STATE OF OKLAHOMA

2nd Session of the 51st Legislature (2008)

SENATE BILL 1423 By: Lerblance

AS INTRODUCED

An Act relating to the Corporation Commission; amending 17 O.S. 2001, Section 303, as last amended by Section 1, Chapter 28, O.S.L. 2006 (17 O.S. Supp. 2007, Section 303), which relates to the Oklahoma Storage Tank Regulation Act; modifying definition; amending 17 O.S. 2001, Section 306, as last amended by Section 2, Chapter 435, O.S.L. 2005 (17 O.S. Supp. 2007, Section 306),which relates to powers and duties of the Commission; authorizing the Commission to fund certain remediation activities; authorizing the Commission to implement certain training program for Underground Storage Tank Operators, issue annual permits and assess certain fees; amending 17 O.S. 2001, Section 309, as amended by Section 6, Chapter 435, O.S.L. 2005 (17 O.S. Supp. 2007, Section 309), which relates to tank releases; modifying certain notice procedures; authorizing the Commission to implement underground storage tank operator training program; authorizing the Commission to contract with certain entities; requiring operators to complete certain training; providing for annual permits; requiring repeat training for certain operators; authorizing Commission to promulgate rules; authorizing payment and limitations; amending 17 O.S. 2001, Section 365, as last amended by Section 3, Chapter 109, O.S.L. 2005 (17 O.S. Supp. 2007, Section 365), which relates to the Oklahoma Leaking Underground Storage Tank Trust Fund; modifying name of fund; removing authority to make certain expenditures on behalf of state agencies; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 2001, Section 303, as last amended by Section 1, Chapter 28, O.S.L. 2006 (17 O.S. Supp. 2007, Section 303), is amended to read as follows:

Section 303. As used in the Oklahoma Storage Tank Regulation Act:

1. "Abandoned system" means a storage tank system which:

a. has been taken permanently out of service as a storage vessel for any reason or is not intended to be returned to service,

b. has been out of service for one (1) year or more prior to April 21, 1989, or

c. has been rendered permanently unfit for use as determined by the Commission;

2. "Action level" means that the regulated substances have reached the level of contamination;

3. "Active case" means a confirmed release notice has been issued by the Corporation Commission to the owner or operator for the specified location;

4. "Backfill" means only the material placed in the excavation zone to support the petroleum storage tank system;

5. "Chemicals of concern" means chemicals that may pose a threat to human health and the environment;

6. "Closed case" means a previously active case which had a confirmed release and the Commission has issued a closure letter

advising that no further remediation action is necessary on the site;

7. "Commission" means the Corporation Commission;

8. "Contaminants" or "contamination" means a level of concentration of chemicals of concern that may be sufficient to cause adverse effects upon human health or the environment or cause a nuisance;

9. "Corrective action" means action taken to monitor, investigate, minimize, eliminate or perform remediation of a release from a storage tank system;

10. "Corrective action plan" means the plan submitted to the regulatory program of the Corporation Commission detailing the method and manner of corrective action to be taken for a release;

11. "Department" means the Department of Environmental Quality;

12. "Director" means the Director of the Petroleum Storage Tank Division of the Corporation Commission;

13. "Division" means the Petroleum Storage Tank Division of the Corporation Commission;

14. "Eligible person" means the party who has made application to the Petroleum Storage Tank Indemnity Fund and met applicable criteria to receive Petroleum Storage Tank Indemnity Fund reimbursement on a confirmed release;

15. “Eligible release” means a release of regulated substances where the cost of cleanup is subject to reimbursement by the Petroleum Storage Tank Indemnity Fund;

16. “Environment” means any water, water vapor, any land including land surface or subsurface, atmosphere, fish, wildlife, biota, domestic animals and all other natural resources;

17. “Environmental consultant” means an individual licensed by the Commission or an environmental consulting company retaining or employing a Commission-licensed remediation consultant;

18. “Facility” means any location or part thereof containing one or more storage tanks or systems;

19. “Hazardous substance” means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C., Section 9601, but not including:

a. any substance regulated as a hazardous waste under Subtitle C of the federal Solid Waste Disposal Act, 42 U.S.C., Section 6903, or

b. any substance regulated as a hazardous waste under the Oklahoma Hazardous Waste Management Act.

The term hazardous substance shall also include a mixture of hazardous substances and petroleum, providing the amount of petroleum is of a de minimus quantity;

20. “New system” means a storage tank system for which the installation or upgrade of the system began on or after December 22, 1998;

21. “Operator” means any person in control of or having responsibility for the daily operation of the storage tank system, whether by lease, contract, or other form of agreement. The term “operator” also includes a past operator at the time of a release, tank closure, or a violation of the Oklahoma Storage Tank Regulation Act or of a rule promulgated thereunder;

22. “Owner” means:

a. in the case of a storage tank system in use on November 8, 1984, or brought into use after that date, any person who holds title to, controls, or possesses an interest in a storage tank system used for the storage, use, or dispensing of regulated substances, or

b. in the case of a storage tank system in use before November 8, 1984, but no longer in service on that date, any person who holds title to, controls, or possesses an interest in a storage tank system immediately before the discontinuation of its use.

The term “owner” does not include a person who holds an interest in a tank system solely for financial security, unless through

foreclosure or other related actions the holder of a security interest has taken possession of the tank system;

23. "Permit" means any registration, permit, license or other authorization issued by the Commission to operate a storage tank system;

24. "Person" means any individual, trust, firm, joint stock company or corporation, limited liability company, partnership, association, any representative appointed by order of a court, the state, any municipality, county, school district or other political subdivision or agency of the state, or any interstate body. The term also includes a consortium, a joint venture, a commercial entity, the United States Government, a federal agency, including a government corporation, or any other legal entity;

25. "Petroleum" means ethylene glycol-based antifreeze, crude oil, ~~crude oil fractions, and refined petroleum fractions,~~ including used oil, motor fuel, gasoline, kerosene, biofuel, biodiesel, E-85, motor fuel with the fuel additive Methyl Tertiary Butyl Ether (MTBE), ~~jet fuel, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oil which are liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). "Petroleum" also means a mixture of petroleum and hazardous substances if the amount of the hazardous substances is of a de minimus quantity~~ or aviation fuel;

26. "Pipeline facilities" means new and existing pipe rights-of-way and any equipment, facilities or buildings regulated under:

a. the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App., 1671, et seq.),

b. the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001, et seq.),

c. the state Hazardous Liquid Transportation System Safety Act, Section 47.1 et seq. of Title 52 of the Oklahoma Statutes, or

d. intrastate pipeline facilities regulated under state law;

27. "Pollution" means contamination or other alteration of the physical, chemical or biological properties of any natural waters of the state, land surfaces or subsurfaces, or atmosphere when such contamination or alteration will or is likely to create a nuisance or render the waters, land or atmosphere harmful or detrimental or injurious to the public health, safety or welfare or the environment;

28. "Regulated substances" means hazardous substances or petroleum which are regulated pursuant to the Oklahoma Storage Tank Regulation Act;

29. "Release" means any spilling, overfilling, or leaking from a storage tank system that goes beyond the excavation zone, tankpit, or secondary containment facility into the environment;

30. “Remediation” means a process or technique used to reduce concentration levels of chemicals of concern in the soil and groundwater, and/or to reduce the presence of free product in the environment to levels that are protective of human health, safety and the environment;

31. “Residual product” means petroleum that is absorbed or otherwise bound to geological materials including, but not limited to, sand, silt, or clay in any soil zone in such a manner that groundwater in contact with the residual product or beneath the residual product is not contaminated with regulated substances;

32. “Responsible person” means a person other than a petroleum storage tank system owner or operator, such as an adjacent property owner, impacted party, city or political subdivision, that is seeking corrective action of real property, and submits to the jurisdiction of the Commission;

33. “Smear zone” means any soil zone containing petroleum that may contaminate groundwater in contact with regulated substances;

34. “Soil zone” means and includes, but is not limited to, vadose zone, capillary fringe, or saturated soil zone;

35. “Storage tank system” means a closed-plumbed system including, but not limited to, the storage tank(s), the lines, the dispenser for a given product, and a delivery truck that is connected to the storage tank system;

36. "Suspicion of release" means preliminary investigative work or assessment performed under a Petroleum Storage Tank Division purchase order to determine if a confirmed release is warranted. The Petroleum Storage Tank Division eligibility process is not required for Petroleum Storage Tank Indemnity Fund reimbursement on a suspicion of release;

37. "Storage tank" means a stationary vessel designed to contain an accumulation of regulated substances which is constructed of primarily non-earthen materials that provide structural support;

38. "Transporter" means any person who transports, delivers or distributes any quantity of regulated substance from one point to another for the purpose of wholesale or retail gain;

39. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Oklahoma or any portion thereof; and

40. "Work plan" means scopes of work necessary to investigate and/or remediate a release from a storage tank system.

SECTION 2. AMENDATORY 17 O.S. 2001, Section 306, as last amended by Section 2, Chapter 435, O.S.L. 2005 (17 O.S. Supp. 2007, Section 306), is amended to read as follows:

Section 306. In addition to other powers and duties prescribed by law, the Corporation Commission shall have the power and duty to:

1. Issue, renew, deny, modify, suspend, refuse to renew and revoke permits for storage tank systems pursuant to the provisions of the Oklahoma Storage Tank Regulation Act and rules promulgated pursuant thereto;

2. Enter at any reasonable time upon any public or private property for the purpose of inspecting and investigating storage tank system monitoring or remediation equipment and taking such samples as may be necessary to determine compliance with the provisions of the Oklahoma Storage Tank Regulation Act, and rules promulgated pursuant thereto;

3. Request issuance of an administrative warrant or search warrant as may be necessary by Commission application after notice and hearing to allow entry, inspection, testing, sampling, or copying on public or private property;

4. Have access to and copy any records required to be maintained pursuant to the provisions of the Oklahoma Storage Tank Regulation Act or rules promulgated pursuant thereto;

5. Inspect any equipment, practice or method prior to implementation which is required by the provisions of the Oklahoma Storage Tank Regulation Act or rules promulgated pursuant thereto;

6. Have access to and inspect any monitoring stations, samples, or conduct tests to identify any actual or suspected release of a regulated substance;

7. Employ or designate personnel to conduct investigations and inspections, to make reports of compliance with the provisions of the Oklahoma Storage Tank Regulation Act and rules promulgated pursuant thereto;

8. Within its discretion, report to the district attorney having jurisdiction or to the Attorney General any act committed by an owner, operator or employee of a facility which may constitute a violation of the provisions of the Oklahoma Storage Tank Regulation Act or rules promulgated pursuant thereto;

9. Advise, consult, assist, and cooperate with other agencies of this state, the federal government, other states and interstate agencies and with affected groups and political subdivisions to further the purposes of the provisions of the Oklahoma Storage Tank Regulation Act;

10. Financially assist other agencies and political subdivisions of the state where the Petroleum Storage Tank Division has jurisdiction;

11. Administer the Storage Tank Program in lieu of the federal government upon approval by the Environmental Protection Agency;

12. Promulgate and enforce rules to implement the provisions of the Oklahoma Storage Tank Regulation Act;

13. Establish minimum standards and schedules for storage tank system;

14. Require any owner or operator of a storage tank system within this state to:

a. submit such reports and information concerning the storage tank system as may be determined necessary by the Commission pursuant to the provisions of the Oklahoma Storage Tank Regulation Act or rules promulgated pursuant thereto,

b. perform tests, install release detection devices, and where appropriate, monitor the environment to ensure that pollution is not occurring,

c. make timely reports to the Commission of pollution, releases, or testing and sampling events at or above Commission action levels,

d. temporarily or permanently cease operation of a storage tank system, modify and immediately remove or control any regulated substance that is found to be causing pollution when such cessation, removal or control is determined to be necessary by the Commission,

e. provide an alternate or temporary drinking water source to any person deprived of drinking water if it is found that such owner or operator is responsible

for polluting the drinking water source beyond applicable drinking water standards, or where no such standard exists, such standard as the Department of Environmental Quality shall determine,

f. take full corrective action if such owner or operator is found to be responsible for the release, and

g. take appropriate action to temporarily relocate residents affected by the release;

15. Establish and enforce administrative penalties for violations pursuant to the provisions of the Oklahoma Storage Tank Regulation Act, including issuance of field citations by designated personnel for violations of the Oklahoma Storage Tank Regulation Act, including but not limited to the authority to close a facility found to pose an imminent threat to the health, safety or the environment, to be operating a storage tank system for which permit fees have not been paid, or to be operating a storage tank system with an outstanding unpaid field citation or fine. Issuance or payment of field citations shall in no way preclude other enforcement proceedings, administrative penalties, fines or order of the Commission if an owner or operator fails to correct a violation or abate a threat to health, safety or the environment in a reasonable manner, as determined by the Commission. If a citation is issued or a facility is closed under the provisions of the Oklahoma Storage Tank Regulation Act, the owner or operator of the

facility on application to the Commission shall be afforded a hearing within ten (10) days of filing an application. Any penalties or fines assessed pursuant to this section shall be established by the Commission by rules promulgated pursuant to the Administrative Procedures Act;

16. Institute and maintain or intervene in any action or proceeding where deemed necessary by the Commission pursuant to the provisions of the Oklahoma Storage Tank Regulation Act to protect the health, safety and welfare of any resident of this state or the environment;

17. Prepare an emergency response plan for spills or releases of regulated substances or review emergency response plans developed outside the Commission;

18. Establish a schedule of fees for issuance of any permit required pursuant to the provisions of the Oklahoma Storage Tank Regulation Act. The fees shall be in an amount to cover the costs of the Commission in administering the Oklahoma Storage Tank Regulation Act. Payment of the permitting fees for any storage tank system required pursuant to the provisions of the Oklahoma Storage Tank Regulation Act or to rules promulgated pursuant thereto shall prohibit the assessment of additional licensing or permitting fees for such storage tank systems by any other agency or municipality of this state;

19. Create and implement an internally coordinated management system between the Storage Tank Regulation Program and the Oklahoma Petroleum Storage Tank Release Indemnity Program;

20. When necessary, economically advantageous, reasonable and integral to a remediation effort or to establish an alternative water supply, the Petroleum Storage Tank Division may purchase real property and easements, and if an owner/operator is unwilling, unknown, unavailable or financially unable, the Petroleum Storage Tank Division may arrange for the design, construction and operation of an alternative water supply system conjunctive with a remediation effort and/or the establishment of an alternative water supply with funds from the Petroleum Storage Tank Indemnity Fund. Provided, no real property shall be purchased by the Commission pursuant to this paragraph which will impose liability on the Petroleum Storage Tank Indemnity Fund or on the state for environmental claims or hazards. Disposition of property purchased by the Petroleum Storage Tank Indemnity Fund shall be made pursuant to the provisions of Section 129.4 of Title 74 of the Oklahoma Statutes. Proceeds from any sale shall be deposited to the credit of the Petroleum Storage Tank Indemnity Fund; ~~and~~

21. Implement and coordinate an Underground Storage Tank Operator Training Program pursuant to the provisions of Section 4 of this act, issue annual permits related thereto and assess any fees necessary for such training and permitting; and

22. Exercise all incidental powers as necessary and proper for the administration of the Oklahoma Storage Tank Regulation Act.

SECTION 3. AMENDATORY 17 O.S. 2001, Section 309, as amended by Section 6, Chapter 435, O.S.L. 2005 (17 O.S. Supp. 2007, Section 309), is amended to read as follows:

Section 309. A. No owner or operator, employee or agent of such owner or operator, or transporter shall knowingly allow a release from a storage tank system to occur or continue to occur without reporting the release to the Corporation Commission within twenty-four (24) hours upon discovering such a release.

B. The owner or operator of a storage tank system shall immediately take all reasonable corrective actions necessary to prevent a release or a threatened release of regulated substances from a storage tank system and to abate and remove any such releases subject to applicable federal and state requirements. The Corporation Commission shall require that any corrective action taken by a storage tank system owner or operator or authorized by the Commission shall be in compliance with all applicable state statutes and rules and federal laws and regulations for the protection of air quality and water quality and for the transportation and disposal of any waste.

C. If there is a release from a storage tank system, the Commission may~~:~~

~~1. After notice and hearing pursuant to Section 310 of this title, order Require the owner or operator to take reasonable and necessary corrective actions; or~~

~~2. Without notice and hearing pursuant to Section 310 of this title,~~ issue an administrative order stating the existence of an emergency and requiring that such action be taken as ~~it~~ the Commission deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such an order is directed shall comply with ~~said~~ the order immediately but on application to the Commission shall be afforded a hearing within ten (10) days after receipt of the administrative order. On the basis of such hearing, the Commission shall continue such order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided for in this subsection may appeal to the Supreme Court as provided in Section 318 of Title 75 of the Oklahoma Statutes. Such appeal when docketed shall have priority over all cases pending on ~~said~~ the docket; and

3. Require an owner, operator, or responsible person to submit investigation, remediation or other corrective action plans to the Petroleum Storage Tank Division of the Corporation Commission for preapproval prior to initiating such investigation, remediation, or other corrective action.

D. 1. The Commission may take corrective action if:

a. an owner or operator of the storage tank system cannot be identified,

b. an identified owner or operator cannot or will not comply with the order issued pursuant to subsection C of this section,

c. an administrative or judicial proceeding on an order issued pursuant to subsection C of this section is pending and the Commission determines corrective action is necessary to protect the public health, safety and welfare or the environment until the administrative or judicial proceeding is resolved, or

d. the Commission determines that the release constitutes a danger requiring immediate action to prevent, minimize or mitigate damage to the public health and welfare or the environment. Before taking an action under this paragraph, the Commission shall make all reasonable efforts, taking into consideration the urgency of the situation, to afford an owner or operator notice and hearing to take a corrective action and notify the owners or occupants of adjacent or affected real property as specified by Section 310 of this title.

2. The owner or operator is liable for the cost of any corrective action taken by the Commission pursuant to this

subsection, including the cost of investigating the release and administrative and legal expenses, if:

a. the owner or operator has failed to take a corrective action ordered by the Commission and the Commission has taken the corrective action, or

b. the Commission has taken corrective action in an emergency pursuant to subparagraph d of paragraph 1 of this subsection.

3. Reasonable and necessary expenses incurred by the Commission in taking a corrective action, including costs of investigating a release and administrative and legal expenses, may be recovered by application to the Commission with notice and hearing pursuant to Section 311 of this title. The Commission's certification of costs incurred is prima facie evidence that the costs incurred are reasonable and necessary. The Commission shall be entitled to apply for and receive payment from the Indemnity Fund Program on behalf of an eligible person for an eligible release upon any site upon which the Commission has taken corrective action. Such payments shall be deemed to be reimbursement of the eligible person. Costs incurred that are recovered under this subsection shall be deposited in the Corporation Commission Storage Tank Regulation Revolving Fund.

E. Any order issued by the Commission pursuant to this section shall not limit the liability of the owner or operator or both such owner or operator for any injury, damages, or costs incurred by any

person as a result of the release. The owner or operator shall not avoid any liability, statutory environmental responsibility imposed by ~~this act~~ Section 301 et seq. of this title; or as a result of such release by means of a conveyance of any right, title or interest in real property; or by any indemnification, hold harmless agreement, or similar agreement.

1. This subsection does not:

a. prohibit a person who may be liable from entering an agreement by which the person is insured, held harmless, or indemnified for part or all of the liability,

b. prohibit the enforcement of an insurance, hold harmless, or indemnification agreement, or

c. bar a cause of action brought by a person who may be liable or by an insurer or guarantor, whether by right of subrogation or otherwise.

2. Except as otherwise provided by law, if there is more than one person liable, such persons shall be jointly liable for any injury, damages, or costs.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 319 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Corporation Commission is authorized to implement, or contract for, an Underground Storage Tank Operator Training Program

as required to comply with the provisions of the federal Energy Policy Act of 2005.

B. The Commission may develop a training program within their agency or contract with an associated industry group or any other qualified entity it deems appropriate to fulfill the requirements of federal law or the provisions of this section.

C. Operators of underground storage tanks shall complete a training program commensurate with their responsibility for the operation of underground storage tanks. The training program shall be approved by the Commission and encompass three levels of training as follows:

1. Persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

2. Persons having daily on-site responsibility for the operation and maintenance of underground storage tank systems;

3. Daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank.

D. Storage tank operators shall demonstrate completion of the training program required by the Commission to obtain an annual permit for the operation of underground storage tanks.

E. Operators of underground storage tank systems shall repeat the applicable training if the tank for which they have primary

daily on-site management responsibilities is determined to be out of compliance with a requirement or order of the Commission.

F. Payments for administrative, technical and legal costs incurred in carrying out the provisions of this section may be paid from monies in the Corporation Commission Storage Tank Regulation Revolving Fund, created in Section 315 of Title 17 of the Oklahoma Statutes, including the costs of any additional employees, contracting or increased general operating costs of the Commission which are attributable to the requirements of this section. Such costs shall not be payable from any monies other than those credited to the Corporation Commission Storage Tank Revolving Fund and shall not exceed Two Hundred Fifty Thousand Dollars ($250,000.00) annually. The Commission may assess any fees necessary to implement the provisions of this section.

G. This section shall be part of and supplemental to the Oklahoma Storage Tank Regulation Act and the Commission is authorized to promulgate any rules necessary to comply with the provisions of this section.

SECTION 5. AMENDATORY 17 O.S. 2001, Section 365, as last amended by Section 3, Chapter 109, O.S.L. 2007 (17 O.S. Supp. 2007, Section 365), is amended to read as follows:

Section 365. A. There is hereby created in the State Treasury a fund for the Corporation Commission to be designated the "Oklahoma Leaking Underground Storage Tank Trust Fund". The fund shall be a

continuing fund, not subject to fiscal year limitations, and shall consist of loans and grants from the federal government and any state matching funds required by the federal government with regard to underground storage tanks.

B. There is hereby created in the State Treasury a revolving fund for the Corporation Commission to be designated the "Oklahoma Leaking Underground Storage Tank Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies from public or private sources, and any monies collected pursuant to the provisions of this section.

C. All monies accruing to the credit of the Oklahoma Leaking Underground Storage Tank Trust Fund and the Oklahoma Leaking Underground Storage Tank Revolving Fund are hereby appropriated and may be budgeted and expended by the Corporation Commission only for the purpose provided in this section, to best protect human health and the environment. Expenditures from ~~said~~ the funds shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

D. The Corporation Commission is hereby given the power and authority to receive, administer and authorize payments from the Oklahoma Leaking Underground Storage Tank Trust Fund and the Oklahoma Leaking Underground Storage Tank Revolving Fund. The Commission shall establish separate accounts and subaccounts within

the Oklahoma Leaking Underground Storage Tank Trust Fund and the Oklahoma Leaking Underground Storage Tank Revolving Fund deemed necessary to implement the provisions of this section.

E. ~~The Corporation Commission may make expenditures from the Oklahoma Leaking Storage Tank Revolving Fund for payment of costs incurred by any appropriate state agency for corrective actions, enforcement actions and cost recovery actions undertaken as necessary to protect human health and the environment as set out in Subchapter IX of Title 42 of the United States Code.~~

~~F.~~ For the purpose of immediately responding to emergency situations created by leaking underground storage tanks having potentially critical environmental or public health or safety impact, the Corporation Commission may take whatever action it deems necessary without notice or hearing, including the expenditure of monies from either the Oklahoma Leaking Underground Storage Tank Trust Fund or the Oklahoma Leaking Underground Storage Tank Revolving Fund or from both such funds to promptly respond to the emergency.

~~G.~~ F. 1. The Corporation Commission shall seek reimbursement from the responsible person, firm or corporation for all expenditures made from either the Oklahoma Leaking Underground Storage Tank Trust Fund or the Oklahoma Leaking Underground Storage Tank Revolving Fund or from both such funds. All monies received by the Corporation Commission as reimbursement or penalties relating to

expenditures made from the Oklahoma Leaking Underground Storage Tank Trust Fund or Oklahoma Leaking Underground Storage Tank Revolving Fund shall be transferred for deposit to the credit of the Oklahoma Leaking Underground Storage Tank Revolving Fund. All monies received by the Corporation Commission as reimbursement or penalties relating to expenditures made from the Oklahoma Corporation Commission Storage Tank Regulation Revolving Fund shall be transferred for deposit to the Oklahoma Corporation Commission Storage Tank Regulation Revolving Fund.

2. The owner or operator is liable for the cost of the corrective action taken by the Corporation Commission pursuant to this subsection, including the cost of investigating the release and administrative and legal expenses, if:

a. the owner or operator has failed to take a corrective action ordered by the Commission and the Commission has taken the corrective action, or

b. the Administrator has taken corrective action in an emergency.

3. Reasonable and necessary expenses incurred by the Commission in taking a corrective action, including costs of investigating a release and administrative and legal expenses, may be recovered in an administrative proceeding. The Commission's certification of expenses is prima facie evidence that the expenses are reasonable and necessary. Expenses that are recovered under this subsection

shall be deposited in the Oklahoma Leaking Underground Storage Tank Revolving Fund.

~~H.~~ G. Any owner or operator of an underground storage tank who fails to comply with any order issued by the Corporation Commission for corrective or enforcement actions may be subject to an administrative penalty not to exceed Twenty-five Thousand Dollars ($25,000.00) for each underground tank for each day of violation.

The administrative penalties assessed and collected by the Corporation Commission shall be deposited to the Oklahoma Leaking Underground Storage Tank Revolving Fund to be disbursed by the Commission in support of relevant agency activities.

SECTION 6. This act shall become effective July 1, 2008.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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