

CHAPTER 119

**LABOR AND INDUSTRY**

**HOUSE BILL 95-1183**

BY REPRESENTATIVES Taylor, Foster, Acquafresca, Martin, Musgrave, and Paschall;  
also SENATORS Wattenberg, Bishop, and Blickensderfer.

**AN ACT**

**CONCERNING PETROLEUM STORAGE TANKS, AND MAKING AN APPROPRIATION THEREFOR.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Title 8, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 20.5**  
**Petroleum storage tanks**

**PART 1**  
**ADMINISTRATION**

**8-20.5-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ABANDONED TANK" MEANS AN UNDERGROUND OR ABOVEGROUND PETROLEUM STORAGE TANK THAT THE CURRENT OWNER OR OPERATOR OR CURRENT PROPERTY OWNER HAS NEVER OPERATED.

(2) (a) "ABOVEGROUND STORAGE TANK" MEANS ANY ONE OR A COMBINATION OF CONTAINERS, VESSELS, AND ENCLOSURES, INCLUDING STRUCTURES AND APPURTENANCES CONNECTED TO THEM, CONSTRUCTED OF NON-EARTHEN MATERIALS, INCLUDING BUT NOT LIMITED TO CONCRETE, STEEL, OR PLASTIC, WHICH PROVIDE STRUCTURAL SUPPORT, USED TO CONTAIN OR DISPENSE FUEL PRODUCTS AND THE VOLUME OF WHICH, INCLUDING THE PIPES CONNECTED THERETO, IS NINETY PERCENT OR MORE ABOVE THE SURFACE OF THE GROUND.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(b) "ABOVEGROUND STORAGE TANK" DOES NOT INCLUDE ANY ABOVEGROUND STORAGE TANK ASSOCIATED WITH OIL OR GAS PRODUCTION AND GATHERING OPERATIONS.

(3) "CLOSURE" MEANS THE ABANDONMENT OF AN UNDERGROUND STORAGE TANK IN PLACE OR THE REMOVAL AND DISPOSAL OF AN UNDERGROUND STORAGE TANK.

(4) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND EMPLOYMENT, CREATED IN SECTION 24-1-121, C.R.S.

(5) "DESIGNEE" MEANS A QUALIFIED MUNICIPALITY, CITY, HOME RULE CITY, CITY AND COUNTY, COUNTY, FIRE PROTECTION DISTRICT, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE, INCLUDING A COUNTY, DISTRICT, OR REGIONAL HEALTH DEPARTMENT CREATED PURSUANT TO SECTION 25-1-501 OR PART 7 OF ARTICLE 1 OF TITLE 25, C.R.S., WHICH COUNTY, DISTRICT, OR REGIONAL HEALTH DEPARTMENT IS ACTING UNDER AGREEMENT OR CONTRACT WITH THE DEPARTMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE.

(6) "FUEL PRODUCTS" MEANS ALL GASOLINE, BENZINE, BENZENE, NAPHTHA, BENZOL, KEROSENE, AND OTHER VOLATILE AND INFLAMMABLE LIQUIDS, PRODUCED, COMPOUNDED, AND OFFERED FOR SALE OR USED FOR THE PURPOSE OF GENERATING HEAT, LIGHT, OR POWER IN INTERNAL COMBUSTION ENGINES, CLEANING, OR FOR ANY OTHER SIMILAR USAGE.

(7) "MUNICIPALITY" MEANS ANY CITY OR ANY TOWN OPERATING UNDER GENERAL OR SPECIAL LAWS OF THE STATE OF COLORADO OR ANY HOME RULE CITY OR TOWN, THE CHARTER OR ORDINANCES OF WHICH CONTAIN NO PROVISIONS INCONSISTENT WITH THE PROVISIONS OF PART 3 OF THIS ARTICLE.

(8) "OPERATOR" MEANS ANY PERSON IN CONTROL OF, OR HAVING RESPONSIBILITY FOR, THE OPERATION OF AN UNDERGROUND OR ABOVEGROUND STORAGE TANK.

(9) "ORPHAN TANK" MEANS AN UNDERGROUND STORAGE TANK WHICH IS:

(a) OWNED OR OPERATED BY AN UNIDENTIFIED OWNER AS DEFINED IN THIS ARTICLE; OR

(b) NO LONGER IN USE AND WAS NOT CLOSED IN ACCORDANCE WITH THE PROCEDURES REQUIRED BY THIS ARTICLE AND THE PROPERTY HAS CHANGED OWNERSHIP PRIOR TO DECEMBER 22, 1988, AND SUCH PROPERTY IS NO LONGER USED TO DISPENSE FUELS.

(10) (a) "OWNER" MEANS:

(I) IN THE CASE OF AN UNDERGROUND STORAGE TANK IN USE ON OR AFTER NOVEMBER 8, 1984, OR BROUGHT INTO USE AFTER THAT DATE, ANY PERSON WHO OWNS AN UNDERGROUND STORAGE TANK USED FOR THE STORAGE, USE, OR DISPENSING OF REGULATED SUBSTANCES;

(II) IN THE CASE OF AN UNDERGROUND STORAGE TANK IN USE BEFORE NOVEMBER

8, 1984, BUT NO LONGER IN USE ON OR AFTER NOVEMBER 8, 1984, ANY PERSON WHO OWNED SUCH TANK IMMEDIATELY BEFORE THE DISCONTINUATION OF ITS USE; OR

(III) ANY PERSON WHO OWNS AN ABOVEGROUND STORAGE TANK.

(b) FOR PURPOSES OF CORRECTIVE ACTION FOR PETROLEUM RELEASES, THE TERM "OWNER" DOES NOT INCLUDE ANY PERSON WHO, WITHOUT PARTICIPATING IN THE MANAGEMENT OF AN UNDERGROUND STORAGE TANK AND OTHERWISE NOT ENGAGED IN PETROLEUM PRODUCTION, REFINING, AND MARKETING, HOLDS INDICIA OF OWNERSHIP PRIMARILY TO PROTECT A SECURITY INTEREST IN OR LIEN ON THE TANK OR THE PROPERTY WHERE THE TANK IS LOCATED.

(11) "PERSON" MEANS ANY INDIVIDUAL, TRUST, FIRM, JOINT-STOCK COMPANY, CORPORATION (INCLUDING A GOVERNMENT CORPORATION), PARTNERSHIP, ASSOCIATION, COMMISSION, MUNICIPALITY, STATE, COUNTY, CITY AND COUNTY, POLITICAL SUBDIVISION OF A STATE, INTERSTATE BODY, CONSORTIUM, JOINT VENTURE, COMMERCIAL ENTITY, OR THE GOVERNMENT OF THE UNITED STATES.

(12) "PROPERTY OWNER" MEANS A PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN REAL OR PERSONAL PROPERTY THAT IS SUBJECT TO THIS ARTICLE.

(13) "REGULATED SUBSTANCE" MEANS:

(a) ANY SUBSTANCE DEFINED IN SECTION 101 (14) OF THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980", AS AMENDED, BUT NOT INCLUDING ANY SUBSTANCE REGULATED AS A HAZARDOUS WASTE UNDER SUBTITLE (C) OF THE FEDERAL "RESOURCE CONSERVATION AND RECOVERY ACT OF 1976", AS AMENDED; OR

(b) PETROLEUM, INCLUDING CRUDE OIL, AND CRUDE OIL OR ANY FRACTION THEREOF THAT IS LIQUID AT STANDARD CONDITIONS OF TEMPERATURE AND PRESSURE (60 DEGREES FAHRENHEIT AND 14.7 POUNDS PER SQUARE INCH ABSOLUTE).

(14) "RELEASE" MEANS ANY SPILLING, LEAKING, EMITTING, DISCHARGING, ESCAPING, LEACHING, OR DISPOSING OF A REGULATED SUBSTANCE FROM AN UNDERGROUND STORAGE TANK INTO GROUNDWATER, SURFACE WATER, OR SUBSURFACE SOILS.

(15) "REPORTABLE QUANTITIES" MEANS QUANTITIES OF A RELEASED REGULATED SUBSTANCE WHICH EQUAL OR EXCEED THE REPORTABLE QUANTITY UNDER THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980", AS AMENDED, AND PETROLEUM PRODUCTS IN QUANTITIES OF TWENTY-FIVE GALLONS OR MORE.

(16) "TANK" MEANS A STATIONARY DEVICE DESIGNED TO CONTAIN AN ACCUMULATION OF A REGULATED SUBSTANCE, CONSTRUCTED PRIMARILY OF NONEARTHEN MATERIALS WHICH PROVIDE STRUCTURAL SUPPORT INCLUDING, BUT NOT LIMITED TO, WOOD, CONCRETE, STEEL, OR PLASTIC.

(17) (a) "UNDERGROUND STORAGE TANK" MEANS ANY ONE OR COMBINATION OF TANKS, INCLUDING UNDERGROUND PIPES CONNECTED THERETO, EXCEPT THOSE

IDENTIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (17), THAT IS USED TO CONTAIN AN ACCUMULATION OF REGULATED SUBSTANCES AND THE VOLUME OF WHICH, INCLUDING THE VOLUME OF UNDERGROUND PIPES CONNECTED THERETO, IS TEN PERCENT OR MORE BENEATH THE SURFACE OF THE GROUND.

(b) "UNDERGROUND STORAGE TANK" DOES NOT INCLUDE:

(I) ANY FARM OR RESIDENTIAL TANK WITH A CAPACITY OF ONE THOUSAND ONE HUNDRED GALLONS OR LESS USED FOR STORING MOTOR FUEL FOR NONCOMMERCIAL PURPOSES;

(II) ANY TANK USED FOR STORING HEATING OIL FOR CONSUMPTIVE USE ON THE PREMISES WHERE STORED;

(III) ANY SEPTIC TANK;

(IV) ANY PIPELINE FACILITY, INCLUDING ITS GATHERING LINES, REGULATED UNDER THE FEDERAL "NATURAL GAS PIPELINE SAFETY ACT OF 1968", AS AMENDED, OR THE FEDERAL "HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979", AS AMENDED, OR REGULATED UNDER COLORADO LAW IF SUCH FACILITY IS AN INTRASTATE FACILITY;

(V) ANY SURFACE IMPOUNDMENT, PIT, POND, LAGOON, OR LANDFILL;

(VI) ANY STORM-WATER OR WASTE-WATER COLLECTION SYSTEM;

(VII) ANY FLOW-THROUGH PROCESS TANK;

(VIII) ANY LIQUID TRAP OR ASSOCIATED GATHERING LINES DIRECTLY RELATED TO OIL OR GAS PRODUCTION AND GATHERING OPERATIONS;

(IX) ANY STORAGE TANK SITUATED IN AN UNDERGROUND AREA, SUCH AS A BASEMENT, CELLAR, MINE-WORKING, DRIFT, SHAFT, OR TUNNEL AREA, IF THE TANK IS SITUATED UPON OR ABOVE THE SURFACE OF THE FLOOR; OR

(X) ANY PIPES CONNECTED TO ANY TANK DESCRIBED IN SUBPARAGRAPHS (I) TO (IX) OF THIS PARAGRAPH (b).

(18) "UPGRADE" MEANS THE ADDITION OR RETROFIT OF SOME SYSTEMS SUCH AS CATHODIC PROTECTION, LINING, MODIFICATION OF THE SYSTEM PIPING, OR SPILL AND OVERFILL CONTROLS TO IMPROVE THE ABILITY OF A PETROLEUM STORAGE TANK SYSTEM TO PREVENT THE RELEASE OF PRODUCT.

**8-20.5-102. Registration and fees.** (1) EACH OWNER OR OPERATOR OF AN UNDERGROUND OR ABOVEGROUND STORAGE TANK SHALL REGISTER SUCH TANK WITH THE STATE INSPECTOR OF OILS WITHIN THIRTY DAYS AFTER THE FIRST DAY ON WHICH THE TANK IS ACTUALLY USED TO CONTAIN A REGULATED SUBSTANCE OR, IN THE CASE OF AN ABOVEGROUND STORAGE TANK, ON OR BEFORE JULY 1, 1993, OR, THEREAFTER, WITHIN THIRTY DAYS AFTER THE FIRST DAY ON WHICH THE TANK IS ACTUALLY USED TO CONTAIN A REGULATED SUBSTANCE. EACH OWNER OR OPERATOR SHALL RENEW SUCH REGISTRATION ANNUALLY ON OR BEFORE THE CALENDAR DAY AND MONTH OF INITIAL REGISTRATION FOR EACH YEAR IN WHICH THE STORAGE TANK IS IN USE. AN

UNDERGROUND STORAGE TANK IS CONSIDERED TO BE IN USE AT ALL TIMES, EXCEPT WHEN THE TANK HAS BEEN EITHER REMOVED FROM THE GROUND OR PERMANENTLY CLOSED IN ACCORDANCE WITH THE RULES PROMULGATED PURSUANT TO SECTION 8-20.5-202 (1) (g) WHICH RELATE TO THE CLOSURE OF SUCH TANKS.

(2) TO REGISTER OR RENEW REGISTRATION OF AN UNDERGROUND OR ABOVEGROUND STORAGE TANK, THE OWNER OR OPERATOR OF THE TANK SHALL SUBMIT TO THE STATE INSPECTOR OF OILS A COMPLETED REGISTRATION OR RENEWAL FORM AND PAYMENT OF THE FEE ESTABLISHED IN SUBSECTION (3) OF THIS SECTION. THE STATE INSPECTOR OF OILS SHALL PROVIDE REGISTRATION AND RENEWAL FORMS.

(3) THE REGISTRATION AND RENEWAL FEE SHALL BE THIRTY-FIVE DOLLARS FOR EACH TANK FOR EACH YEAR. THE FEES COLLECTED PURSUANT TO THIS SUBSECTION (3) SHALL BE CREDITED TO THE PETROLEUM STORAGE TANK FUND CREATED IN SECTION 8-20.5-103.

(4) THE STATE INSPECTOR OF OILS SHALL COLLECT DELINQUENT REGISTRATION AND RENEWAL FEES AND ASSESS A PENALTY OF TWICE THE AMOUNT OF SUCH FEES AND REASONABLE COSTS ASSOCIATED WITH THE COLLECTION OF SUCH FEES.

**8-20.5-103. Petroleum storage tank fund - creation.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE PETROLEUM STORAGE TANK FUND. SUCH FUND SHALL CONSIST OF THE FOLLOWING:

(a) REGISTRATION AND ANNUAL RENEWAL FEES COLLECTED FROM OWNERS OR OPERATORS OF ABOVEGROUND AND UNDERGROUND STORAGE TANKS PURSUANT TO SECTION 8-20.5-102 (3);

(b) CIVIL PENALTIES COLLECTED PURSUANT TO SECTION 8-20.5-107;

(c) FEES COLLECTED PURSUANT TO SECTION 8-20.5-102 (4);

(d) SURCHARGE FUNDS COLLECTED PURSUANT TO SECTION 8-20-206.5;

(e) MONEYS REIMBURSED TO THE DEPARTMENT IN PAYMENT FOR COSTS INCURRED IN THE INVESTIGATION OF A RELEASE AND PERFORMANCE OF CORRECTIVE ACTION PURSUANT TO SECTION 8-20.5-209;

(f) ANY MONEYS APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY; AND

(g) ANY MONEYS GRANTED TO THE DEPARTMENT FROM A FEDERAL AGENCY FOR ADMINISTRATION OF THE UNDERGROUND STORAGE TANK PROGRAM.

(2) THE MONEYS IN THE PETROLEUM STORAGE TANK FUND AND ALL INTEREST EARNED ON MONEYS IN THE FUND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND AT THE END OF THE FISCAL YEAR.

(3) THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY. THE FUND SHALL BE USED FOR:

(a) USE IN PETROLEUM CORRECTIVE ACTION PURPOSES AND THIRD-PARTY

LIABILITY, EXCEPT FOR INITIAL ABATEMENT AND CORRECTIVE ACTION PURPOSES FOR AVIATION FUEL AND FUEL DELIVERED FOR USE IN RAILROAD LOCOMOTIVES, WHERE THE COSTS EXCEED THE MINIMUM FINANCIAL RESPONSIBILITY REQUIREMENTS OF THE OWNER OR OPERATOR PROVIDED FOR IN SECTION 8-20.5-206;

(b) ADMINISTRATIVE COSTS, LIMITED EACH YEAR TO THE AMOUNT OF THE REGISTRATION FEE STATED IN SECTION 8-20.5-102, INCLUDING COSTS FOR CONTRACT SERVICES AND COSTS RELATED TO THE DELEGATION OF DUTIES TO UNITS OF LOCAL GOVERNMENT WHICH ARE INCURRED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT IN CARRYING OUT ADMINISTRATIVE RESPONSIBILITIES PURSUANT TO THIS ARTICLE;

(c) ANY COSTS RELATED TO THE ABATEMENT OF FIRE AND SAFETY HAZARDS AS ORDERED BY THE STATE INSPECTOR OF OILS PURSUANT TO SECTION 8-20.5-208 (3);

(d) INVESTIGATION OF RELEASES OR SUSPECTED RELEASES AND PERFORMANCE OF CORRECTIVE ACTION FOR PETROLEUM RELEASES BY THE DEPARTMENT OR ITS DESIGNATED AGENT PURSUANT TO SECTION 8-20.5-209;

(e) ANY FEDERAL PROGRAM PERTAINING TO PETROLEUM UNDERGROUND STORAGE TANKS, WHICH PROGRAM REQUIRES STATE-MATCHING DOLLARS.

(4) APPROPRIATIONS OF MONEYS OUT OF THE FUND FOR THE PURPOSE OF INITIAL ABATEMENT RESPONSE OR FOR CORRECTIVE ACTION PURPOSES IN THE CLEANUP OF RELEASES SHALL BE USED ONLY FOR THOSE STATED PURPOSES AND SHALL NOT BE USED FOR ANY ADMINISTRATIVE COSTS INCURRED BY THE DEPARTMENT. ANY AMOUNTS USED FOR INITIAL ABATEMENT RESPONSE OR FOR CORRECTIVE ACTION PURPOSES SHALL BE REPORTED ANNUALLY TO THE GENERAL ASSEMBLY AND THE JOINT BUDGET COMMITTEE.

(5) SUBJECT TO SECTION 8-20.5-104, THE FUND SHALL BE AVAILABLE ONLY TO THOSE UNDERGROUND AND ABOVEGROUND STORAGE TANK OWNERS OR OPERATORS WHO ARE IN COMPLIANCE WITH THE PROVISIONS OF SECTION 8-20.5-209 AND REGULATIONS PROMULGATED PURSUANT TO SECTIONS 8-20.5-202 AND 8-20.5-302.

**8-20.5-104. Regulations - petroleum storage tank committee.** (1) THE GOVERNOR SHALL APPOINT A PETROLEUM STORAGE TANK COMMITTEE WHICH SHALL BE COMPRISED OF SEVEN MEMBERS WHO HAVE TECHNICAL EXPERTISE AND KNOWLEDGE IN FIELDS RELATED TO CORRECTIVE ACTIONS TAKEN TO MITIGATE UNDERGROUND AND ABOVEGROUND STORAGE TANK RELEASES. THE STATE INSPECTOR OF OILS OR THE STATE INSPECTOR'S DESIGNEE, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE DESIGNEE OF THE EXECUTIVE DIRECTOR, AND AN OWNER OR OPERATOR SHALL BE PERMANENT MEMBERS OF THE COMMITTEE. THE REMAINING FOUR MEMBERS OF THE COMMITTEE SHALL BE CHOSEN FROM AMONG THE FOLLOWING GROUPS, WITH NO MORE THAN ONE MEMBER REPRESENTING EACH GROUP: FIRE PROTECTION DISTRICTS; ELECTED LOCAL GOVERNMENTAL OFFICIALS; COMPANIES THAT REFINED AND RETAIL MOTOR FUELS IN COLORADO; COMPANIES THAT WHOLESALE MOTOR FUELS IN COLORADO; OWNERS AND OPERATORS OF INDEPENDENT RETAIL OUTLETS; COMPANIES THAT CONDUCT CORRECTIVE ACTIONS OR INSTALL AND REPAIR UNDERGROUND AND ABOVEGROUND STORAGE TANKS; AND PRIVATE CITIZENS OR INTEREST GROUPS. THE DEPARTMENT SHALL PROVIDE STAFF TO SUPPORT THE

## ACTIVITIES OF THE COMMITTEE.

(2) MEMBERS OF THE COMMITTEE SHALL SERVE THREE-YEAR TERMS. ALL VACANCIES SHALL BE FILLED BY THE GOVERNOR TO SERVE THE REMAINDER OF THE UNEXPIRED TERM.

(3) MEMBERS OF THE COMMITTEE SHALL RECEIVE NO ADDITIONAL SALARY OR PER DIEM REIMBURSEMENT FOR THEIR SERVICES AS MEMBERS OF THE COMMITTEE, BUT SHALL BE ALLOWED TRAVEL AND PARKING COSTS AND MAINTENANCE EXPENSES WHILE ON OFFICIAL COMMITTEE BUSINESS CONDUCTED MORE THAN ONE HUNDRED MILES FROM THEIR RESPECTIVE RESIDENCES.

(4) THE COMMITTEE SHALL BE REQUIRED TO MEET NO MORE THAN TWICE IN ANY MONTH. THE COMMITTEE SHALL RECOMMEND ALL REGULATORY ACTIONS PROPOSED BY THE COMMITTEE TO THE STATE INSPECTOR OF OILS FOR ADOPTION OR RATIFICATION. THE COMMITTEE SHALL CONDUCT THE FOLLOWING ACTIVITIES IN ACCORDANCE WITH SECTION 24-4-105, C.R.S., AS ITS ROUTINE BUSINESS:

(a) ESTABLISH PROCEDURES, PRACTICES, AND POLICIES GOVERNING THE COMMITTEE'S ACTIVITIES;

(b) REVIEW STANDARDS AND REGULATIONS GOVERNING UNDERGROUND AND ABOVEGROUND STORAGE TANKS;

(c) ESTABLISH PROCEDURES, PRACTICES, AND POLICIES GOVERNING THE FORM AND PROCEDURES FOR APPLICATIONS TO THE PETROLEUM STORAGE TANK FUND FOR REIMBURSEMENT COMPENSATION;

(d) (I) ESTABLISH PROCEDURES, PRACTICES, AND POLICIES GOVERNING ANY AND ALL ASPECTS OF PROCESSING, ADJUSTING, DEFENDING, OR PAYING CLAIMS AGAINST THE FUND. TO ENCOURAGE TANK OWNERS AND OPERATORS TO REPORT AND REMEDIATE CONTAMINATION AND ACHIEVE COMPLIANCE WITH REGULATIONS PROMULGATED BY THE STATE INSPECTOR OF OILS, THE COMMITTEE MAY APPROVE CLAIMS INVOLVING TANKS NOT OPERATED IN SUBSTANTIAL COMPLIANCE, BUT MAY ALSO DETERMINE THE AMOUNT, IF ANY, BY WHICH SUCH CLAIMS MAY BE REDUCED FOR NONCOMPLIANCE. BEFORE IMPOSING ANY REDUCTION FOR NONCOMPLIANCE THE COMMITTEE SHALL DETERMINE WHETHER THE RULES ISSUED BY THE STATE INSPECTOR OF OILS ARE BOTH SUBSTANTIALLY AND PROCEDURALLY NO MORE STRINGENT THAN UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGULATIONS UNDER 42 U.S.C. SEC. 6991 AND WHETHER THE AREAS OF NONCOMPLIANCE WERE BROUGHT INTO COMPLIANCE PRIOR TO APPLICATION TO THE FUND, WHERE POSSIBLE. THE COMMITTEE SHALL USE THE FOLLOWING GUIDELINES WHEN IMPOSING A REDUCTION FOR NONCOMPLIANCE:

(A) UP TO A TEN PERCENT REDUCTION FOR FAILURE TO REGISTER A TANK;

(B) UP TO A TWENTY-FIVE PERCENT REDUCTION FOR IMPROPER RELEASE DETECTION;

(C) UP TO A TEN PERCENT REDUCTION FOR IMPROPER RELEASE REPORTING;

(D) UP TO A TWENTY PERCENT REDUCTION FOR IMPROPER OUT-OF-SERVICE AND CLOSURE.

(II) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE THE COMMITTEE TO APPROVE A CLAIM INVOLVING SUBSTANTIAL NONCOMPLIANCE. THE COMMITTEE SHALL ESTABLISH SPECIFIC CRITERIA TO DEFINE WHEN DENIAL FOR SUBSTANTIAL NONCOMPLIANCE MAY BE IMPOSED.

(e) ESTABLISH PRIORITIES GOVERNING THE TYPES OF CORRECTIVE ACTIONS WHICH SHALL BE REIMBURSED FROM THE FUND;

(f) REVIEW CORRECTIVE ACTION PLANS SUBMITTED PURSUANT TO SECTION 8-20.5-209, FOR WHICH NO AGREEMENT HAS BEEN REACHED THROUGH INFORMAL CONFERENCES BETWEEN THE DEPARTMENT AND THE OWNER OR OPERATOR, AND MAKE A RECOMMENDATION TO THE DEPARTMENT, UPON REQUEST FROM THE DEPARTMENT OR THE OWNER OR THE OPERATOR, AS TO THE CORRECTIVE ACTION THAT IS ACCEPTABLE;

(g) ISSUE PUBLIC NOTICES AND HOLD PUBLIC HEARINGS TO OBTAIN COMMENT ON THE ACTIVITIES DESCRIBED IN THIS SUBSECTION (4).

(h) (I) PAY INTEREST TO ALL PERSONS WHO FILE A PROPERLY AND FULLY COMPLETED CLAIM FOR REIMBURSEMENT AND ARE NOT REIMBURSED IN A TIMELY MANNER. FOR PURPOSES OF THIS PARAGRAPH (h), INTEREST SHALL ACCRUE ON THE AMOUNT APPROVED FOR PAYMENT BY THE COMMITTEE AT THE RATE DETERMINED PURSUANT TO SECTION 39-21-110.5, C.R.S., FOR EACH DAY A PROPERLY AND FULLY COMPLETED APPLICATION IS NOT PROCESSED IN A TIMELY MANNER.

(II) FOR PURPOSES OF THIS PARAGRAPH (h), "TIMELY MANNER" MEANS:

(A) THAT AN APPLICATION FILED WITH THE PETROLEUM STORAGE TANK FUND ON OR AFTER JANUARY 1, 1996, SHALL BE SUBMITTED FOR REVIEW BY THE COMMITTEE WITHIN NINETY WORKING DAYS OF RECEIPT;

(B) THAT AN APPLICATION FILED WITH THE PETROLEUM STORAGE TANK FUND ON OR AFTER JULY 1, 1995, BUT BEFORE JANUARY 1, 1996, SHALL BE SUBMITTED FOR REVIEW BY THE COMMITTEE WITHIN ONE HUNDRED TWENTY WORKING DAYS OF RECEIPT;

(C) THAT AN APPLICATION FILED WITH THE PETROLEUM STORAGE TANK FUND BEFORE JULY 1, 1995, SHALL BE SUBMITTED FOR REVIEW BY THE COMMITTEE NO LATER THAN DECEMBER 31, 1995;

(D) THAT REIMBURSEMENT CHECKS SHALL BE ISSUED WITHIN THIRTY DAYS AFTER DISBURSEMENT IS APPROVED BY THE COMMITTEE.

(5) THE COMMITTEE MAY, IN ORDER TO PERFORM ANY OR ALL OF THEIR RESPONSIBILITIES AND FUNCTIONS UNDER SUBSECTION (4) OF THIS SECTION, CONTRACT FOR THE USE OF OUTSIDE EXPERTS, CONSULTANTS, OR SERVICES.

(6) REDUCTIONS DETERMINED BY THE COMMITTEE BECAUSE OF NONCOMPLIANCE

SHALL BE CUMULATIVE AND SHALL APPLY TO ALL ELIGIBLE COSTS APPROVED BY THE COMMITTEE IN THE INITIAL AND ALL SUPPLEMENTAL CLAIMS FOR THE OCCURRENCE AS DEFINED IN SECTION 8-20.5-206 (2); EXCEPT THAT IN NO INSTANCE SHALL CUMULATIVE REDUCTIONS FOR NONCOMPLIANCE APPLY TO CLAIMS SUBMITTED IN ACCORDANCE WITH SECTION 8-20.5-206 (3) OR 8-20.5-303 (3).

(7) THE REDUCTIONS DESCRIBED IN SUBSECTIONS (4) (d) AND (6) OF THIS SECTION PERTAIN TO THIS SECTION ONLY AND SHALL NOT BE CONSTRUED TO HAVE ANY IMPACT ON COST-RECOVERY ACTIONS TAKEN IN ACCORDANCE WITH SECTION 8-20.5-209 OR ANY CIVIL OR CRIMINAL PENALTIES IMPOSED AS PART OF AN ENFORCEMENT PROCEEDING.

(8) AT ITS FIRST MEETING OF EACH FISCAL YEAR, ON OR ABOUT JULY 1, THE COMMITTEE SHALL ESTABLISH AND SET ASIDE FOR REIMBURSEMENTS TO THOSE INDIVIDUALS WHO ARE ELIGIBLE TO MAKE APPLICATION TO THE FUND IN ACCORDANCE WITH SECTION 8-20.5-206 (3) OR 8-20.5-303 (3), AN AMOUNT EQUAL TO TWENTY PERCENT OF THE TOTAL ANNUAL ALLOCATION TO THE CAPITAL CONSTRUCTION BUDGET OF THE DEPARTMENT FROM THE PETROLEUM STORAGE TANK FUND, WHICH AMOUNT SHALL BE USED FOR THE PURPOSE OF CONDUCTING REMEDIATION ACTIVITIES IN ACCORDANCE WITH SECTIONS 8-20.5-206 (3), 8-20.5-209, AND 8-20.5-303 (3) AND SHALL PROTECT THE INTEGRITY OF THE FUND AS A FINANCIAL ASSURANCE MECHANISM FOR TANK OWNERS AND OPERATORS. THE COMMITTEE SHALL REEXAMINE ON A QUARTERLY BASIS THE UNENCUMBERED BALANCE OF THIS ALLOCATION AND MAY SET ASIDE LESSER OR ADDITIONAL AMOUNTS FOR REIMBURSEMENTS TO SUCH APPLICANTS BASED ON THE RELATIVE NUMBER OF REQUESTED REIMBURSEMENTS FROM THE OWNERS AND OPERATORS OF ACTIVE SITES, WITH PREFERENCE GIVEN TO THE REMEDIATION OF RECENTLY CONTAMINATED LOCATIONS AND TO ACTIVE TANK SITES BASED ON THEIR HIGHER POTENTIAL FOR ENVIRONMENTAL IMPACT.

(9) THE PETROLEUM STORAGE TANK COMMITTEE SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS SPECIFIED BY THIS SECTION UNDER THE DEPARTMENT OF LABOR AND EMPLOYMENT AND THE EXECUTIVE DIRECTOR THEREOF AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE I** TRANSFER, AS SUCH TRANSFER IS DEFINED IN SECTION 24-1-105, C.R.S.

**8-20.5-105. Confidentiality.** (1) ANY RECORDS, REPORTS, AND INFORMATION OBTAINED FROM ANY PERSON UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE AVAILABLE TO THE PUBLIC; EXCEPT THAT ANY RECORDS GRANTED CONFIDENTIALITY BY THE STATE INSPECTOR OF OILS OR A DESIGNEE, OR GRANTED CONFIDENTIALITY UNDER EXISTING COLORADO STATUTES OR REGULATIONS, SHALL REMAIN CONFIDENTIAL.

(2) ANY PERSON MAKING SUCH CONFIDENTIAL RECORDS AVAILABLE TO ANY PERSON OR ORGANIZATION WITHOUT AUTHORIZATION FROM THE AFFECTED OPERATOR OR OWNER COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

(3) CONFIDENTIAL RECORDS MAY BE DISCLOSED TO OFFICERS, EMPLOYEES, OR AUTHORIZED REPRESENTATIVES OF THE STATE OR OF THE UNITED STATES WHO HAVE BEEN CHARGED WITH ADMINISTERING THIS ARTICLE OR SUBTITLE I OF THE FEDERAL "RESOURCE CONSERVATION AND RECOVERY ACT OF 1976", AS AMENDED. SUCH

DISCLOSURE SHALL NOT CONSTITUTE A WAIVER OF CONFIDENTIALITY.

**8-20.5-106. Injunctions.** IN ADDITION TO THE REMEDIES PROVIDED IN THIS ARTICLE, THE INSPECTOR OF OILS IS AUTHORIZED TO APPLY TO THE DISTRICT COURT, IN THE JUDICIAL DISTRICT WHERE THE VIOLATION HAS OCCURRED, FOR A TEMPORARY OR PERMANENT INJUNCTION RESTRAINING ANY PERSON FROM VIOLATING ANY PROVISION OF THIS ARTICLE, REGARDLESS OF WHETHER THERE IS AN ADEQUATE REMEDY AT LAW.

**8-20.5-107. Enforcement orders - civil penalties.** (1) A NOTICE OF VIOLATION MAY BE ISSUED BY THE STATE INSPECTOR OF OILS TO ANY PERSON WHO IS BELIEVED TO HAVE VIOLATED ANY PROVISION OF THIS ARTICLE, ANY RULE OR REGULATION PROMULGATED PURSUANT THERETO, OR ANY WARRANT ISSUED PURSUANT TO SECTION 8-20.5-208. THE NOTICE OF VIOLATION SHALL BE SERVED PERSONALLY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, UPON THE ALLEGED VIOLATOR.

(2) THE NOTICE OF VIOLATION SHALL SET FORTH THE FACTS WHICH ALLEGEDLY CONSTITUTE THE VIOLATION AND THE PROVISIONS WHICH HAVE ALLEGEDLY BEEN VIOLATED OF EITHER THIS ARTICLE OR ANY REGULATION PROMULGATED PURSUANT THERETO. THE NOTICE OF VIOLATION MAY REQUIRE THE ALLEGED VIOLATOR TO TAKE ANY ACTIONS NECESSARY TO CORRECT THE ALLEGED VIOLATION.

(3) WITHIN TEN WORKING DAYS AFTER SERVICE OF THE NOTICE OF VIOLATION, THE ALLEGED VIOLATOR MAY FILE A WRITTEN REQUEST WITH THE STATE INSPECTOR OF OILS FOR AN INFORMAL CONFERENCE REGARDING THE NOTICE OF VIOLATION. IF THE ALLEGED VIOLATOR FAILS TO TIMELY REQUEST AN INFORMAL CONFERENCE, ALL PROVISIONS OF THE NOTICE OF VIOLATION SHALL BECOME FINAL AND NOT SUBJECT TO FURTHER ADMINISTRATIVE REVIEW. THE STATE INSPECTOR OF OILS MAY THEN SEEK JUDICIAL ENFORCEMENT OF THE NOTICE OF VIOLATION.

(4) UPON RECEIPT OF THE WRITTEN REQUEST, THE STATE INSPECTOR OF OILS SHALL PROVIDE THE ALLEGED VIOLATOR WITH A WRITTEN NOTICE OF THE DATE, TIME, AND PLACE OF THE INFORMAL CONFERENCE. THE STATE INSPECTOR OF OILS OR A DESIGNEE SHALL PRESIDE AT THE INFORMAL CONFERENCE, DURING WHICH THE ALLEGED VIOLATOR AND THE ENTITY WHICH ISSUED THE NOTICE OF VIOLATION MAY PRESENT INFORMATION AND ARGUMENTS REGARDING THE ALLEGATIONS AND REQUIREMENTS OF THE NOTICE OF VIOLATION.

(5) WITHIN TWENTY WORKING DAYS AFTER THE INFORMAL CONFERENCE, THE STATE INSPECTOR OF OILS SHALL UPHOLD, MODIFY, OR STRIKE THE ALLEGATIONS OF THE NOTICE OF VIOLATION AND MAY ISSUE AN ENFORCEMENT ORDER. THE DECISION SHALL BE SERVED UPON THE ALLEGED VIOLATOR PERSONALLY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. SUCH NOTICE OF VIOLATION OR ENFORCEMENT ORDER MAY BE APPEALED WITHIN TWENTY WORKING DAYS TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY EITHER CONDUCT THE HEARING PERSONALLY OR APPOINT AN ADMINISTRATIVE LAW JUDGE FROM THE DIVISION OF ADMINISTRATIVE HEARINGS IN THE DEPARTMENT OF ADMINISTRATION TO CONDUCT THE HEARING. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY REVIEW SUCH DECISION IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-4-105, C.R.S., AND FINAL AGENCY ACTION SHALL BE DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF SAID SECTION. SUCH FINAL AGENCY ACTION

SHALL BE SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH SECTION 24-4-106, C.R.S.

(6) THE ENFORCEMENT ORDER MAY REQUIRE THE ALLEGED VIOLATOR TO PAY A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS PER TANK FOR EACH DAY OF VIOLATION.

(7) THE STATE INSPECTOR OF OILS MAY FILE SUIT IN THE DISTRICT COURT FOR THE JUDICIAL DISTRICT IN WHICH VIOLATIONS HAVE OCCURRED TO OBTAIN JUDICIAL ENFORCEMENT OF THE PROVISIONS OF ANY ENFORCEMENT ORDER. THE PETROLEUM STORAGE TANK FUND MAY BE SUBROGATED TO THE RIGHTS OF AN OWNER OR OPERATOR WITH RESPECT TO A CLAIMED AMOUNT AT THE TIME A CLAIM IS FILED WITH THE FUND.

**8-20.5-108. Petroleum storage tank administration - transfer to department of labor and employment - legislative declaration.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THERE IS A SIGNIFICANT BACKLOG IN THE PROCESSING OF CLAIMS BEING MADE AGAINST THE PETROLEUM STORAGE TANK FUND. CLAIMS FOR REIMBURSEMENT FOR CLEANING UP PETROLEUM CONTAMINATION ARE NOT ACTED UPON IN A TIMELY MANNER, WHICH PLACES THE STORAGE TANK OWNER IN FINANCIAL JEOPARDY. LENDERS ARE RELUCTANT TO WRITE LOANS ON CONTAMINATED PROPERTY, CAUSING THE NEXT PHASE OF REMEDIATION TO BE DELAYED AND ALLOWING CONTAMINATION TO SPREAD, THREATENING THE ENVIRONMENT AND UNNECESSARILY ESCALATING FUTURE CLEANUP EXPENSES.

(b) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT IT IS IN THE BEST INTEREST OF THIS STATE TO TRANSFER PETROLEUM STORAGE TANK ADMINISTRATIVE FUNCTIONS PERFORMED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO THE DEPARTMENT OF LABOR AND EMPLOYMENT, AND THEREBY CONSOLIDATE THE ADMINISTRATION AND REGULATION OF PETROLEUM STORAGE TANKS IN THIS STATE UNDER ONE DEPARTMENT, WHICH WILL MINIMIZE THE COST OF SUCH FUNCTIONS AND CENTRALIZE MANAGEMENT.

(2) (a) THE ADMINISTRATIVE FUNCTIONS OF THE PETROLEUM TANK STORAGE FUND, INCLUDING CLAIMS PROCESSING, CORRECTIVE ACTION PLAN REVIEW AND APPROVAL, AND ANY OTHER RESPONSIBILITIES FOR PETROLEUM STORAGE TANK PROGRAMS PERFORMED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PRIOR TO JULY 1, 1995, ARE TRANSFERRED TO THE DEPARTMENT OF LABOR AND EMPLOYMENT. ALL EMPLOYEES OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, EXCLUDING ANY CONTRACT LABOR, WHO PERFORM THE FUNCTIONS TRANSFERRED PURSUANT TO THIS SUBSECTION (2) AND WHOSE EMPLOYMENT IN THE DEPARTMENT OF LABOR AND EMPLOYMENT IS DEEMED NECESSARY BY THE EXECUTIVE DIRECTOR OF THE SAID DEPARTMENT ARE TRANSFERRED TO THE DEPARTMENT OF LABOR AND EMPLOYMENT AND SHALL BECOME EMPLOYEES THEREOF.

(b) SUCH EMPLOYEES SHALL RETAIN ALL RIGHTS TO THE STATE PERSONNEL SYSTEM AND RETIREMENT BENEFITS UNDER THE LAWS OF THIS STATE, AND THEIR SERVICES SHALL BE DEEMED TO HAVE BEEN CONTINUOUS. ALL TRANSFERS AND ANY ABOLISHMENT OF POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL BE MADE AND PROCESSED IN ACCORDANCE WITH STATE PERSONNEL SYSTEM LAWS AND RULES.

(c) ON JULY 1, 1995, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS, DOCUMENTS, AND RECORDS OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PERTAINING TO THE DUTIES AND FUNCTIONS TRANSFERRED TO THE DEPARTMENT OF LABOR AND EMPLOYMENT PURSUANT TO THIS SUBSECTION (2) ARE TRANSFERRED TO THE DEPARTMENT OF LABOR AND EMPLOYMENT AND SHALL BECOME THE PROPERTY OF SUCH DEPARTMENT.

(3) (a) THE GENERAL ASSEMBLY FURTHER DECLARES THAT TO ADEQUATELY ADDRESS THE PROBLEMS ENCOUNTERED BY THE ADMINISTRATORS OF THE PETROLEUM STORAGE TANK FUND, THE PETROLEUM STORAGE TANK COMMITTEE MAY ENTER INTO PERSONAL SERVICE CONTRACTS WITH PERSONS AND ENTITIES IN THE PRIVATE SECTOR TO REDUCE THE CLAIMS PROCESSING BACKLOG TO AN APPROPRIATE LEVEL, AS DETERMINED BY THE COMMITTEE. THE PERSONS AND ENTITIES WITH WHOM THE COMMITTEE CONTRACTS SHALL PERFORM THE ADMINISTRATIVE FUNCTIONS OF THE PETROLEUM STORAGE TANK FUND, AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, TO ELIMINATE THE SIGNIFICANT CLAIMS PROCESSING BACKLOG OF THE FUND.

(b) THE PERSONAL SERVICE CONTRACTS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL BE ENTERED INTO ONLY FOR THE PURPOSE OF INCREASING EFFICIENCY IN THE DELIVERY OF PETROLEUM STORAGE TANK CLAIMS PROCESSING SERVICES AND SHALL NOT CONTINUE IN EFFECT AFTER REDUCTION OF THE BACKLOG.

(c) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE DECEMBER 31, 1996.

## PART 2 UNDERGROUND STORAGE TANKS

**8-20.5-201. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE LEAKAGE OF REGULATED SUBSTANCES FROM UNDERGROUND STORAGE TANKS CONSTITUTES A POTENTIAL THREAT TO THE WATERS AND THE ENVIRONMENT OF THE STATE OF COLORADO AND PRESENTS A POTENTIAL MENACE TO THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE PEOPLE OF THE STATE OF COLORADO AND THAT, TO THAT END, IT IS THE PURPOSE OF THIS PART 2 TO ESTABLISH A PROGRAM FOR THE PROTECTION OF THE ENVIRONMENT AND OF THE PUBLIC HEALTH AND SAFETY BY PREVENTING AND MITIGATING THE CONTAMINATION OF THE SUBSURFACE SOIL, GROUNDWATER, AND SURFACE WATER WHICH MAY RESULT FROM LEAKING UNDERGROUND STORAGE TANKS.

**8-20.5-202. Duties of the state inspector of oils.** (1) THE STATE INSPECTOR OF OILS SHALL MAKE, PROMULGATE, AND ENFORCE REGULATIONS WHICH ARE NO MORE STRINGENT THAN THE REQUIREMENTS CONTAINED IN 42 U.S.C. 6991 AND THE REGULATIONS PROMULGATED THEREUNDER FOR:

(a) NOTIFICATION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS;

(b) DESIGN, PERFORMANCE, CONSTRUCTION, AND INSTALLATION STANDARDS FOR NEW UNDERGROUND STORAGE TANKS;

(c) DESIGN, PERFORMANCE, CONSTRUCTION, AND INSTALLATION STANDARDS FOR THE UPGRADING OF EXISTING UNDERGROUND STORAGE TANKS;

- (d) GENERAL OPERATING REQUIREMENTS;
- (e) RELEASE DETECTION;
- (f) RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION;
- (g) OUT-OF-SERVICE UNDERGROUND STORAGE TANK SYSTEMS AND CLOSURE; AND
- (h) FINANCIAL RESPONSIBILITY FOR UNDERGROUND STORAGE TANK SYSTEMS CONTAINING REGULATED SUBSTANCES.

(2) THE STATE INSPECTOR OF OILS SHALL ENSURE THAT:

(a) ALL RELEASES FROM UNDERGROUND STORAGE TANK SYSTEMS ARE PROMPTLY ASSESSED AND THAT FURTHER RELEASES ARE STOPPED;

(b) ACTIONS ARE TAKEN TO IDENTIFY, CONTAIN, AND MITIGATE ANY IMMEDIATE FIRE AND SAFETY HAZARDS THAT ARE POSED BY A RELEASE;

(c) ALL RELEASES FROM UNDERGROUND STORAGE TANK SYSTEMS ARE INVESTIGATED TO DETERMINE IF THERE ARE IMPACTS OF REPORTABLE QUANTITIES ON SUBSURFACE SOIL, GROUNDWATER, AND ANY NEARBY SURFACE WATER;

(d) ALL RELEASES ABOVE REPORTABLE QUANTITIES ARE REPORTED TO THE STATE INSPECTOR OF OILS.

(3) THE STATE INSPECTOR OF OILS SHALL, IF NECESSARY, NEGOTIATE AND ENTER INTO MEMORANDA OF AGREEMENT WITH AND APPLY FOR AND RECEIVE GRANTS FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

(4) THE STATE INSPECTOR OF OILS SHALL ESTABLISH CRITERIA PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR DELEGATION OF AUTHORITY TO LOCAL AGENCIES.

(5) THE STATE INSPECTOR OF OILS SHALL SUBMIT TO THE GENERAL ASSEMBLY NO LATER THAN JANUARY 15 OF EACH YEAR A REPORT SPECIFICALLY DETAILING VIOLATIONS AND ENFORCEMENT ACTIVITIES AND UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OVERSIGHT.

**8-20.5-203. Performance of duties by owner or operator.** DUTIES IMPOSED BY THIS PART 2 ON THE OWNER OR THE OPERATOR MAY BE PERFORMED BY EITHER THE OWNER OR THE OPERATOR. IF NEITHER THE OWNER NOR THE OPERATOR PERFORMS THE DUTIES IMPOSED BY THIS PART 2, BOTH SHALL BE CONSIDERED IN VIOLATION OF THIS PART 2.

**8-20.5-204. Installation and upgrading of underground storage tanks.**

(1) PLANS FOR ANY INSTALLATION OF A NEW UNDERGROUND STORAGE TANK AND PLANS FOR THE COMPLETE UPGRADING OF AN EXISTING UNDERGROUND STORAGE TANK SHALL BE SUBMITTED BY THE OWNER OR OPERATOR OF THE PROPOSED OR EXISTING UNDERGROUND STORAGE TANK TO THE STATE INSPECTOR OF OILS FOR

APPROVAL PRIOR TO SUCH INSTALLATION OR UPGRADING.

(2) PLANS FOR THE INSTALLATION OF A NEW UNDERGROUND STORAGE TANK OR FOR THE COMPLETE UPGRADING OF AN EXISTING UNDERGROUND STORAGE TANK SHALL BE IN COMPLIANCE WITH THE REGULATIONS PROMULGATED PURSUANT TO SECTION 8-20.5-202 (1). THE STATE INSPECTOR OF OILS OR A DESIGNEE SHALL APPROVE OR REJECT PROPOSED PLANS AND AMENDMENTS THERETO WITHIN TWENTY WORKING DAYS AFTER SUBMITTAL OF THE PLAN. IF NO ACTION IS TAKEN BY THE INSPECTOR OF OILS OR A DESIGNEE WITHIN TWENTY WORKING DAYS OF SUBMITTAL, THE PLANS SHALL BE DEEMED APPROVED.

(3) IN AN EMERGENCY SITUATION THE STATE INSPECTOR OF OILS SHALL RESPOND TO PLANS WITHIN TWENTY-FOUR HOURS.

(4) THE STATE INSPECTOR OF OILS OR A DESIGNEE SHALL MAKE AN ON-SITE INSPECTION OF EVERY NEW INSTALLATION AND EVERY UPGRADING OF AN EXISTING UNDERGROUND STORAGE TANK PRIOR TO THE OPERATIONAL START-UP OF SUCH TANK TO ENSURE THAT ALL OF THE STANDARDS ESTABLISHED IN THIS PART 2 HAVE BEEN MET. THE STATE INSPECTOR OF OILS OR A DESIGNEE SHALL COMPLETE THE ON-SITE INSPECTION WITHIN TEN CALENDAR DAYS PRIOR TO THE ANTICIPATED OPERATIONAL START-UP DATE. FOR THE PURPOSES OF THIS SUBSECTION (4), A DESIGNEE MAY BE AN UNDERGROUND STORAGE TANK INSPECTOR WHEN LICENSED AS SUCH BY THE STATE INSPECTOR OF OILS.

(5) ALL INSTALLATIONS AND INSPECTIONS OF UNDERGROUND STORAGE TANKS SHALL BE PERFORMED IN ACCORDANCE WITH THE REGULATIONS PROMULGATED BY THE STATE INSPECTOR OF OILS PURSUANT TO SECTION 8-20.5-202 (1).

(6) THE STATE INSPECTOR OF OILS SHALL ESTABLISH A FEE TO BE PAID BY EACH PERSON SUBMITTING PLANS PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR ON-SITE INSPECTION. THE FEES PAID PURSUANT TO THIS SUBSECTION (6) SHALL BE:

(a) USED FOR THE ADMINISTRATION OF THIS SECTION; AND

(b) NO MORE THAN NECESSARY TO OFFSET THE DIRECT COSTS OF THE INSPECTIONS CONDUCTED PURSUANT TO SUBSECTIONS (4) AND (5) OF THIS SECTION, BUT IN NO EVENT MORE THAN ONE HUNDRED FIFTY DOLLARS.

**8-20.5-205. More stringent requirements prohibited.** (1) NO MUNICIPALITY, CITY, HOME RULE CITY, CITY AND COUNTY, COUNTY, OR OTHER POLITICAL SUBDIVISION OF THE STATE SHALL ADOPT OR ENFORCE ANY REQUIREMENT MORE STRINGENT THAN THE PROVISIONS OF THIS PART 2. THIS SECTION DOES NOT APPLY TO REQUIREMENTS ESTABLISHED PURSUANT TO THE UNIFORM FIRE CODE OR THE NATIONAL FIRE PROTECTION ASSOCIATION CODES, NOR DOES IT APPLY TO REQUIREMENTS ESTABLISHED PURSUANT TO LOCAL ZONING REGULATIONS.

(2) THE LIMITATION IN SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY TO ANY MUNICIPALITY, CITY, HOME RULE CITY, CITY AND COUNTY, COUNTY, OR OTHER POLITICAL SUBDIVISION OF THE STATE WHICH HAS RECEIVED AN EXEMPTION FROM THE COMMITTEE CREATED IN SECTION 8-20.5-104. THE COMMITTEE MAY GRANT A SITE-SPECIFIC EXEMPTION WHEN THE APPLICANT DEMONSTRATES THAT SUCH AN

EXEMPTION WOULD BE COST BENEFICIAL AND SERVE THE HEALTH, SAFETY, OR ECONOMIC INTEREST OF ITS CITIZENS BASED ON CONSIDERATION OF LOCAL HYDROLOGIC, GEOLOGIC, OR OTHER CONDITIONS, INCLUDING LOCATION OF POPULATION CONCENTRATIONS OR COMMERCIAL AREAS.

**8-20.5-206. Financial responsibility for petroleum underground storage tanks.** (1) (a) MONEYS IN THE PETROLEUM STORAGE TANK FUND, CREATED PURSUANT TO SECTION 8-20.5-103, AND REFERRED TO IN THIS SECTION AS THE "FUND", MAY BE USED BY CERTAIN OWNERS AND OPERATORS OF PETROLEUM STORAGE TANKS TO DEMONSTRATE THEIR COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS IN FEDERAL REGULATIONS. OWNERS AND OPERATORS NOT ELIGIBLE FOR ACCESS TO THE FUND SHALL BE SOLELY RESPONSIBLE FOR SECURING INDEPENDENT FINANCIAL ASSISTANCE, BUT MAY USE ANY FEDERALLY APPROVED FINANCIAL ASSURANCE MECHANISM IDENTIFIED IN 40 CFR. 280.94 THROUGH 280.103 TO HELP FUND THE COST OF COMPLYING WITH SUCH REQUIREMENTS.

(b) AFTER PAYMENT IS MADE FROM THE FUND FOR REMEDIATION EXPENSES, THE OWNER OR OPERATOR ON WHOSE BEHALF THE PAYMENT WAS MADE SHALL PAY TO THE FUND THE REMEDIATION AMOUNT OR TEN THOUSAND DOLLARS, WHICHEVER IS LESS.

(c) AFTER PAYMENT IS MADE FROM THE FUND FOR PERSONAL INJURY OR PROPERTY DAMAGE SETTLEMENT EXPENSES, OR A COMBINATION OF BOTH, THE OWNER OR OPERATOR ON WHOSE BEHALF THE PAYMENT WAS MADE SHALL PAY TO THE FUND THE AGGREGATE SETTLEMENT PAYMENT AMOUNT OR TWENTY-FIVE THOUSAND DOLLARS, WHICHEVER IS LESS.

(d) MONEYS IN THE FUND SHALL NOT BE USED FOR ANY REMEDIATION ACTIVITY AT A LOCATION THAT IS WITHIN A SITE IDENTIFIED BY THE NATIONAL PRIORITIES LIST, OR WHERE A RESPONSE ACTION BY THIS STATE HAS BEGUN PURSUANT TO THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980".

(e) IF AN OWNER OR OPERATOR CANNOT MEET THE FINANCIAL REQUIREMENTS OF PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (1), ANOTHER APPROVED FINANCIAL ASSURANCE MECHANISM MUST BE IDENTIFIED FOR SUCH OWNER OR OPERATOR TO REMAIN IN COMPLIANCE WITH THIS SECTION AND TO BE ALLOWED TO CONTINUE OPERATION OF AN UNDERGROUND PETROLEUM STORAGE TANK.

(2) THE MAXIMUM AMOUNT OF LIABILITY OF THE FUND UNDER THIS SECTION DURING ANY FISCAL YEAR SHALL BE ONE MILLION DOLLARS PER OCCURRENCE AND TWO MILLION DOLLARS AGGREGATE, FOR TANKS THAT ARE THE RESPONSIBILITY OF AN INDIVIDUAL OWNER OR OPERATOR. FOR PURPOSES OF THIS SECTION, AN "OCCURRENCE" MEANS THE PERIOD OF TIME FROM IDENTIFICATION THROUGH REMEDIATION, OF A LEAK, SPILL, OR RELEASE OF A PETROLEUM PRODUCT FROM AN UNDERGROUND STORAGE TANK. IN THE EVENT THE COST OF REMEDIATION OR THIRD PARTY CLAIMS EXCEEDS THE AMOUNT AVAILABLE TO PAY SUCH COSTS, SUCH COSTS AND CLAIMS SHALL BE PAID ON A PRO RATA BASIS AS DETERMINED BY THE COMMITTEE CREATED IN SECTION 8-20.5-104. ANY BALANCE OWED SHALL BE PAID AS MONEYS BECOME AVAILABLE IN THE FUND. ANY EXCESS COSTS THAT ARE NOT PAID BY THE FUND OR BY THE FEDERAL LEAKING UNDERGROUND STORAGE TANK TRUST FUND SHALL BE PAID BY AND ARE THE SOLE RESPONSIBILITY OF THE RESPONSIBLE OWNER

OR OPERATOR.

(3) MONEYS IN THE FUND SHALL BE AVAILABLE TO PAY REQUIRED CLEANUP COSTS AND THIRD-PARTY LIABILITY PAYMENTS WITH NO DEDUCTIBLES FOR THE FOLLOWING PERSONS WHO ARE DEEMED TO BEAR NO RESPONSIBILITY FOR THE RELEASE:

(a) A PROPERTY OWNER WHO HAS NEVER OPERATED PETROLEUM UNDERGROUND STORAGE TANKS AT THE PROPERTY WHERE THE RELEASE OCCURRED, PROVIDED SUCH PROPERTY WAS ACQUIRED ON OR BEFORE JUNE 3, 1992, AND THE PROPERTY OWNER HAD NO REASON TO KNOW THAT A RELEASE HAD OCCURRED;

(b) WHEN AN ORPHAN OR ABANDONED PETROLEUM UNDERGROUND STORAGE TANK IS INVOLVED AND THE CURRENT OWNER, OPERATOR, OR PROPERTY OWNER HAS NEVER OPERATED THE TANK OR TANKS AND HAD NO REASON TO KNOW THAT A RELEASE HAD OCCURRED;

(c) A CURRENT OWNER OR OPERATOR OF PETROLEUM UNDERGROUND STORAGE TANKS IF AT THE TIME THE OWNER OR OPERATOR ACQUIRED SUCH TANKS SUCH OWNER OR OPERATOR HAD NO REASON TO KNOW THAT A RELEASE HAD ALREADY OCCURRED, IF SUCH OWNER OR OPERATOR HAS OPERATED THE TANKS IN ACCORDANCE WITH SECTIONS 8-20.5-202 AND 8-20.5-302, AND IF THE RELEASE WAS DETECTED ON OR BEFORE DECEMBER 22, 1998;

(d) ANY MORTGAGEE OR HOLDER OF AN EVIDENCE OF DEBT SECURED BY A DEED OF TRUST WHO, THROUGH FORECLOSURE OF THE MORTGAGE OR DEED OF TRUST OR THROUGH RECEIPT OF A DEED TO THE PROPERTY IN LIEU OF FORECLOSURE, ACQUIRES PROPERTY ON WHICH AN UNDERGROUND STORAGE TANK IS LOCATED, AND SUCH MORTGAGE OR DEED OF TRUST IS DATED ON OR BEFORE JANUARY 1, 1993;

(e) (I) (A) ANY MORTGAGEE OR HOLDER OF AN EVIDENCE OF DEBT SECURED BY A DEED OF TRUST WHO, THROUGH FORECLOSURE OF THE MORTGAGE OR DEED OF TRUST OR THROUGH RECEIPT OF A DEED TO THE PROPERTY IN LIEU OF FORECLOSURE, ACQUIRES PROPERTY ON WHICH AN UNDERGROUND STORAGE TANK IS LOCATED, AND SUCH MORTGAGE OR DEED OF TRUST IS DATED AFTER JANUARY 1, 1993, AND THE MORTGAGEE OR HOLDER OF AN EVIDENCE OF DEBT SECURED BY A DEED OF TRUST HAS OBTAINED A CERTIFICATE OF ELIGIBILITY REGARDING THE PROPERTY IN ACCORDANCE WITH THE RULES OF THE STATE INSPECTOR OF OILS; OR

(B) ANY MORTGAGEE OR HOLDER OF AN EVIDENCE OF DEBT AS DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I), WHO SELLS THE PROPERTY ON WHICH AN UNDERGROUND STORAGE TANK IS LOCATED IN LIEU OF REMEDIATING SUCH PROPERTY AND TRANSFERS THE CERTIFICATE OF ELIGIBILITY TO THE PURCHASER. SUCH PURCHASER MAY RECEIVE FUND MONEYS PURSUANT TO THIS SUBSECTION (3).

(II) THE STATE INSPECTOR OF OILS SHALL PROMULGATE RULES NECESSARY TO IMPLEMENT THIS PROGRAM.

(4) IN LIEU OF SEEKING REIMBURSEMENT DIRECTLY FROM THE FUND, AN OWNER, OPERATOR, OR CURRENT PROPERTY OWNER WHO BEARS NO RESPONSIBILITY FOR THE RELEASE, UNDER THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION, MAY REQUEST THAT THE DEPARTMENT PERFORM THE CLEANUP USING FUNDS FROM THE PETROLEUM

STORAGE TANK FUND WITHOUT FURTHER PROVING ELIGIBILITY FOR SUCH USE. IN ADDITION TO ANY PURPOSE PROVIDED FOR IN SECTION 8-20.5-103, MONEYS IN THE PETROLEUM STORAGE TANK FUND MAY BE APPROPRIATED BY THE GENERAL ASSEMBLY TO THE DEPARTMENT FOR THE PURPOSE OF PROVIDING FOR THE CLEANUP AUTHORIZED IN THIS SECTION.

(5) WHENEVER APPROPRIATE, TO PAY COSTS THAT EXCEED THE MAXIMUM ALLOWED TO BE PAID FROM THE FUND UNDER THIS SECTION, THE STATE SHALL SEEK FUNDING FROM THE FEDERAL LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(6) UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM OR OTHER REGULATED SUBSTANCES WHICH ARE OWNED OR OPERATED BY, OR ARE ON PROPERTY OWNED OR LEASED BY, THE FEDERAL GOVERNMENT OR ANY AGENCY OR SUBCONTRACTOR THEREOF SHALL BE SUBJECT TO FEDERAL FINANCIAL RESPONSIBILITY REGULATIONS. ANY FINANCIAL RESPONSIBILITY REQUIREMENTS FOR DAMAGES CAUSED BY SUCH TANKS ARE NOT THE RESPONSIBILITY OF THE FUND UNLESS SUCH TANKS ARE OWNED OR OPERATED BY A PERSON, OTHER THAN THE FEDERAL GOVERNMENT OR ANY AGENCY OR SUBCONTRACTOR THEREOF, AND LOCATED ON PROPERTY WHICH IS LEASED FROM OR OTHERWISE OCCUPIED PURSUANT TO A PERMIT OR OTHER AGREEMENT WITH THE UNITED STATES OR ANY AGENCY THEREOF OTHER THAN THE DEPARTMENT OF DEFENSE OR THE DEPARTMENT OF ENERGY.

(7) NOTHING IN THIS SECTION SHALL CREATE ANY LIABILITY FOR THE STATE OF COLORADO THAT EXCEEDS THE AMOUNT AVAILABLE IN THE FUND.

**8-20.5-207. Financial responsibility for regulated substances other than petroleum.** OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS CONTAINING REGULATED SUBSTANCES OTHER THAN PETROLEUM MAY DEMONSTRATE FINANCIAL RESPONSIBILITY FOR TAKING CORRECTIVE ACTION AND FOR COMPENSATING THIRD PARTIES FOR BODILY INJURY AND PROPERTY DAMAGES BY USING ANY ONE OR MORE OF THE MECHANISMS ALLOWABLE UNDER 40 C.F.R. SECTIONS 280.95, 280.96, 280.97, 280.98, 280.99, 280.102, AND 280.103. OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS CONTAINING REGULATED SUBSTANCES OTHER THAN PETROLEUM SHALL NOT BE ELIGIBLE TO PARTICIPATE IN THE PETROLEUM STORAGE TANK FUND, BUT SHALL BE SUBJECT TO FEDERAL FINANCIAL RESPONSIBILITY REGULATIONS.

**8-20.5-208. Reporting of releases - investigation.** (1) IF A RELEASE IS DETECTED OR SUSPECTED, THE OWNER OR OPERATOR SHALL IMMEDIATELY TAKE ALL ACTIONS NECESSARY TO MITIGATE OR STOP THE RELEASE AND SHALL MITIGATE FIRE AND SAFETY HAZARDS.

(2) UPON DETECTION OF ANY RELEASE OF REPORTABLE QUANTITIES OF A REGULATED SUBSTANCE FROM AN UNDERGROUND STORAGE TANK, THE OWNER OR OPERATOR SHALL REPORT SUCH RELEASE TO THE STATE INSPECTOR OF OILS WITHIN TWENTY-FOUR HOURS OF ITS DETECTION. HOWEVER, THE LOCAL FIRE AUTHORITY SHALL BE NOTIFIED IMMEDIATELY IF SUCH RELEASE EXCEEDS REPORTABLE QUANTITIES. IF THE STATE INSPECTOR OF OILS DETERMINES THAT THE RELEASE OF SUCH REPORTABLE QUANTITY WILL AFFECT SUBSURFACE SOILS, GROUNDWATER, OR SURFACE WATER, SAID INSPECTOR SHALL IMMEDIATELY NOTIFY THE DEPARTMENT, AND THE OWNER OR OPERATOR MAY BE REQUIRED TO TAKE CORRECTIVE ACTION IN

ACCORDANCE WITH SECTION 8-20.5-209.

(3) IF THE STATE INSPECTOR OF OILS OR A DESIGNEE FINDS THAT A RELEASE HAS OCCURRED, AND THE OWNER OR THE OPERATOR CANNOT BE IDENTIFIED, OR IS UNWILLING TO MITIGATE OR STOP THE RELEASE OR MITIGATE FIRE AND SAFETY HAZARDS, THE STATE INSPECTOR OF OILS OR A DESIGNEE MAY INITIATE FREE PRODUCT REMOVAL AND WHATEVER OTHER ACTIONS ARE NECESSARY TO MITIGATE FIRE AND SAFETY HAZARDS.

(4) FOR THE PURPOSE OF ENFORCING THIS SECTION, IF A RELEASE POSES AN IMMINENT AND SUBSTANTIAL THREAT TO HUMAN HEALTH AND THE ENVIRONMENT, THE STATE INSPECTOR OF OILS OR A DESIGNEE IS AUTHORIZED TO TAKE SUCH ACTION AS IS NECESSARY UNDER THE CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO:

(a) ENTERING ANY PROPERTY, PREMISES, OR PLACE WHERE AN UNDERGROUND STORAGE TANK IS LOCATED;

(b) MONITORING OR TESTING OR REQUIRING THE OWNER OR THE OPERATOR TO MONITOR OR TEST ANY UNDERGROUND STORAGE TANK OR ANY SURROUNDING SOILS, GROUNDWATER, OR SURFACE WATER. A DUPLICATE SAMPLE TAKEN FOR TESTING SHALL BE PROVIDED TO ANY PERSON, AT SUCH PERSON'S REQUEST, WHO THE STATE INSPECTOR OF OILS OR A DESIGNEE REASONABLY BELIEVES MAY BE RESPONSIBLE FOR THE RELEASE. A DUPLICATE COPY OF THE ANALYTICAL REPORT PERTAINING TO THE SAMPLES TAKEN PURSUANT TO THIS PARAGRAPH (b) SHALL BE PROVIDED AS SOON AS PRACTICABLE TO ANY PERSON WHO THE STATE INSPECTOR OF OILS OR A DESIGNEE REASONABLY BELIEVES MAY BE RESPONSIBLE FOR THE RELEASE. WHEN SUCH TESTS ARE PERFORMED, THE STATE INSPECTOR OF OILS SHALL NOTIFY, WHEN POSSIBLE, ANY PERSON REASONABLY BELIEVED TO BE AN OWNER OR OPERATOR.

(c) ENTERING ANY SITE OR PREMISES IN WHICH RECORDS RELEVANT TO THE OPERATION OF AN UNDERGROUND STORAGE TANK ARE MAINTAINED AND TO INSPECT AND COPY SUCH RECORDS.

(5) IF SUCH ENTRY OR INSPECTION IS DENIED OR NOT CONSENTED TO, THE STATE INSPECTOR OF OILS OR A DESIGNEE SHALL OBTAIN, FROM THE DISTRICT OR COUNTY COURT FOR THE JUDICIAL DISTRICT OR COUNTY IN WHICH SUCH PROPERTY, PREMISES, OR PLACE IS LOCATED, A WARRANT TO ENTER AND INSPECT ANY SUCH PROPERTY, PREMISES, OR PLACE PRIOR TO ENTRY AND INSPECTION. THE DISTRICT AND COUNTY COURTS OF THE STATE OF COLORADO ARE AUTHORIZED TO ISSUE SUCH WARRANTS UPON PROPER SHOWING OF THE NEED FOR SUCH ENTRY AND INSPECTION.

(6) IF REQUESTED BY THE STATE INSPECTOR OF OILS OR A DESIGNEE, THE OWNER OR THE OPERATOR OF AN UNDERGROUND STORAGE TANK SHALL PROVIDE ANY INFORMATION IN SUCH OWNER'S OR OPERATOR'S POSSESSION REGARDING THE TANK.

**8-20.5-209. Regulated substances releases - corrective actions.** (1) IF A RELEASE HAS OCCURRED AT A SITE WHERE THE OWNER OR THE OPERATOR CANNOT BE IDENTIFIED, AFTER THE STATE INSPECTOR OF OILS OR A DESIGNEE HAS MITIGATED FIRE AND SAFETY HAZARDS IN ACCORDANCE WITH SECTION 8-20.5-208, AND DETERMINED THAT A RELEASE EXCEEDS REPORTABLE QUANTITIES, THE STATE INSPECTOR OF OILS MAY INITIATE CORRECTIVE ACTION TO MITIGATE ANY THREAT TO SUBSURFACE SOIL,

GROUNDWATER, OR SURFACE WATER AND DEVELOP A PLAN FOR CLEANUP IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION AND SHALL RECOVER COSTS PURSUANT TO SECTION 8-20.5-103.

(2) IF THE RELEASE HAS OCCURRED AT A SITE WHERE THE OWNER OR THE OPERATOR CAN BE IDENTIFIED, AND AFTER FIRE AND SAFETY HAZARDS HAVE BEEN MITIGATED IN ACCORDANCE WITH SECTION 8-20.5-208, AND THE STATE INSPECTOR OF OILS HAS DETERMINED THAT THE RELEASE EXCEEDS REPORTABLE QUANTITIES, THEN THE OWNER OR THE OPERATOR SHALL PROVIDE THE STATE INSPECTOR OF OILS WITH A CORRECTIVE ACTION PLAN TO CLEAN UP SUBSURFACE SOIL, GROUNDWATER, AND SURFACE WATER AS A RESULT OF THE RELEASE. IN ADDITION TO THE CORRECTIVE ACTION PLAN, THE OWNER OR OPERATOR SHALL PREPARE A SUMMARY OF THE COSTS ASSOCIATED WITH THE PREFERRED CORRECTIVE ACTION, TAKING INTO ACCOUNT ECONOMIC AND TECHNOLOGICAL FEASIBILITY, IN ACCORDANCE WITH THE REGULATIONS PROMULGATED PURSUANT TO SECTION 8-20.5-104 (4) (d) AND SUBMIT THE SUMMARY TO THE COMMITTEE CREATED IN SAID SECTION. THE STATE INSPECTOR OF OILS SHALL REVIEW AND APPROVE OR DISAPPROVE THE PLAN AND, IF THE PLAN IS DISAPPROVED, THE STATE INSPECTOR OF OILS SHALL PROVIDE THE OWNER OR THE OPERATOR WITH A STATEMENT SPECIFYING THE DEFICIENCIES IN THE PLAN. THE OWNER OR THE OPERATOR SHALL SUBMIT A REVISED PLAN WITHIN TWENTY WORKING DAYS, AND THE OWNER OR THE OPERATOR SHALL BE GIVEN AN OPPORTUNITY TO TAKE NECESSARY AND APPROPRIATE ACTIONS TO CLEAN UP SUBSURFACE SOILS, GROUNDWATER, AND SURFACE WATER. IF THE OWNER OR THE OPERATOR IS UNABLE OR UNWILLING TO TAKE SUCH NECESSARY AND APPROPRIATE ACTIONS, THE STATE INSPECTOR OF OILS MAY CONDUCT CORRECTIVE ACTION TO THE EXTENT APPROPRIATE TO PROTECT SUBSURFACE SOILS, GROUNDWATER, OR SURFACE WATER AS A RESULT OF THAT RELEASE. SUCH ACTION SHALL BE TAKEN AFTER CONSIDERATION OF THE RISKS POSED TO THE PUBLIC HEALTH AND SHALL BE DETERMINED IN LIGHT OF CURRENT ECONOMIC AND TECHNOLOGICAL FEASIBILITY.

(3) AFTER THE STATE INSPECTOR OF OILS MITIGATES THE THREAT TO SUBSURFACE SOILS, GROUNDWATER, AND SURFACE WATER AS SPECIFIED IN SUBSECTIONS (1) AND (2) OF THIS SECTION, AND THE OWNER OR THE OPERATOR OF THE TANK FROM WHICH PETROLEUM HAS BEEN RELEASED IS IDENTIFIED, THE OWNER OR THE OPERATOR SHALL PAY THE REQUIRED COSTS PURSUANT TO THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET FORTH IN SECTIONS 8-20.5-206, 8-20.5-207, AND 8-20.5-303, INCURRED IN THE INVESTIGATION OF THE RELEASE AND MITIGATION OF THREATS TO SUBSURFACE SOILS, GROUNDWATER, AND SURFACE WATER. THE STATE INSPECTOR OF OILS MAY FILE SUIT IN THE DISTRICT COURT FOR THE JUDICIAL DISTRICT IN WHICH THE RELEASE OCCURRED TO RECOVER SUCH COSTS. THE MONEYS OBTAINED AS A RESULT OF ANY SUIT BROUGHT PURSUANT TO THIS SECTION SHALL BE CREDITED TO THE PETROLEUM STORAGE TANK FUND CREATED IN SECTION 8-20.5-103.

(4) THE STATE INSPECTOR OF OILS MAY ORDER THE OWNER OR THE OPERATOR OF AN UNDERGROUND STORAGE TANK FROM WHICH A REGULATED SUBSTANCE HAS BEEN RELEASED TO IMPLEMENT A CORRECTIVE ACTION PLAN APPROVED UNDER SUBSECTION (2) OF THIS SECTION. SUCH ORDER SHALL BE SERVED PERSONALLY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, UPON THE OWNER OR THE OPERATOR. THE OWNER OR THE OPERATOR SHALL SUBMIT SUCH PLAN TO THE STATE INSPECTOR OF OILS WITHIN THIRTY DAYS AFTER RECEIPT OF SUCH ORDER.

(5) IF THE STATE INSPECTOR OF OILS DISAPPROVES OR FAILS TO APPROVE THE PLAN WITHIN THIRTY DAYS FOLLOWING ITS SUBMISSION, IT SHALL IMMEDIATELY PROVIDE A STATEMENT OF FINDINGS OF FACT OUTLINING THE REASONS FOR SUCH DISAPPROVAL OR FAILURE TO APPROVE, INCLUDING THE REASONS THE PROPOSED PLAN FAILS TO MEET THE CRITERIA OUTLINED IN THIS SECTION. THE STATEMENT SHALL BE PROVIDED BY FORMAL NOTICE OR BY CERTIFIED MAIL TO THE OWNER OR THE OPERATOR WITHIN TEN DAYS AFTER THE STATE INSPECTOR OF OILS DECISION.

(6) THE STATE INSPECTOR OF OILS MAY WAIVE THE REQUIREMENT FOR SUCH A PLAN IF IT DETERMINES THAT REASONABLE STEPS HAVE BEEN TAKEN TO PREVENT FURTHER RELEASES AND THAT ANY PREVIOUSLY RELEASED REGULATED SUBSTANCE HAS BEEN CLEANED UP TO THE EXTENT APPROPRIATE TO PROTECT SUBSURFACE SOILS, GROUNDWATER, OR SURFACE WATER AS A RESULT OF THAT RELEASE AT THAT SPECIFIC LOCATION. SUCH ACTION SHALL BE TAKEN AFTER CONSIDERATION OF THE RISKS POSED TO THE PUBLIC HEALTH AND SHALL BE DETERMINED IN LIGHT OF CURRENT ECONOMIC AND TECHNOLOGICAL FEASIBILITY.

(7) WITHIN TEN DAYS AFTER NOTIFICATION OF DISAPPROVAL OF THE PLAN, THE OWNER OR THE OPERATOR MAY FILE A WRITTEN REQUEST WITH THE STATE INSPECTOR OF OILS FOR AN INFORMAL CONFERENCE REGARDING THE DISAPPROVAL. UPON RECEIPT OF SUCH A REQUEST, THE STATE INSPECTOR OF OILS SHALL PROVIDE THE OWNER OR THE OPERATOR WITH A WRITTEN NOTICE OF THE DATE, TIME, AND PLACE OF THE INFORMAL CONFERENCE. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR A DESIGNEE SHALL PRESIDE AT THE INFORMAL CONFERENCE, DURING WHICH THE OWNER OR THE OPERATOR AND THE DEPARTMENT MAY PRESENT INFORMATION AND ARGUMENTS REGARDING THE ISSUES RAISED IN THE STATEMENT OF FINDINGS OF FACT.

(8) WITHIN TWENTY DAYS AFTER THE CONFERENCE, THE OWNER OR OPERATOR MAY RESUBMIT A MODIFIED PLAN WHICH ADDRESSES THE DEFICIENCIES IDENTIFIED BY THE DEPARTMENT IN THE ORIGINAL PLAN. THE DEPARTMENT SHALL REVIEW THE MODIFICATIONS TO THE PLAN AND, WITHIN TWENTY DAYS, APPROVE OR DISAPPROVE THE RESUBMITTED PLAN. IF, AFTER THE CONFERENCE, THE OWNER, THE OPERATOR, OR THE DEPARTMENT DETERMINES THAT THE ISSUES IDENTIFIED IN THE STATEMENT OF FINDINGS OF FACT CANNOT BE REASONABLY RESOLVED, THE OWNER, THE OPERATOR, OR THE DEPARTMENT MAY REQUEST THAT THE COMMITTEE, CREATED IN SECTION 8-20.5-104, SCHEDULE AND HOLD A HEARING WITHIN THIRTY DAYS TO RESOLVE THE ISSUES IDENTIFIED IN THE STATEMENT OF FINDINGS OF FACT.

(9) AT ANY TIME AFTER THE RECEIPT OF THE STATEMENT OF FINDINGS OF FACT, THE OWNER, THE OPERATOR, OR THE DEPARTMENT MAY REQUEST, IN WRITING, A FORMAL HEARING BEFORE THE COMMITTEE CREATED IN SECTION 8-20.5-104. UPON SUCH REQUEST, THE COMMITTEE SHALL MEET AND REVIEW THE INITIAL PLAN AND STATEMENT OF FINDINGS OF FACT.

(10) THE COMMITTEE SHALL RECOMMEND SUCH PLAN IF ANY CURRENT RELEASE HAS BEEN MITIGATED AND IF ANY REGULATED SUBSTANCE WHICH HAS BEEN RELEASED HAS BEEN OR WILL BE CLEANED UP TO THE EXTENT APPROPRIATE TO PROTECT SUBSURFACE SOILS, GROUNDWATER, OR SURFACE WATER AS A RESULT OF THE RELEASE AT THAT SPECIFIC LOCATION. THE DEPARTMENT SHALL GIVE SERIOUS CONSIDERATION TO THE RECOMMENDATION OF THE COMMITTEE. SUCH ACTION SHALL BE TAKEN AFTER CONSIDERATION OF THE RISKS POSED TO THE PUBLIC AND SHALL BE

DETERMINED IN LIGHT OF CURRENT ECONOMIC AND TECHNOLOGICAL FEASIBILITY. IF THE COMMITTEE FINDS THAT A CURRENT RELEASE HAS NOT BEEN MITIGATED OR THAT ANY REGULATED SUBSTANCE WHICH HAS BEEN RELEASED WILL NOT BE CLEANED UP TO THE EXTENT APPROPRIATE, THE COMMITTEE SHALL ISSUE A STATEMENT OF FINDINGS OF FACT AND RECOMMENDATIONS TO THE DEPARTMENT FOR REVISIONS TO THE PLAN. SUCH REVISIONS, IF APPROVED BY THE DEPARTMENT, SHALL BE INCORPORATED INTO THE PLAN BY THE DEPARTMENT, AND THE REVISED PLAN SHALL THEN BE APPROVED AS PROVIDED IN SUBSECTION (2) OF THIS SECTION.

(11) WITHIN THIRTY DAYS FOLLOWING MITIGATION AND CLEANUP, THE DEPARTMENT SHALL NOTIFY THE OWNER OR THE OPERATOR, IN WRITING, THAT THE OWNER OR THE OPERATOR HAS COMPLIED WITH THE REQUIREMENTS FOR MITIGATION AND CLEANUP AS OUTLINED IN THIS SECTION.

(12) FOR THE PURPOSE OF IMPLEMENTING THE PROVISIONS OF THIS SECTION, THE DEPARTMENT OR ITS DESIGNEE IS AUTHORIZED FOR JUSTIFIABLE CAUSE:

(a) TO ENTER THE PROPERTY, PREMISES, OR PLACE WHERE A RELEASE OR SUSPECTED RELEASE FROM AN UNDERGROUND STORAGE TANK IS LOCATED;

(b) TO MONITOR OR TEST OR REQUIRE THE OWNER OR THE OPERATOR TO MONITOR OR TEST AN UNDERGROUND STORAGE TANK OR ANY SURROUNDING SOILS, GROUNDWATER, OR SURFACE WATER WHERE A SUSPECTED RELEASE FROM AN UNDERGROUND STORAGE TANK HAS OCCURRED. A DUPLICATE SAMPLE TAKEN FOR TESTING SHALL BE PROVIDED TO ANY OWNER OR OPERATOR WHO THE DEPARTMENT REASONABLY BELIEVES MAY BE RESPONSIBLE FOR THE VIOLATION UPON REQUEST OF SUCH PERSON. A DUPLICATE COPY OF THE ANALYTICAL REPORT PERTAINING TO THE SAMPLES TAKEN PURSUANT TO THIS PARAGRAPH (b) SHALL BE PROVIDED AS SOON AS PRACTICABLE TO ANY PERSON THE DEPARTMENT OR ITS DESIGNEE REASONABLY BELIEVES MAY BE RESPONSIBLE FOR THE VIOLATION. WHEN SUCH TESTS ARE PERFORMED, THE DEPARTMENT SHALL NOTIFY, WHEN POSSIBLE, ANY PERSON REASONABLY BELIEVED TO BE AN OWNER OR OPERATOR.

(13) IF SUCH ENTRY OR INSPECTION IS DENIED, THE DEPARTMENT SHALL OBTAIN, FROM THE DISTRICT OR COUNTY COURT FOR THE JUDICIAL DISTRICT OR COUNTY IN WHICH SUCH PROPERTY, PREMISES, OR PLACE IS LOCATED, A WARRANT TO ENTER AND INSPECT ANY SUCH PROPERTY, PREMISES, OR PLACE PRIOR TO ENTRY AND INSPECTION. THE DISTRICT AND COUNTY COURTS OF THE STATE OF COLORADO ARE AUTHORIZED TO ISSUE SUCH WARRANTS UPON PROPER SHOWING OF THE NEED FOR SUCH ENTRY AND INSPECTION.

(14) IF REQUESTED BY THE DEPARTMENT OR ITS DESIGNEE, THE OWNER OR OPERATOR OF AN UNDERGROUND STORAGE TANK SHALL PROVIDE ANY INFORMATION IN SUCH OWNER'S OR OPERATOR'S POSSESSION REGARDING THE TANK.

(15) THE DEPARTMENT MAY CONSIDER WATER QUALITY STANDARDS ADOPTED BY THE WATER QUALITY CONTROL COMMISSION AS GUIDELINES FOR CLEANUP BUT MUST ASSURE THAT CLEANUP REQUIREMENTS ARE APPROPRIATE, IN LIGHT OF ECONOMIC AND TECHNICAL FEASIBILITY AND AFTER CONSIDERATION OF THE RISKS TO PUBLIC HEALTH, TO PROTECT SUBSURFACE SOILS, GROUNDWATER, OR SURFACE WATER AS A RESULT OF A RELEASE AT A SPECIFIC LOCATION.

(16) THE DEPARTMENT SHALL, IF NECESSARY, NEGOTIATE AND ENTER INTO MEMORANDA OF AGREEMENT WITH AND APPLY FOR AND RECEIVE GRANTS FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

PART 3  
ABOVEGROUND STORAGE TANKS

**8-20.5-301. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE RISING EXPENSE OF OPERATING AND MAINTAINING ABOVEGROUND STORAGE TANKS, INCLUDING BUT NOT LIMITED TO THE COST OF LIABILITY INSURANCE, HAS RESULTED IN THE DISCONTINUANCE OF BUSINESS BY SEVERAL SMALL GASOLINE SERVICE STATION OPERATORS AND IMPOSES AN INCREASING HARDSHIP ON THOSE SERVICE STATIONS STILL IN OPERATION. THE GENERAL ASSEMBLY FURTHER FINDS THAT THE VIABILITY OF ABOVEGROUND STORAGE TANKS IS BEING RECOGNIZED AND THAT RULES AND REGULATIONS FOR ABOVEGROUND STORAGE TANKS HAVE BEEN PROMULGATED AND ENDORSED BY THE WESTERN FIRE CHIEFS ASSOCIATION'S UNIFORM FIRE CODE COMMITTEE AND THE NATIONAL FIRE PROTECTION ASSOCIATION'S AUTOMOTIVE AND SERVICE STATION CODE COMMITTEE. THE GENERAL ASSEMBLY FURTHER FINDS THAT ABOVEGROUND STORAGE TANKS FOR FUEL PRODUCTS ARE FEASIBLE AND ECONOMICAL AND SHOULD BE PERMITTED UNDER CERTAIN NARROWLY DRAWN CIRCUMSTANCES.

**8-20.5-302. Duties of the state inspector of oils.** (1) THE STATE INSPECTOR OF OILS SHALL MAKE, PROMULGATE, AND ENFORCE REGULATIONS FOR ABOVEGROUND STORAGE TANKS INSTALLED BEFORE JULY 1, 1993, WHICH REGULATIONS SHALL BE NO MORE STRINGENT THAN THE REGULATIONS IN PLACE ON THE DATE OF INSTALLATION, EXCEPT AS MANDATED BY FEDERAL SPILL PREVENTION, CONTROL, AND COUNTERMEASURES REGULATIONS PROMULGATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

(2) THE STATE INSPECTOR OF OILS SHALL MAKE, PROMULGATE, AND ENFORCE RULES CONCERNING THE DESIGN, CONSTRUCTION, INSTALLATION, AND OPERATION OF ABOVEGROUND STORAGE TANKS PERMITTED TO BE USED AND INSTALLED ON OR AFTER JULY 1, 1993, WHICH ARE NO MORE STRINGENT, EITHER SUBSTANTIALLY OR PROCEDURALLY, THAN THE REQUIREMENTS CONTAINED IN THE CURRENT EDITION OF THE NATIONAL FIRE CODE PUBLISHED BY THE NATIONAL FIRE PROTECTION ASSOCIATION, AS REVISED BY THE ASSOCIATION FROM TIME TO TIME, AND IN SPILL PREVENTION CONTROL AND COUNTERMEASURES REGULATIONS PROMULGATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

**8-20.5-303. Financial responsibility for aboveground storage tanks.** (1) (a) MONEYS IN THE PETROLEUM STORAGE TANK FUND, CREATED PURSUANT TO SECTION 8-20.5-103, AND REFERRED TO IN THIS SECTION AS THE "FUND" MAY BE USED BY CERTAIN OWNERS AND OPERATORS OF ABOVEGROUND STORAGE TANKS TO DEMONSTRATE COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS IN FEDERAL REGULATIONS. ANY OWNER OR OPERATOR OF AN ABOVEGROUND STORAGE TANK WITH A CAPACITY OF AT LEAST SIX HUNDRED SIXTY GALLONS AND LESS THAN FORTY THOUSAND GALLONS, EXCLUDING ABOVEGROUND STORAGE TANKS USED FOR AGRICULTURAL PURPOSES, SHALL BE ELIGIBLE TO PARTICIPATE IN THE FUND.

(b) AFTER PAYMENT IS MADE FROM THE FUND FOR REMEDIATION EXPENSES, THE OWNER OR OPERATOR ON WHOSE BEHALF THE PAYMENT WAS MADE SHALL PAY TO THE FUND THE REMEDIATION AMOUNT OR TEN THOUSAND DOLLARS, WHICHEVER IS LESS.

(c) AFTER PAYMENT IS MADE FROM THE FUND FOR PERSONAL INJURY OR PROPERTY DAMAGE AFTER A COURT JUDGMENT OR A SETTLEMENT AGREED TO BY THE ATTORNEY GENERAL'S OFFICE, OR A COMBINATION OF BOTH, THE OWNER OR OPERATOR ON WHOSE BEHALF THE PAYMENT WAS MADE SHALL PAY TO THE FUND THE AGGREGATE SETTLEMENT PAYMENT AMOUNT OR TWENTY-FIVE THOUSAND DOLLARS, WHICHEVER IS LESS.

(d) MONEYS IN THE FUND SHALL NOT BE USED FOR ANY REMEDIATION ACTIVITY AT A LOCATION THAT IS WITHIN A SITE IDENTIFIED BY THE NATIONAL PRIORITIES LIST, OR WHERE A RESPONSE ACTION BY THIS STATE HAS BEGUN PURSUANT TO THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980".

(e) IF AN OWNER OR OPERATOR CANNOT MEET THE FINANCIAL REQUIREMENTS OF THIS SUBSECTION (1), ANOTHER APPROVED FINANCIAL ASSURANCE MECHANISM SHALL BE IDENTIFIED FOR SUCH OWNER OR OPERATOR TO REMAIN IN SUBSTANTIAL COMPLIANCE WITH THIS SECTION AND TO BE ALLOWED TO CONTINUE OPERATION OF AN ABOVEGROUND STORAGE TANK.

(2) THE MAXIMUM AMOUNT OF LIABILITY OF THE FUND UNDER THIS SECTION DURING ANY FISCAL YEAR SHALL BE ONE MILLION DOLLARS PER OCCURRENCE AND TWO MILLION DOLLARS AGGREGATE, FOR TANKS THAT ARE THE RESPONSIBILITY OF AN INDIVIDUAL OWNER OR OPERATOR. FOR PURPOSES OF THIS SECTION, AN "OCCURRENCE" MEANS THE PERIOD OF TIME FROM IDENTIFICATION THROUGH REMEDIATION OF A LEAK, SPILL, OR RELEASE OF A PETROLEUM PRODUCT FROM AN ABOVEGROUND STORAGE TANK. IN THE EVENT THE COST OF REMEDIATION OR THIRD-PARTY CLAIMS EXCEEDS THE AMOUNT AVAILABLE TO PAY SUCH COSTS, SUCH COSTS AND CLAIMS SHALL BE PAID ON A PRO RATA BASIS AS DETERMINED BY THE COMMITTEE CREATED IN SECTION 8-20.5-104. ANY BALANCE OWED SHALL BE PAID AS MONEYS BECOME AVAILABLE IN THE FUND. ANY EXCESS COSTS THAT ARE NOT PAID BY THE FUND SHALL BE PAID BY AND ARE THE SOLE RESPONSIBILITY OF THE RESPONSIBLE OWNER OR OPERATOR.

(3) MONEYS IN THE FUND SHALL BE AVAILABLE TO PAY REQUIRED CLEANUP COSTS AND THIRD-PARTY LIABILITY PAYMENTS WITH NO DEDUCTIBLES FOR THE FOLLOWING PERSONS WHO ARE DEEMED TO BEAR NO RESPONSIBILITY FOR THE RELEASE:

(a) A PROPERTY OWNER WHO HAS NEVER OPERATED ABOVEGROUND STORAGE TANKS AT THE PROPERTY WHERE THE RELEASE OCCURRED, PROVIDED SUCH PROPERTY WAS ACQUIRED ON OR BEFORE JUNE 3, 1992, AND THE PROPERTY OWNER HAD NO REASON TO KNOW THAT A RELEASE HAD OCCURRED;

(b) A CURRENT OWNER OR OPERATOR OF ABOVEGROUND STORAGE TANKS IF AT THE TIME THE OWNER OR OPERATOR ACQUIRED SUCH TANKS SUCH OWNER OR OPERATOR HAD NO REASON TO KNOW THAT A RELEASE HAD ALREADY OCCURRED, IF SUCH OWNER OR OPERATOR HAS OPERATED THE TANKS IN ACCORDANCE WITH SECTIONS 8-20.5-202 AND 8-20.5-302, AND IF THE RELEASE WAS DETECTED ON OR BEFORE DECEMBER 22,

1998;

(c) WHEN AN ORPHAN OR ABANDONED ABOVEGROUND STORAGE TANK IS INVOLVED AND THE CURRENT OWNER, OPERATOR, OR PROPERTY OWNER HAS NEVER OPERATED THE TANK OR TANKS AND HAD NO REASON TO KNOW THAT A RELEASE HAD OCCURRED;

(d) ANY MORTGAGEE OR HOLDER OF AN EVIDENCE OF DEBT SECURED BY A DEED OF TRUST WHO, THROUGH FORECLOSURE OF THE MORTGAGE OR DEED OF TRUST OR THROUGH RECEIPT OF A DEED TO THE PROPERTY IN LIEU OF FORECLOSURE, ACQUIRES PROPERTY ON WHICH AN ABOVEGROUND STORAGE TANK IS LOCATED, AND SUCH MORTGAGE OR DEED OF TRUST IS DATED ON OR BEFORE JANUARY 1, 1993; OR

(e) (I) ANY MORTGAGEE OR HOLDER OF AN EVIDENCE OF DEBT SECURED BY A DEED OF TRUST WHO, THROUGH FORECLOSURE OF THE MORTGAGE OR DEED OF TRUST OR THROUGH RECEIPT OF A DEED TO THE PROPERTY IN LIEU OF FORECLOSURE, ACQUIRES PROPERTY ON WHICH AN ABOVEGROUND STORAGE TANK IS LOCATED, AND SUCH MORTGAGE OR DEED OF TRUST IS DATED AFTER JANUARY 1, 1993, AND THE MORTGAGEE OR HOLDER OF AN EVIDENCE OF DEBT SECURED BY A DEED OF TRUST HAS OBTAINED A CERTIFICATE OF ELIGIBILITY REGARDING THE PROPERTY IN ACCORDANCE WITH THE RULES OF THE STATE INSPECTOR OF OILS. THE STATE INSPECTOR OF OILS SHALL PROMULGATE RULES NECESSARY TO IMPLEMENT THIS PROGRAM.

(II) ANY MORTGAGEE OR HOLDER OF AN EVIDENCE OF DEBT AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) WHO SELLS THE PROPERTY ON WHICH AN ABOVEGROUND STORAGE TANK IS LOCATED IN LIEU OF REMEDIATING SUCH PROPERTY AND TRANSFERS THE CERTIFICATE OF ELIGIBILITY TO THE PURCHASER. SUCH PURCHASER MAY RECEIVE FUNDS PURSUANT TO THIS SUBSECTION (3).

(4) IN LIEU OF SEEKING REIMBURSEMENT DIRECTLY FROM THE FUND, AN OWNER, OPERATOR, OR CURRENT PROPERTY OWNER WHO BEARS NO RESPONSIBILITY FOR THE RELEASE AS SET FORTH IN SUBSECTION (3) OF THIS SECTION MAY REQUEST THAT THE DEPARTMENT PERFORM THE CLEANUP USING MONEYS FROM THE PETROLEUM STORAGE TANK FUND WITHOUT FURTHER PROVING ELIGIBILITY FOR SUCH USE. IN ADDITION TO ANY PURPOSE PROVIDED FOR IN SECTION 8-20.5-103, MONEYS IN THE PETROLEUM STORAGE TANK FUND MAY BE APPROPRIATED BY THE GENERAL ASSEMBLY TO THE DEPARTMENT FOR THE PURPOSE OF PROVIDING FOR THE CLEANUP AUTHORIZED IN THIS SECTION.

(5) AN OWNER, OPERATOR, OR PROPERTY OWNER OF AN ABOVEGROUND STORAGE TANK INSTALLED BEFORE JUNE 6, 1993, SHALL BE ELIGIBLE TO PARTICIPATE IN THE FUND IF ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE PETROLEUM STORAGE TANK COMMITTEE, CREATED PURSUANT TO SECTION 8-20.5-104, ARE MET.

(6) ABOVEGROUND STORAGE TANKS CONTAINING PETROLEUM OR OTHER REGULATED SUBSTANCES WHICH ARE OWNED OR OPERATED BY, OR ARE ON PROPERTY OWNED OR LEASED BY, THE FEDERAL GOVERNMENT OR ANY AGENCY OR SUBCONTRACTOR THEREOF SHALL BE SUBJECT TO FEDERAL FINANCIAL RESPONSIBILITY REGULATIONS. ANY FINANCIAL RESPONSIBILITY REQUIREMENTS FOR DAMAGES CAUSED BY SUCH TANKS ARE NOT THE RESPONSIBILITY OF THE FUND UNLESS SUCH TANKS ARE OWNED OR OPERATED BY A PERSON, OTHER THAN THE FEDERAL GOVERNMENT OR ANY AGENCY OR SUBCONTRACTOR THEREOF, AND LOCATED ON

PROPERTY WHICH IS LEASED FROM OR OTHERWISE OCCUPIED PURSUANT TO A PERMIT OR OTHER AGREEMENT WITH THE UNITED STATES OR ANY AGENCY THEREOF OTHER THAN THE DEPARTMENT OF DEFENSE OR THE DEPARTMENT OF ENERGY.

(7) NOTHING IN THIS SECTION SHALL CREATE ANY LIABILITY FOR THE STATE OF COLORADO THAT EXCEEDS THE AMOUNT AVAILABLE IN THE FUND.

PART 4  
UNDERGROUND STORAGE TANK INSTALLERS

**8-20.5-401. Licensing of underground storage tank installers - required - installation and upgrading - plan submission and inspection required.** (1) NO PERSON SHALL, UNLESS LICENSED PURSUANT TO THIS PART 4:

(a) ENGAGE IN THE PRACTICE OF INSTALLING UNDERGROUND STORAGE TANKS; OR

(b) HOLD HIMSELF OR HERSELF OUT AS BEING LICENSED OR QUALIFIED TO ENGAGE IN THE PRACTICE OF INSTALLING OR UPGRADING UNDERGROUND STORAGE TANKS; OR

(c) USE THE TITLE "UNDERGROUND STORAGE TANK INSTALLER".

(2) (a) NO OWNER OR OPERATOR SHALL HAVE AN UNDERGROUND STORAGE TANK INSTALLED OR UPGRADED WITHOUT:

(I) FIRST SUBMITTING A PLAN FOR INSTALLATION OR UPGRADING TO THE STATE INSPECTOR OF OILS;

(II) HAVING SUCH INSTALLATION OR UPGRADING PERFORMED BY AN INSTALLER LICENSED PURSUANT TO THIS PART 4; AND

(III) HAVING SUCH INSTALLATION OR UPGRADING INSPECTED.

(b) THE PLAN FOR INSTALLATION OR UPGRADING AND THE INSPECTION SHALL BE IN ACCORDANCE WITH SECTION 8-20.5-204.

**8-20.5-402. Duties of the state inspector of oils - repeal.** (1) IN ADDITION TO ANY OTHER DUTIES IMPOSED BY THIS PART 4 OR ANY OTHER PROVISION OF LAW, THE STATE INSPECTOR OF OILS SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES UNDER THIS PART 4:

(a) TO MAKE, PROMULGATE, AND ENFORCE REGULATIONS TO IMPLEMENT AND ENFORCE THE PROVISIONS OF THIS PART 4, INCLUDING REGULATIONS FOR THE LICENSING OF UNDERGROUND STORAGE TANK INSTALLERS. SUCH REGULATIONS SHALL BE ADOPTED AND PROMULGATED UNDER THE PROVISIONS OF SECTION 24-4-103, C.R.S. SUCH REGULATIONS SHALL INCLUDE APPLICATION, LICENSING, AND RENEWAL FEES, WHICH FEES SHALL BE SUFFICIENT TO OFFSET THE DIRECT AND INDIRECT COSTS OF SUCH LICENSING.

(b) TO DETERMINE THE COURSE OF STUDY REQUIRED TO TRAIN UNDERGROUND STORAGE TANK INSTALLERS, INCLUDING WHAT TRAINING MATERIALS SHALL BE USED;

(c) TO CONDUCT EXAMINATIONS AT LEAST TWO TIMES EACH YEAR AND TO ENSURE THAT PASSING SCORES ON SUCH EXAMINATIONS ARE SET TO DETERMINE THE MINIMUM LEVEL OF COMPETENCY NECESSARY TO ENGAGE IN THE PRACTICE OF INSTALLING UNDERGROUND STORAGE TANKS;

(d) TO ISSUE A LICENSE AS AN UNDERGROUND STORAGE TANK INSTALLER TO ANY PERSON WHO MEETS THE REQUIREMENTS SPECIFIED IN THIS PART 4;

(e) TO SUSPEND, REVOKE, OR DENY THE LICENSE OF ANY LICENSED UNDERGROUND STORAGE TANK INSTALLER WHO VIOLATES THE PROVISIONS OF, OR ANY REGULATIONS OR ORDERS PROMULGATED PURSUANT TO, THIS PART 4;

(f) TO ASSESS FINES PURSUANT TO THE PROVISIONS OF THIS PART 4 AGAINST ANY OWNER OR OPERATOR OR ANY PERSON WHO VIOLATES THE PROVISIONS OF, OR ANY REGULATION ADOPTED PURSUANT TO, THIS PART 4;

(g) TO INVESTIGATE OR CAUSE TO BE INVESTIGATED ON SAID INSPECTOR'S OWN MOTION OR IN RESPONSE TO COMPLAINTS ANY SUSPECTED VIOLATION OF THE PROVISIONS OF, OR OF THE REGULATIONS ADOPTED PURSUANT TO, THIS PART 4;

(h) TO APPLY TO A COURT OF COMPETENT JURISDICTION TO ENJOIN ANY ACTIVITY THAT IS IN VIOLATION OF THE PROVISIONS OF, OR THE REGULATIONS PROMULGATED PURSUANT TO, THIS PART 4;

(i) TO APPOINT AN ADVISORY COMMITTEE TO ADVISE SAID INSPECTOR CONCERNING IMPLEMENTATION OF THE PROVISIONS OF THIS PART 4.

(2) (a) PARAGRAPH (i) OF SUBSECTION (1) OF THIS SECTION AND THIS SUBSECTION (2) ARE REPEALED, EFFECTIVE JULY 1, 1995.

(b) PRIOR TO SAID REPEAL, ANY ADVISORY COMMITTEE SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

**8-20.5-403. Requirements for licensure - installers - inspectors.** (1) THE STATE INSPECTOR OF OILS SHALL LICENSE AS AN UNDERGROUND STORAGE TANK INSTALLER ANY PERSON WHO:

(a) HAS FILED A WRITTEN APPLICATION CONTAINING ALL REQUIRED INFORMATION, INCLUDING WHETHER THE APPLICANT HAS EVER BEEN DISCIPLINED FOR AN ACTION RELATING TO THE UNDERGROUND STORAGE TANK INDUSTRY IN ANY OTHER STATE OR JURISDICTION, ON A FORM PRESCRIBED BY THE STATE INSPECTOR OF OILS;

(b) HAS PAID A NONREFUNDABLE APPLICATION FEE;

(c) HAS UNDERGONE A REQUIRED COURSE OF STUDY; AND

(d) HAS PASSED A WRITTEN EXAMINATION.

(2) (a) THE STATE INSPECTOR OF OILS MAY REVIEW AND APPROVE PRIVATE TRAINING AND TESTING PROGRAMS SPONSORED BY MANUFACTURERS OR OWNERS OF UNDERGROUND STORAGE TANKS IF THE STATE INSPECTOR OF OILS DETERMINES THAT

SUCH PROGRAM MEETS THE STANDARDS HE OR SHE HAS ESTABLISHED FOR ADEQUACY OF TRAINING AND TESTING OF UNDERGROUND STORAGE TANK INSTALLERS UNDER THIS PART 4. AN APPLICANT WHO HAS COMPLETED SUCH AN APPROVED PRIVATE TRAINING AND TESTING PROGRAM AND WHO COMPLIES WITH THE REQUIREMENTS OF PARAGRAPHS (a) AND (b) OF SUBSECTION (1) OF THIS SECTION MAY BE ISSUED A LICENSE AS AN UNDERGROUND STORAGE TANK INSTALLER. HOWEVER, AN UNDERGROUND STORAGE TANK INSTALLER LICENSED UNDER THIS SUBSECTION (2) IF TRAINED BY A MANUFACTURER SHALL INSTALL ONLY THOSE UNDERGROUND STORAGE TANKS MADE BY SUCH MANUFACTURER AND IF TRAINED BY AN OWNER SHALL INSTALL UNDERGROUND STORAGE TANKS ONLY FOR USE BY SUCH OWNER.

(b) AN UNDERGROUND STORAGE TANK INSTALLER LICENSED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE SUBJECT TO ALL THE OTHER PROVISIONS OF THIS PART 4 IN THE SAME MANNER AND DEGREE AS IF THE INSTALLER HAD BEEN LICENSED UNDER SUBSECTION (1) OF THIS SECTION.

(3) (a) THE STATE INSPECTOR OF OILS MAY ISSUE A LICENSE BY ENDORSEMENT TO AN UNDERGROUND STORAGE TANK INSTALLER WHO IS LICENSED AND IN GOOD STANDING UNDER THE LAWS OF ANOTHER STATE OR JURISDICTION IF THE APPLICANT COMPLIES WITH PARAGRAPHS (a) AND (b) OF SUBSECTION (1) OF THIS SECTION AND PRESENTS PROOF SATISFACTORY TO THE STATE INSPECTOR OF OILS THAT THE APPLICANT IS SO LICENSED AND IN GOOD STANDING AND THAT SUCH PERSON POSSESSES QUALIFICATIONS THAT ARE SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS FOR LICENSURE UNDER THIS PART 4.

(b) AN UNDERGROUND STORAGE TANK INSTALLER LICENSED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL BE SUBJECT TO ALL THE OTHER PROVISIONS OF THIS PART 4 IN THE SAME MANNER AND DEGREE AS IF THE INSTALLER HAD BEEN LICENSED UNDER SUBSECTION (1) OF THIS SECTION.

(4) A LICENSE ISSUED UNDER SUBSECTION (1), (2), OR (3) OF THIS SECTION SHALL BE VALID FOR A PERIOD OF ONE YEAR AND MAY BE RENEWED THEREAFTER UPON APPLICATION TO THE STATE INSPECTOR OF OILS AND PAYMENT OF A RENEWAL FEE, IF THE APPLICANT IS IN COMPLIANCE WITH ALL OTHER PROVISIONS OF THIS PART 4.

**8-20.5-404. Grounds for disciplinary action - denial of licensure - denial of renewal.** (1) THE STATE INSPECTOR OF OILS MAY DENY AN APPLICATION FOR LICENSURE OR RENEWAL OF A LICENSE OR SUSPEND OR REVOKE A LICENSE ON ANY OF THE FOLLOWING GROUNDS:

(a) THE PRACTICE OF ANY FRAUD OR MATERIAL MISREPRESENTATION OR AIDING OR ABETTING ANOTHER IN THE PRACTICE OF ANY FRAUD OR MATERIAL MISREPRESENTATION IN OBTAINING OR ATTEMPTING TO OBTAIN A LICENSE PURSUANT TO THIS PART 4;

(b) THE PRACTICE OF ANY FRAUD OR MATERIAL MISREPRESENTATION OR AN ATTEMPT TO PRACTICE ANY FRAUD OR MATERIAL MISREPRESENTATION WITH RESPECT TO ANY ACTIVITY COVERED BY THIS PART 4;

(c) ANY ACT OR OMISSION THAT DOES NOT MEET THE GENERALLY ACCEPTED STANDARDS OF PRACTICE IN THE UNDERGROUND STORAGE TANK INDUSTRY;

(d) VIOLATION OF ANY PROVISION OF THIS PART 4 OR ANY REGULATION ESTABLISHED OR ORDER ISSUED PURSUANT TO THIS PART 4.

(2) A DISCIPLINARY ACTION RELATING TO THE UNDERGROUND STORAGE TANK INDUSTRY IN ANY OTHER STATE OR JURISDICTION SHALL BE DEEMED TO BE PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION, INCLUDING DENIAL OF LICENSURE, UNDER THIS PART 4. THIS SUBSECTION (2) SHALL APPLY ONLY TO THOSE DISCIPLINARY ACTIONS THAT ARE BASED UPON ACTS OR OMISSIONS IN SUCH OTHER STATE OR JURISDICTION THAT ARE SUBSTANTIALLY SIMILAR TO THOSE SET OUT AS GROUNDS FOR DISCIPLINARY ACTION OR DENIAL OF LICENSURE UNDER THIS PART 4.

(3) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED BY THE STATE INSPECTOR OF OILS OR BY AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., AND SHALL BE HELD IN THE MANNER PRESCRIBED IN ARTICLE 4 OF TITLE 24, C.R.S. FINAL ACTIONS AND ORDERS UNDER THIS PART 4 THAT ARE APPROPRIATE FOR JUDICIAL REVIEW MAY BE REVIEWED IN THE COURT OF APPEALS.

**8-20.5-405. Petroleum storage tank licensing fund - creation.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE PETROLEUM STORAGE TANK LICENSING FUND, WHICH SHALL CONSIST OF THE FOLLOWING:

(a) ALL FEES COLLECTED PURSUANT TO THIS PART 4. SUCH FEES SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE PETROLEUM STORAGE TANK LICENSING FUND.

(b) CIVIL PENALTIES OR FINES COLLECTED PURSUANT TO THIS PART 4;

(c) GIFTS OR DONATIONS MADE TO THE STATE OF COLORADO OR ANY AGENCY THEREOF FOR THE PURPOSE OF CARRYING OUT THIS PART 4;

(d) ANY MONEYS APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY.

(2) THE MONEYS IN THE PETROLEUM STORAGE TANK LICENSING FUND AND ALL INTEREST EARNED ON MONEYS IN THE FUND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR.

(3) THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR:

(a) ANY ADMINISTRATIVE COSTS INCLUDING COSTS INCURRED BY THE STATE INSPECTOR OF OILS IN CARRYING OUT THE INSPECTOR'S RESPONSIBILITIES PURSUANT TO THIS PART 4;

(b) ANY FEDERAL PROGRAM PERTAINING TO UNDERGROUND STORAGE TANK INSTALLERS WHICH PROGRAM REQUIRES STATE MATCHING DOLLARS.

**8-20.5-406. Injunctions.** IN ADDITION TO ANY OTHER REMEDIES PROVIDED IN THIS PART 4, THE STATE INSPECTOR OF OILS OR A DESIGNEE IS AUTHORIZED TO APPLY TO THE DISTRICT COURT, IN THE JUDICIAL DISTRICT WHERE THE VIOLATION HAS OCCURRED, FOR A TEMPORARY RESTRAINING ORDER, A PRELIMINARY INJUNCTION, OR

A PERMANENT INJUNCTION RESTRAINING ANY PERSON FROM VIOLATING ANY PROVISION OF THIS PART 4 OR THE RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS PART 4. IN SUCH PROCEEDINGS, IT SHALL NOT BE NECESSARY TO ALLEGE OR PROVE EITHER THAT AN ADEQUATE REMEDY AT LAW DOES NOT EXIST OR THAT SUBSTANTIAL OR IRREPARABLE DAMAGE WOULD RESULT FROM THE CONTINUED VIOLATION THEREOF.

**8-20.5-407. Repeal of part - review of functions.** (1) THIS PART 4 IS REPEALED, EFFECTIVE JULY 1, 1996.

(2) PRIOR TO SUCH REPEAL, THE LICENSING FUNCTIONS OF THE STATE INSPECTOR OF OILS SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

**SECTION 2.** 2-3-1203 (3) (h) (II), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

**2-3-1203. Sunset review of advisory committees.** (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(h) July 1, 1995:

(II) ~~The advisory committee for underground storage tanks appointed pursuant to section 25-18-105, C.R.S., and The advisory committee to the state inspector of oils for underground storage tank installers appointed pursuant to section 8-20-603(1)(i),~~ SECTION 8-20.5-402 (1) (i), C.R.S.;

**SECTION 3.** 8-1-107 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**8-1-107. Powers and duties of director.** (2) In addition to any other duties prescribed by law, the director has the duty and the power to:

(q) ADMINISTER AND ENFORCE ARTICLE 20.5 OF THIS TITLE.

**SECTION 4.** 8-20-206.5 (1) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-20-206.5. Environmental response surcharge.** (1) (b) In the event that the revenues in the ~~underground~~ PETROLEUM storage tank fund are less than three million dollars, the fee imposed by paragraph (a) of this subsection (1) shall be fifty dollars per tank truckload until the revenues in the fund exceed ten million dollars. When the revenues in the fund exceed ten million dollars, the tank truckload fee shall be twenty-five dollars. The executive director of the department of revenue shall notify such manufacturers and distributors when the tank truck fees are adjusted. This paragraph (b) is effective January 1, 1990.

**SECTION 5.** 8-20-230 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-20-230. Submittal of plans.** (1) Plans for all installations utilizing liquid fuel

products, except for those liquid fuel products which are defined as regulated substances and regulated pursuant to ~~part 5 of this article~~ ARTICLE 20.5 OF THIS TITLE, in storage containers of an aggregate of over fifteen hundred gallons water capacity, including gasoline stations, garages, stores, and all other places where said products are dispensed, shall be submitted to the state inspector of oils for his approval before construction thereof begins.

**SECTION 6.** 13-4-102 (2) (aa), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-4-102. Jurisdiction.** (2) The court of appeals shall have initial jurisdiction to:

(aa) Review final actions and orders of the state inspector of oils that are appropriate for judicial review, as provided in ~~part 6 of article 20~~ PART 4 OF ARTICLE 20.5 of title 8, C.R.S.;

**SECTION 7.** 24-1-121, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-1-121. Department of labor and employment - creation.** (5) THE PETROLEUM STORAGE TANK COMMITTEE SHALL EXERCISE ITS POWERS AND PERFORM THE DUTIES AND FUNCTIONS SPECIFIED BY ARTICLE 20.5 OF TITLE 8, C.R.S., UNDER THE DEPARTMENT OF LABOR AND EMPLOYMENT AND THE EXECUTIVE DIRECTOR THEREOF AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 1** TRANSFER.

**SECTION 8.** 24-34-104 (25.1) (j), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

(j) The licensing function for underground storage tank installers of the state inspector of oils conducted pursuant to ~~part 6 of article 20 of title 8, C.R.S.~~ PART 4 OF ARTICLE 20.5 OF TITLE 8, C.R.S.;

**SECTION 9.** 25-16-303 (3) (b) (V), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-16-303. Voluntary cleanup and redevelopment program - general provisions - fees - access to property during reviews.** (3) (b) The provisions of this part 3 shall not apply to the following:

(V) Property that is subject to the provisions of ~~part 5 of article 20 of title 8, C.R.S., or of article 18 of this title.~~ PART 2 OF ARTICLE 20.5 OF TITLE 8, C.R.S.

**SECTION 10.** 32-1-1002 (3) (b) (IV), Colorado Revised Statutes, as amended, is amended to read:

**32-1-1002. Fire protection districts - additional powers and duties.**

(3) (b) The chief of the fire department in each fire protection district shall:

(IV) Enforce, within his respective jurisdiction, all laws of this state and ordinances and resolutions of any appropriate political subdivision pertaining to the keeping, storage, use, manufacture, sale, handling, transportation, or other disposition of highly inflammable materials and rubbish, gunpowder, dynamite, crude petroleum or any of its products, explosive or inflammable liquids or compounds, tablets, torpedoes, or any explosives of a like nature, or any other explosive, including fireworks and firecrackers, and such chief may prescribe the materials and construction of receptacles to be used for the storage of any of said items; but authorization for enforcement of the provisions of this subsection (3) does not extend to the production, transportation, or storage of inflammable liquids as regulated by ~~article~~ ARTICLES 20 AND 20.5 of title 8 and title 34, C.R.S.;

**SECTION 11.** 39-21-110.5 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

**39-21-110.5. Rate of interest to be fixed.** (1) When interest is required or permitted to be charged under any provision of articles 20 to 29 of this title in connection with interest on underpayment, nonpayment, extension of time for payment, or overpayment, OR WHEN INTEREST IS REQUIRED TO BE PAID PURSUANT TO SECTION 8-20.5-104, C.R.S., IN CONNECTION WITH AN APPLICATION FOR REIMBURSEMENT FROM THE PETROLEUM STORAGE TANK FUND, such interest shall be computed at the annual rate which has been established pursuant to this section.

**SECTION 12. Repeal.** Parts 5, 6, and 7 of article 20 of title 8, Colorado Revised Statutes, 1986 Repl. Vol., and article 18 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, are repealed.

**SECTION 13. Adjustments to the 1995 Long Bill.** (1) Any appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 1995, to the department of public health and environment, hazardous materials waste management division, storage tank remediation program, for program costs, and any corresponding FTE, are hereby transferred to the department of labor and employment, division of labor, public safety and inspection programs, for the implementation of this act.

(2) Of the appropriations made to the department of labor and employment, division of labor, public safety and inspection programs, the cash funds appropriation for personal services is increased by two hundred thirty-six thousand one hundred sixty dollars (\$236,160) and the cash funds appropriation for operating expenses is increased by thirty thousand seven hundred ten dollars (\$30,710), for the implementation of this act.

(3) The cash funds appropriation to the department of labor and employment, executive director's office, for leased space is increased by fifty-five thousand two hundred fifty dollars (\$55,250).

(4) Any capital construction appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 1995, to the department of public health and environment, underground storage tank site cleanup, is hereby

transferred to a new line item added under the department of labor and employment, underground storage tank site cleanup, for the implementation of this act. In addition, a cash funds appropriation of one hundred nineteen thousand five hundred sixty-seven dollars (\$119,567) is added for a new line item added under the department of labor and employment, interest paid on claims, for the implementation of this act.

**SECTION 14. Effective date.** This act shall take effect July 1, 1995.

**SECTION 15. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 8, 1995