

WORKING DRAFT

SENATE FILE NO. _____

Storage tank remediation program.

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

A BILL

for

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

12

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

14

1 **Section 1.** W.S. 35-11-1414(a) and (b),
2 35-11-1415(a) (ix) (D) (I) and (II), (N) and by creating new
3 subparagraphs (O) through (Q), 35-11-1419(a) (intro), (ix)
4 by creating new paragraph (x) and by renumbering paragraph
5 (x) as (xi), 35-11-1420(a) (intro) and (b), 35-11-1422(b)
6 and (e), 35-11-1424(h) (ii), 35-11-1425, 39-17-103(a) (ii)
7 and 39-17-203(a) (ii) are amended to read:

8

9 **35-11-1414. Short title; purpose; department report.**

10

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

14

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

23

24 **35-11-1415. Definitions.**

1

2 (a) As used in this article:

3

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

11

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

14

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

17

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

20

21 (N) Emergency or overflow underground
 22 storage tanks~~;~~

23

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

6
7 (P) A wastewater treatment tank system that
8 is part of a wastewater treatment facility regulated under
9 section 307(b) or 402 of the federal Clean Water Act;

10
11 (Q) Any equipment or machinery that
12 contains regulated substances for operational purposes such
13 as hydraulic lift tanks and electrical equipment tanks.

14
15 **35-11-1419. Tank registration; proof of insurance.**

16
17 (a) ~~On or before July 1 of each year~~ After each new
18 installation or modification of a regulated storage tank
19 system either the owner or operator of a tank shall
20 register the tank with the department on forms developed
21 and furnished by the department. The registration form
22 shall be submitted under oath or affirmation. The forms
23 shall include but not be limited to:

24

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

8
9 (x) Proof as required by federal law that an owner or
10 operator of more than one hundred (100) underground storage
11 tanks anywhere in the United States has insurance, or other
12 environmental pollution financial responsibility
13 instrument, indicating at least two million dollars
14 (\$2,000,000.00) in liability protection for releases
15 occurring from any of those regulated tanks; and

16
17 ~~(x)~~ (xi) Other information as may be required by
18 rules and regulations.

19
20 **35-11-1420. Tank notification required; change of**
21 **owner or operator; installation requirements; inspections.**

22
23 (a) In the event of ~~transferral of tank ownership~~ the
24 transfer of any tank to a different owner, notification of

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

8
9 (b) No person shall install or substantially modify,
10 or cause to be installed or substantially modified, any new
11 or replacement tank without thirty (30) days prior
12 notification to the department. The department shall within
13 ten (10) days of completion, inspect the site or have the
14 site inspected by a qualified state, local government or
15 private inspector. No tank shall be operated until the
16 department determines the installation or modification
17 meets the applicable standards and the department has
18 issued a written inspection letter to the tank owner or
19 operator stating that the facility, as constructed or
20 modified, meets state standards.

21

22 **35-11-1422. Right of entry; inspection.**

23

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

7

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

11

12 **35-11-1424. Corrective action account created; use of**
13 **monies; cost recovery.**

14

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

23

1 (ii) Notify all insurance companies which have
2 been identified to the department pursuant to W.S.
3 35-11-1419 and may have issued insurance policies that
4 provide ~~or may provide~~ coverage for contamination from
5 tanks and request copies of any such policies. In
6 notifying insurance companies the department shall provide
7 the insurance company with the name of all known owners and
8 operators, past and present, and the legal description of
9 the site upon which the tank is or was located.

10
11 **35-11-1425. Tank fee; deposit into corrective action**
12 **account; late fee.**

13
14 (a) On or before ~~July~~January 1 of each year either
15 the owner or operator of a tank shall pay a fee to the
16 department of two hundred dollars (\$200.00) per tank owned
17 or operated, except either the owner or operator of an
18 aboveground storage tank subject to this section that holds
19 five thousand (5,000) gallons or less shall pay a fee of
20 fifty dollars (\$50.00) per tank owned or operated. This fee
21 shall be deposited in the corrective action account.

22
23 (b) On April 1 of each year any owner or operator who
24 has not paid the annual fee required pursuant to subsection

1 (a) of this section shall be assessed and shall pay a late
2 payment fee of one hundred dollar (\$100.00) per tank or
3 contaminated site. This late fee shall be in addition to
4 the annual fee required pursuant to subsection (a) of this
5 section and shall be deposited in the department's
6 corrective action account.

7
8 (c) The change from July 1 to January 1 for the due
9 date of storage tank fees shall be revenue neutral. The
10 department shall collect one half (1/2) of the annual fee
11 on July 1, 2007 and shall collect the full annual fee on
12 January 1, 2008 and annually thereafter.

13
14 **39-17-103. Imposition.**

15
16 (a) Taxable event. The following shall apply:

17
18 (ii) The tax imposed by W.S. 39-17-104(a)(iii)
19 shall cease to be collected on the first day of the third
20 month following the date the department of environmental
21 quality notifies the director of the department of
22 transportation that the balance of the corrective action
23 account created by W.S. 35-11-1424 exceeds ~~ten million~~
24 ~~dollars (\$10,000,000.00)~~ seventeen million dollars

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

10

11 **39-17-203. Imposition.**

12

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

14

15 (ii) The tax imposed by W.S. 39-17-204(a)(ii)
16 shall cease to be collected on the first day of the third
17 month following the date the department of environmental
18 quality notifies the director of the department of
19 transportation that the balance of the corrective action
20 account created by W.S. 35-11-1424 ~~and the environmental~~
21 ~~pollution financial responsibility account created by W.S.~~
22 ~~35-11-1427 exceed ten million dollars (\$10,000,000.00) in~~
23 ~~each account~~ exceeds seventeen million dollars
24 (\$17,000,000.00) and the balance of the environmental

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

11

12 **Section 2.** W.S. 35-11-1418 is repealed.

13

14 **Section 3.** This act is effective July 1, 2007.

15

16

(END)