

**Effective 7/1/2014**

**19-6-409 Petroleum Storage Tank Trust Fund created -- Source of revenues.**

- (1)
  - (a) There is created a private-purpose trust fund entitled the "Petroleum Storage Tank Trust Fund."
  - (b) The sole sources of revenues for the fund are:
    - (i) petroleum storage tank fees paid under Section 19-6-411;
    - (ii) underground storage tank installation company permit fees paid under Section 19-6-411;
    - (iii) the environmental assurance fee and penalties paid under Section 19-6-410.5;
    - (iv) appropriations to the fund;
    - (v) principal and interest received from the repayment of loans made by the director under Subsection (5); and
    - (vi) interest accrued on revenues listed in this Subsection (1)(b).
  - (c) Interest earned on fund money is deposited into the fund.
- (2) The director may expend money from the fund to pay costs:
  - (a) covered by the fund under Section 19-6-419;
  - (b) of administering the:
    - (i) fund; and
    - (ii) environmental assurance program and fee under Section 19-6-410.5;
  - (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;
  - (d) incurred by the executive director in determining the actuarial soundness of the fund;
  - (e) incurred by a third party claiming injury or damages from a release reported on or after May 11, 2010, for hiring a certified underground storage tank consultant:
    - (i) to review an investigation or corrective action by a responsible party; and
    - (ii) in accordance with Subsection (4);
  - (f) incurred by the department to implement the study described in Subsection 19-6-410.5(8), including a one-time cost of up to \$200,000 for the actuarial study described in Subsection 19-6-410.5(8)(a)(ii); and
  - (g) allowed under this part that are not listed under this Subsection (2).
- (3) Costs for the administration of the fund and the environmental assurance fee shall be appropriated by the Legislature.
- (4) The director shall:
  - (a) in paying costs under Subsection (2)(e):
    - (i) determine a reasonable limit on costs paid based on the:
      - (A) extent of the release;
      - (B) impact of the release; and
      - (C) services provided by the certified underground storage tank consultant;
    - (ii) pay, per release, costs for one certified underground storage tank consultant agreed to by all third parties claiming damages or injury;
    - (iii) include costs paid in the coverage limits allowed under Section 19-6-419; and
    - (iv) not pay legal costs of third parties;
  - (b) review and give careful consideration to reports and recommendations provided by a certified underground storage tank consultant hired by a third party; and
  - (c) make reports and recommendations provided under Subsection (4)(b) available on the Division of Environmental Response and Remediation's website.
- (5) The director may loan, in accordance with this section, money available in the fund to a person to be used for:

- (a) upgrading an underground storage tank;
  - (b) replacing an underground storage tank; or
  - (c) permanently closing an underground storage tank.
- (6) A person may apply to the director for a loan under Subsection (5) if all 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.
- (7) The director shall consider loan applications under Subsection (6) to meet the following objectives:
- (a) support availability of gasoline in rural parts of the state;
  - (b) support small businesses; and
  - (c) reduce the threat of a petroleum release endangering the environment.
- (8)
- (a) A loan made under this section may not be for more than:
    - (i) \$150,000 for all tanks at any one facility;
    - (ii) \$50,000 per tank; and
    - (iii) 80% of the total cost of:
      - (A) upgrading an underground storage tank;
      - (B) replacing an underground storage tank; or
      - (C) permanently closing an underground storage tank.
  - (b) A loan made under this section shall:
    - (i) have a fixed annual interest rate of 0%;
    - (ii) have a term no longer than 10 years;
    - (iii) be made on the condition the loan applicant obtains adequate security for the loan as established by board rule under Subsection (9); and
    - (iv) comply with rules made by the board under Subsection (9).
- (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:
- (a) form, content, and procedure for a loan application;
  - (b) criteria and procedures for prioritizing a loan application;
  - (c) requirements and procedures for securing a loan;
  - (d) procedures for making a loan;
  - (e) procedures for administering and ensuring repayment of a loan, including late payment penalties;
  - (f) procedures for recovering on a defaulted loan; and
  - (g) the maximum amount of the fund that may be used for loans.
- (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.
- (11) The Legislature shall appropriate money from the fund to the department for the administration costs associated with making loans under this section.
- (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.

Amended by Chapter 227, 2014 General Session