection (2)(w), regarding action taken based on state environmental studies and policies of the Department of Transportation, applies to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order before May 14, 2019.
- 1284 Section 21. Section **63I-1-219** is amended to read:
- 1285 **63I-1-219. Repeal dates: Title 19.**
- 1288 (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.
- 1289 (2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2029.
- 1290 (3) Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1, 2027.
- 1292 (4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.
- 1293 (5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.
- 1294 (6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.
- 1296 (7) Title 19, Chapter 6, Part 4, [~~Underground~~] Petroleum Storage Tank Act, is repealed July 1, 2028.
- 1298 (8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.
- 1299 (9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.
- 1300 (10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.
- 1301 (11) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.
- 1300 Section 22. **Repealer.**

This Bill Repeals:

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1301 This bill repeals:

1302 Section **19-6-401, Short title.**

1304 Section **19-6-401, Short title.**

1303 Section 23. **FY 2026 Appropriation.**

1304 The following sums of money are appropriated for the fiscal year beginning July 1,
1305 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for
1306 fiscal year 2026.

1307 Subsection 23(a). **Restricted Fund and Account Transfers**

1308 The Legislature authorizes the State Division of Finance to transfer the following
1309 amounts between the following funds or accounts as indicated. Expenditures and outlays from
1310 the funds to which the money is transferred must be authorized by an appropriation.

1311 ITEM 1 To Petroleum Storage Tank Cleanup Fund

1312 From Petroleum Storage Tank Fund, One-time 4,000,000

1313 Schedule of Programs:

1314 Petroleum Storage Tank Cleanup Fund 4,000,000

1315 Section 24. **Effective date.**

This bill takes effect on May 7, 2025.

1-16-25 9:55 AM