

CHAPTER 150

**LABOR AND INDUSTRY**

**HOUSE BILL 96-1026**

BY REPRESENTATIVES Taylor, May, George, Schwarz, and Snyder;  
also SENATORS Wattenberg, Johnson, and Weddig.

**AN ACT**

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

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

**SECTION 1.** 8-20-206.5 (1) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended, and the said 8-20-206.5 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**8-20-206.5. Environmental response surcharge.** (1) (b) ~~In the event that the revenues in the 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.~~ IN THE EVENT THE REVENUES IN THE PETROLEUM STORAGE TANK FUND ARE GREATER THAN THIRTY MILLION DOLLARS, NO SURCHARGE SHALL BE IMPOSED, BUT IF THE REVENUES IN THE FUND ARE LESS THAN:

(I) THIRTY MILLION DOLLARS, THE FEE IMPOSED BY PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE TWENTY-FIVE DOLLARS PER TANK TRUCKLOAD;

(II) TWENTY MILLION DOLLARS, THE FEE IMPOSED SHALL BE FIFTY DOLLARS PER TANK TRUCKLOAD;

(III) FIVE MILLION DOLLARS, THE FEE IMPOSED SHALL BE ONE HUNDRED DOLLARS PER TANK TRUCKLOAD.

---

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

(c) NOTWITHSTANDING PARAGRAPH (b) OF THIS SUBSECTION (1), ON AND AFTER JULY 1, 2001, IF THE REVENUES IN THE PETROLEUM STORAGE TANK FUND ARE GREATER THAN EIGHT MILLION DOLLARS, NO SURCHARGE SHALL BE IMPOSED, BUT IF THE REVENUES IN THE FUND ARE LESS THAN EIGHT MILLION DOLLARS, THE FEE IMPOSED BY PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE TWENTY-FIVE DOLLARS PER TANK TRUCKLOAD.

**SECTION 2.** 8-20.5-101 (1) and (2) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**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 TANK owner or operator or current property owner DID NOT INSTALL, has never operated OR LEASED TO ANOTHER FOR OPERATION, AND HAD NO REASON TO KNOW WAS PRESENT ON THE SITE AT THE TIME OF SITE ACQUISITION.

(2) (b) "Aboveground storage tank" does not include: ~~any aboveground storage tank associated with oil or gas production and gathering operations.~~

(I) A WASTEWATER TREATMENT TANK SYSTEM THAT IS PART OF A WASTEWATER TREATMENT FACILITY;

(II) EQUIPMENT OR MACHINERY THAT CONTAINS REGULATED SUBSTANCES FOR OPERATIONAL PURPOSES;

(III) FARM AND RESIDENTIAL TANKS;

(IV) ABOVEGROUND STORAGE TANKS LOCATED AT NATURAL GAS PIPELINE FACILITIES THAT ARE REGULATED UNDER STATE OR FEDERAL NATURAL GAS PIPELINE ACTS;

(V) ABOVEGROUND STORAGE TANKS ASSOCIATED WITH NATURAL GAS LIQUIDS SEPARATION, GATHERING, AND PRODUCTION;

(VI) ABOVEGROUND STORAGE TANKS ASSOCIATED WITH CRUDE OIL PRODUCTION, STORAGE, AND GATHERING;

(VII) ABOVEGROUND STORAGE TANKS AT TRANSPORTATION-RELATED FACILITIES REGULATED BY THE FEDERAL DEPARTMENT OF TRANSPORTATION;

(VIII) ABOVEGROUND STORAGE TANKS USED TO STORE HEATING OIL FOR CONSUMPTIVE USE ON THE PREMISES WHERE STORED;

(IX) ABOVEGROUND STORAGE TANKS USED TO STORE FLAMMABLE AND COMBUSTIBLE LIQUIDS AT MINING FACILITIES AND CONSTRUCTION AND EARTHMOVING PROJECTS, INCLUDING GRAVEL PITS, QUARRIES, AND BORROW PITS WHERE, IN THE OPINION OF THE STATE INSPECTOR OF OILS, TIGHT CONTROL BY THE OWNER OR CONTRACTOR AND ISOLATION FROM OTHER STRUCTURES MAKE IT UNNECESSARY TO

MEET THE REQUIREMENTS OF THIS ARTICLE;

(X) ANY OTHER ABOVEGROUND TANK EXCLUDED BY REGULATION.

**SECTION 3.** 8-20.5-101 (17) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**8-20.5-101. Definitions.** As used in this article, unless the context otherwise requires:

(17) (b) "Underground storage tank" does not include:

(XI) ANY OTHER UNDERGROUND TANK EXCLUDED BY REGULATION.

**SECTION 4.** 8-20.5-104 (4) (h) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-20.5-104. Regulations - petroleum storage tank committee.** (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:

(h) (I) (A) 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.

(B) NOTWITHSTANDING THIS PARAGRAPH (h), IF A CLAIMANT CANNOT BE REIMBURSED IN A TIMELY MANNER BECAUSE INSUFFICIENT MONEYS IN THE PETROLEUM STORAGE TANK FUND PREVENT THE ISSUANCE OF A REIMBURSEMENT CHECK WITHIN THIRTY DAYS AFTER APPROVAL OF THE DISBURSEMENT, INTEREST SHALL NOT BEGIN TO ACCRUE ON THE CLAIM UNTIL THIRTY-ONE DAYS AFTER SUFFICIENT MONEYS ARE AVAILABLE IN SAID FUND.

**SECTION 5.** 8-20.5-206 (1) (b), (2), and (7), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**8-20.5-206. Financial responsibility for petroleum underground storage tanks.** (1) (b) (I) 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.

(II) THE PAYMENT REQUIRED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL BE WAIVED IF:

(A) THE OWNER OR OPERATOR DISCOVERS THE CONTAMINATION WHILE UPGRADING TANKS TO MEET THE DECEMBER 22, 1998, DEADLINE FOR CORROSION PROTECTION,

SPILL AND OVERFILL PREVENTION, OR MONTHLY MONITORING;

(B) THE UPGRADE IS COMPLETED NO LATER THAN DECEMBER 22, 1997; AND

(C) THE ANNUAL THROUGHPUT OF PETROLEUM PRODUCTS AT THE SITE DOES NOT EXCEED SIX HUNDRED THOUSAND GALLONS DURING THE YEAR PRECEDING THE DISCOVERY OF CONTAMINATION.

(2) The maximum amount of liability of the fund under this section ~~during any fiscal year shall be one million dollars per occurrence and~~ SHALL BE two million dollars aggregate DURING A STATE FISCAL YEAR for MULTIPLE OCCURRENCES INVOLVING tanks that are the responsibility of an individual owner or operator, BUT IN NO EVENT SHALL THE LIABILITY OF THE FUND EXCEED ONE MILLION DOLLARS PER OCCURRENCE. 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.

(7) Nothing in this ~~section~~ ARTICLE shall create any liability for the state of Colorado that exceeds the amount available in the fund.

**SECTION 6.** 8-20.5-208 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-20.5-208. Reporting of releases - investigation.** (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 DEPARTMENT MAY REQUIRE the owner or operator ~~may be required~~ to take corrective action in accordance with section 8-20.5-209.

**SECTION 7.** 8-20.5-209 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-20.5-209. Regulated substances releases - corrective actions.** (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.~~

**SECTION 8.** 8-20.5-303 (1) (a), (2), (3) (b), (3) (c), (5), and (7), Colorado

Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**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.

(2) The maximum amount of liability of the fund under this section ~~during any fiscal year shall be one million dollars per occurrence and~~ SHALL BE two million dollars aggregate DURING A FISCAL YEAR for MULTIPLE OCCURRENCES INVOLVING tanks that are the responsibility of an individual owner or operator, BUT IN NO EVENT SHALL THE LIABILITY OF THE FUND EXCEED ONE MILLION DOLLARS PER OCCURRENCE. 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:

(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~~ 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;

(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~~ 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;

(5) An owner OR operator ~~or property owner~~ of an aboveground storage tank ~~installed before June 6, 1993~~ OR A PERSON DEEMED TO BEAR NO RESPONSIBILITY FOR THE RELEASE PURSUANT TO SUBSECTION (3) OF THIS SECTION 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.

(7) Nothing in this ~~section~~ ARTICLE shall create any liability for the state of Colorado that exceeds the amount available in the fund.

**SECTION 9.** Part 3 of article 20.5 of title 8, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**8-20.5-304. Regulated substances releases - corrective actions.** (1) IF A RELEASE HAS OCCURRED AT A SITE WHERE THE OWNER OR 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 A RELEASE HAS OCCURRED AT A SITE WHERE THE OWNER OR 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 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 SHALL 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 OPERATOR WITH A STATEMENT SPECIFYING THE DEFICIENCIES IN THE PLAN. WITHIN TWENTY WORKING DAYS AFTER RECEIVING SUCH STATEMENTS, THE OWNER OR OPERATOR SHALL SUBMIT A REVISED PLAN AND SHALL BE GIVEN AN OPPORTUNITY TO TAKE NECESSARY AND APPROPRIATE ACTIONS TO CLEAN UP SUBSURFACE SOILS, GROUNDWATER, AND SURFACE WATER. IF THE OWNER OR 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 OPERATOR OF THE TANK FROM WHICH PETROLEUM HAS BEEN RELEASED IS IDENTIFIED, THE OWNER OR OPERATOR SHALL PAY THE REQUIRED COSTS OF INVESTIGATION AND MITIGATION PURSUANT TO THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET FORTH IN SECTIONS 8-20.5-206, 8-20.5-207, AND 8-20.5-303. 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 OPERATOR OF AN ABOVEGROUND 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 OPERATOR.

(5) (a) IF THE STATE INSPECTOR OF OILS DISAPPROVES OR FAILS TO APPROVE THE PLAN WITHIN THIRTY DAYS FOLLOWING ITS SUBMISSION, THE STATE INSPECTOR 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 OPERATOR WITHIN TEN DAYS AFTER THE STATE INSPECTOR'S DECISION.

(b) THE STATE INSPECTOR OF OILS MAY WAIVE THE REQUIREMENT FOR SUCH A PLAN IF THE STATE INSPECTOR 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.

(6) (a) WITHIN TEN DAYS AFTER NOTIFICATION OF DISAPPROVAL OF THE PLAN, THE OWNER OR 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 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 OPERATOR AND THE DEPARTMENT MAY PRESENT INFORMATION AND ARGUMENTS REGARDING THE ISSUES RAISED IN THE STATEMENT OF FINDINGS OF FACT.

(b) 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 OR OPERATOR OR THE DEPARTMENT DETERMINES THAT THE ISSUES IDENTIFIED IN THE STATEMENT OF FINDINGS OF FACT CANNOT BE REASONABLY RESOLVED, THE OWNER OR 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.

(7) (a) AT ANY TIME AFTER RECEIVING THE STATEMENT OF FINDINGS OF FACT, THE OWNER OR 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.

(b) 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.

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

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

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

(II) TO MONITOR OR TEST OR REQUIRE THE OWNER OR OPERATOR TO MONITOR OR TEST AN ABOVEGROUND STORAGE TANK OR ANY SURROUNDING SOILS, GROUNDWATER, OR SURFACE WATER WHERE A SUSPECTED RELEASE FROM AN ABOVEGROUND 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 SUBPARAGRAPH (II) 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.

(b) 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.

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

(10) (a) THE DEPARTMENT MAY CONSIDER WATER QUALITY STANDARDS ADOPTED BY THE WATER QUALITY CONTROL COMMISSION AS GUIDELINES FOR CLEANUP BUT SHALL 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.

(b) 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.

**SECTION 10. Appropriation - adjustment to the 1996 long bill.** In addition to any other capital construction appropriation, there is hereby appropriated, to the department of labor and employment, for the fiscal year beginning July 1, 1996, for petroleum storage tank site cleanup, the sum of six million five hundred sixty thousand dollars (\$6,560,000), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from cash funds in the petroleum storage tank fund.

**SECTION 11. 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 15, 1996