

1 **PETROLEUM STORAGE TANK TRUST FUND**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: David Ure**

6 Senate Sponsor: Darin G. Peterson

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies requirements for participating in the petroleum storage tank
11 environmental assurance program.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ requires owners and operators of underground petroleum storage tanks that elect to
15 participate in the environmental assurance program to include all of their tanks
16 under the Petroleum Storage Tank Trust Fund;
- 17 ▶ allows the executive secretary of the Board of Solid and Hazardous Waste to waive
18 certain testing requirements;
- 19 ▶ clarifies requirements for participation in the environmental assurance program by
20 owners and operators who have previously elected not to participate; and
- 21 ▶ makes technical corrections.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill takes effect on January 1, 2007.

26 **Utah Code Sections Affected:**

27 AMENDS:



28 **19-6-410.5**, as last amended by Chapter 45, Laws of Utah 2003

29 **19-6-428**, as last amended by Chapter 95, Laws of Utah 1998

30

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

32 Section 1. Section **19-6-410.5** is amended to read:

33 **19-6-410.5. Environmental assurance program -- Participant fee.**

34 (1) As used in this section:

35 (a) "Cash balance" means cash plus investments and current accounts receivable minus
36 current accounts payable [~~exclusive of~~], excluding the liabilities estimated by the state risk
37 manager.

38 (b) "Commission" means the State Tax Commission, as defined in Section 59-1-101.

39 (2) (a) There is created an Environmental Assurance Program.

40 (b) The program shall provide to participating owners and operators, upon payment of
41 the fee imposed under Subsection (4), assistance with [~~the costs of investigation, abatement,~~
42 ~~and corrective action regarding releases at facilities participating in the program, to the extent~~
43 ~~provided in Section 19-6-419]~~ satisfying the financial responsibility requirements of 40 CFR,
44 Part 280, Subpart H by providing funds from the Petroleum Storage Tank Trust Fund
45 established in Section 19-6-409, subject to the terms and conditions of Chapter 6, Part 4,
46 Underground Storage Tank Act, and rules implemented under that part.

47 (3) [~~Participation~~] (a) Subject to Subsection (3)(b), participation in the program is
48 voluntary.

49 (b) Each owner and operator seeking to satisfy financial responsibility requirements
50 through the program shall use the program for all petroleum underground storage tanks that the
51 owner or operator owns or operates.

52 (4) (a) There is assessed an environmental assurance fee of 1/2 cent per gallon on the
53 first sale or use of petroleum products in the state.

54 [~~(5) Revenue~~] (b) The environmental assurance fee and any other revenue collected
55 under this section shall be deposited in the Petroleum Storage Tank Trust Fund created in
56 Section 19-6-409 and used solely for the purposes listed in Section 19-6-409.

57 [~~(6)~~] (5) (a) The commission [~~is responsible for the collection of~~] shall collect the
58 environmental assurance fee and any penalties and interest imposed under this section.

59 (b) ~~[The]~~ By following the procedures and requirements of Title 63, Chapter 46a, Utah
60 Administrative Rulemaking Act, the commission shall ~~[by rule, in accordance with Title 63,~~
61 ~~Chapter 46a, Utah Administrative Rulemaking Act,]~~ make rules to establish:

62 (i) the method of payment of the environmental assurance fee;

63 (ii) the procedure for reimbursement or exemption of owners or operators who do not
64 participate in the program, including owners and operators of above ground storage tanks; and

65 (iii) the procedure for confirming with the department those owners and operators who
66 qualify for reimbursement or exemption under Subsection ~~[(6)]~~ (5)(b)(ii).

67 (c) The commission may retain an amount not to exceed 2.5% of fees collected under
68 this section for the cost to it of rendering its services.

69 ~~[(7)]~~ (6) (a) The person or entity responsible for payment of the fee under this section
70 shall ~~[pay the fee to the commission]~~, by the last day of the month following the month in
71 which the sale occurs[-]:

72 (i) complete and submit the form prescribed by the commission; and

73 (ii) pay the fee to the commission.

74 ~~[(8) The payment under this section shall be accompanied by the form prescribed by~~
75 ~~the commission.]~~

76 ~~[(9)(a)]~~ (b) (i) The penalties and interest for failure to file the form ~~[required under this~~
77 ~~section]~~ or to pay the environmental assurance fee are the same as the penalties and interest
78 under Sections 59-1-401 and 59-1-402.

79 ~~[(b)]~~ (ii) The commission shall deposit penalties and interest collected under this
80 section in the Petroleum Storage Tank Trust Fund.

81 ~~[(10)]~~ (c) The commission shall report to the department any person or entity who is
82 delinquent in payment of the fee under this section.

83 ~~[(11)(a)]~~ (7) (a) (i) If the cash balance of the Petroleum Storage Tank Trust Fund on
84 June 30 of any year exceeds \$20,000,000, the assessment of the environmental assurance fee as
85 provided in Subsection (4) ~~[shall be]~~ is reduced to 1/4 cent per gallon beginning November 1
86 ~~[and the]~~.

87 (ii) The reduction shall remain in effect until modified by the Legislature in a general
88 or special session.

89 (b) The commission ~~[is responsible for determining each year]~~ shall determine the cash

90 balance of the fund each year as of June 30.

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

93 Section 2. Section **19-6-428** is amended to read:

94 **19-6-428. Eligibility for participation in the fund.**

95 (1) ~~[AH]~~ Subject to the requirements of Section 19-6-410.5, all owners and operators of
96 existing petroleum storage tanks that ~~[are]~~ were covered by the fund on May 5, 1997, may elect
97 to continue to participate in the program by meeting the requirements of this part, including
98 paying the tank fees and environmental assurance fee as provided in Sections 19-6-410.5 and
99 19-6-411.

100 (2) Any new petroleum storage tanks that were installed after May 5, 1997, or tanks
101 eligible under Section 19-6-415, may elect to participate in the program by complying with the
102 requirements of this part.

103 (3) (a) All owners and operators of petroleum storage tanks who elect to not participate
104 in the program, including by the use of an alternative financial assurance mechanism, shall
105 ~~[comply with the following requirements]~~, in order to subsequently participate in the program:

106 ~~[(a)]~~ (i) perform a tank tightness test ~~[and]~~;

107 (ii) except as provided in Subsection (3)(b), perform a site check, including soil and,
108 when applicable, groundwater samples, to demonstrate that no release of petroleum exists or
109 that there has been adequate remediation of releases as required by board rules; [and]

110 (iii) provide the required tests and samples to the executive secretary; and

111 ~~[(b)]~~ (iv) comply with the requirements of this part.

112 (b) A site check under Subsection (3)(a)(ii) is not required if the executive secretary
113 determines, with reasonable cause, that soil and groundwater samples are unnecessary to
114 establish that no petroleum has been released.

115 (4) The executive secretary shall review the tests and samples provided under
116 Subsection (3)(a)(iii) to determine:

117 (a) whether or not any release of the petroleum has occurred; or

118 (b) if the remediation is adequate.

119 Section 3. **Effective date.**

120 This bill takes effect on January 1, 2007.

Legislative Review Note

as of 1-16-06 9:54 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

Enactment of this bill is estimated to increase collections to the Petroleum Storage Tank Trust Fund by \$550,700 in FY 2007 and \$1,101,500 in FY 2008. Estimated expenditures from the fund are estimated to increase by the same amounts.

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2007</u>	<u>FY 2008</u>
	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>
Trust Funds	\$550,700	\$1,101,500	\$550,700	\$1,101,500
TOTAL	\$550,700	\$1,101,500	\$550,700	\$1,101,500

Individual and Business Impact

Participating business using the assurance program provided by the bill will be required to pay \$550,700 in FY 2007 and \$1,101,500 in FY 2008.

Office of the Legislative Fiscal Analyst