

## MINUTES

### MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

#### CONFERENCE COMMITTEE ON SENATE BILL 386

Call to Order: By CHAIRMAN GERRY DEVLIN, on April 10, 1995, at 3:40 p.m.

#### ROLL CALL

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Rep. Robert R. Story, Jr., Vice Chairman (R)  
Sen. William S. Crismore (R)  
Sen. Jeff Weldon (D)  
Rep. Lila V. Taylor (R)  
Rep. Emily Swanson (D)

**Members Excused:** none.

**Members Absent:** none.

**Staff Present:** Michael S. Kakuk, Legislative Council  
Tina Price, Secretary

**Discussion:** CHAIRMAN GERRY DEVLIN reported the House amendments were flawed to the extent a Conference Committee would have been necessary even if the Senate had accepted the amendments.

CHAIRMAN DEVLIN insisted he was unwilling to accept the House amendments. A compromise had been made with the Department of Health and Environmental Sciences where they would no longer regulate noncommercial, underground storage tanks less than 1100 gallons. He explained the reasoning for the deregulation was federal law exempted those tanks from the EPA regulations. He told the Committee he had introduced a bill last session which dealt with the window of opportunity to remove the noncommercial tanks. The legislation had succeeded in encouraging the removal of about 2,000 tanks between April 25 and December 31. He reported there were close to 2500 tanks left and expressed a desire to encourage the owners to remove the remaining tanks. He related that was the goal of SB 386. He believed if people no longer had the Compensation Board to back them up in addition to the approval and deep pocket of the state perhaps the underground storage tanks would be removed and never replaced. Senate Bill 386 still provided a means to qualify for the underground storage tank compensation monies for removal of a storage tanks before the end of 1995. After that date there would be no compensation available. CHAIRMAN DEVLIN reported he had discussed the concept

with the Department and they had come to the consensus that the Department should no longer be involved.

**SEN. BILL CRISMORE** asked if the committee rejected the House amendments would they still need to do work on the bill in its entirety. **CHAIRMAN DEVLIN** replied the amendments which would remain would be amendments he had requested in the House to clarify the tanks affected under SB 386 were residential and noncommercial.

**Motion:** **SEN. JEFF WELDON MADE THE MOTION TO REJECT REP. TAYLOR'S AMENDMENTS AND ACCEPT THE AMENDMENTS OFFERED BY REP. KNOX.**

**Discussion:** **REP. LILA TAYLOR** reported there was concern on the House floor SB 386 would not pass. She believed the bill was important because it provided a window of opportunity to remove the remaining underground storage tanks. She explained she had amended the bill to satisfy the concerns of those who were not comfortable with deregulating all tanks under 1100 gallons. She added the amendments had been proposed to save the bill. She accounted the Health Department had been present during the drafting of the amendments and had explained why the tanks underground needed to be incorporated after the date. Any tanks that were not removed during the window of opportunity would not be regulated, however, any tanks placed underground after that period would be regulated.

**CHAIRMAN DEVLIN** questioned the stipulations placed on underground tanks which would be regulated.

**REP. TAYLOR** stated much of the opposition and insistence on amendments had come from the realtors' point of view. **REP. ROBERT STORY** noted there was widespread concern regarding deregulation of tanks. There were problems with the tanks that deregulation would not solve.

**CHAIRMAN DEVLIN** alleged the tag placed on the tank to regulate it would not guarantee it wouldn't leak.

**REP. EMILY SWANSON** recalled the discussion in the House and related Cliff Trexler had expressed concern that realtors selling a piece of property with an unregulated underground tank would have no way to guarantee a safe product to the buyer. **SEN. WELDON** question how jurisdictions which do not regulate the small tanks address the realtor guarantee issue. Federal standards did not require regulation and many other states did not regulate the tanks. **SEN. DEVLIN** stated several other states did not demand coverage of 1100 gallon noncommercial tanks due to the EPA exempting them. **REP. SWANSON** asked how realtors dealt with the issue currently and what would happen if the tanks were completely unregulated. **Jean Riley, Department of Health and Environmental Sciences** replied under current law when a new tank went underground there were requirements and standards which had to be met. She noted the number of states regulating small tanks

was on the increase. **Ms. Riley** explained realtors were concerned because a buyer is required to do due diligence and if there is a tank on the property it automatically goes into the property assessment which could get expensive. **CHAIRMAN DEVLIN** declared the issue of regulation had always puzzled him because there was no requirement to give a legal description of where the tanks were located. How could a tank be compensated for when no one was sure exactly where it is located? **Jean Riley** replied the property owner would disclose that a tank was on the property when the tank was registered. **CHAIRMAN DEVLIN** noted disclosure did not indicate exactly where the tank was.

**Ralph Gessaman, Release Prevention Program Manager, Underground Storage Tanks, Department of Health and Environmental Sciences,** reported when a tanks was removed a permit was issued and the removal must either be performed by a licensed remover or a licensed inspector must be present to provide a third party witness to the removal of the tank. **CHAIRMAN DEVLIN** inquired how many of the removed tanks were actually leaking. **Mr. Gessaman** replied 2369 tanks were removed and 33 reported leaks, prior to that period about 25% of the tanks had been leaking. **CHAIRMAN DEVLIN** attributed the decrease in reported leaks to tanks being removed earlier than they normally would have been. **Mr. Gessaman** added prior to that period there would have been no assurance owners recognized leakage; those reported were ones with obvious leaks.

**REP. SWANSON** clarified the window of opportunity would allow owners avoid the certification process when removing a tank. She inquired how a realtor clarified the closure under a circumstance like the window of opportunity. She also asked what criteria would exist for the regulation of the tanks if SB 386 passed in its current amended form. **Mr. Gessaman** explained the window of opportunity would allow a tank owner to voluntarily comply until the end of the year. The owner or operator of the tank would still have to go through the normal permitting process and comply with all the Department's rules. In effect the bill would provide for all storage tanks underground as of the effective date of the bill would be deregulated. The owner could choose to come to the Department and go through the normal procedure to remove a tank and the Department would test the soil and notify the owner if there was a problem. **REP. SWANSON** inquired how a realtor would verify the safety of a tank if a property owner did not choose to apply to the Department for voluntary compliance. **Mr. Gessaman** reported many states contact a consultant and the consultant would do whatever the bank deemed necessary; that process increased costs considerably. **Mr. Gessaman** expounded if a tank was installed after the effective date of the bill, potentially the owner would have to get a permit. The Department would make sure the tank was compatible with the product to be stored to allow the tank to resist corrosion. The owner would be required to pay the registration fee, to stick the tank once a year to check for leakage, and would be eligible to apply to the Board for the release. The amendments would prevents the

legislature from deciding 10 or 15 years from now that there was too many problems with the tanks and decide to regulate them. The owners would be back in the same situation they are currently in.

**SEN. WELDON** clarified the House amendments regulated any new tanks and the new tanks would have to meet certain requirements. **CHAIRMAN DEVLIN** admitted the requirements would act as a big disincentive. He stated he could not understand anyone wanting to place a storage tank back underground, although, he noted, fire marshals were concerned about the above ground tanks. **Mr. Gessaman** speculated farmers would probably opt to go back underground due to evaporative loss. **CHAIRMAN DEVLIN** explained under current law the state's deep pocket was behind people who owned land with an underground storage tank; the state guarantees the tank will always be taken care of. He had sought to change the situation through SB 386.

**REP. TAYLOR** asked the cost of permitting a new tank. **Mr. Gessaman** stated the Department charged \$50 + ½ cent per gallon. In addition, a licensed installer must install the tank and generally charges an hourly rate. The expense involved in installing an underground tank has increased; in part, the increase comes from the risk run by the insurance companies who insure the installer. If a person wished to install their own tank either a county inspector, \$32/hour (80% of the charges are returned to the county to cover the cost of travel, equipment, and time), or a Department Inspector, \$35/hour, must be present. The inspector must be present the entire time to ensure a number of things: the tank was installed correctly and with proper materials, the tank is lifted properly, not drug or dropped, and bedded with the proper materials. **REP. TAYLOR** clarified if a rancher desired to place his tanks underground not only would he have to obtain the permit but he would also have to pay someone else to install the tank or pay the Department to send an inspector to certify the installation was performed correctly. **Mr. Gessaman** reported installation was a vital part of leak prevention; 70% of leaks appear to be caused by improper installation. He stressed there were a number of minor details when overlooked could lead to leaking tanks. **Mr. Gessaman** explained licensed installers had strict requirements. They must pass an examination and complete 16 hours of education every 3 years in order to keep current on the Department's requirements. The law provides that if an installer does not meet the 16 hour education requirement, the installer has the option of taking the exam again.

**REP. TAYLOR** exclaimed the requirements for a regulated tank were enough to scare anyone. She asked how the Department would differentiate from an old tank which does not require regulation and the newer tanks. How would a distributor know which tanks required tags as proof of regulation. **Mr. Gessaman** admitted it would require a lot of work on the Departments part. The Department currently worked with fuel distributors since they are

responsible to check for tags which are currently nothing more than a registration process. Distributors would know the new customers from the old customers. Tank manufacturers also notify the Department of the buyer of a new tank.

**REP. STORY** noted if all small tanks were deregulated a person could put anything underground, including a 55 gallon drum. **CHAIRMAN DEVLIN** reported a person could do that with or without regulation. He explained his goal had been to encourage the removal of the tanks and discourage the reinstallation. He had never understood the significance of registering the tanks without a legal description of their location. **Mr. Gessaman** reported the Department had the capability of tracking longitude and latitude and had been looking into doing that. He explained the process was simple with GIS but the equipment cost \$700 to get the readings. With the GIS process the Department can track within 3 meters of the site.

**SEN. WELDON** speculated if tanks were deregulated would the Department have the ability to provide information to people considering a underground storage tank.

**Mr. Gessaman** stated the capability was there but funding was not. In addition, fire marshals were discouraging above ground tanks causing farmers to seek alternatives.

**REP. TAYLOR** stated she was distressed to discover the cost of installing an underground tank under regulations. **Mr. Gessaman** explained the cost was not unreasonable; \$50 + ½ cent per gallon and \$32-\$35 per hour for about a total of 8 hours. If a tank leaked the cost would be much more. **REP. TAYLOR** noted 8 hours at \$32 was \$250. She asked why the Department could not educate a person well enough to install it themselves. **Mr. Gessaman** explained there were many technical details involved. He expounded the use of river sand instead of clean wash sand would set up the tank for quick corrosion.

**REP. STORY** stated he did not understand the problem with allowing existing tanks to stay there unregulated or be removed before the end of the year and be covered and regulate only new tanks going in. He noted the House Amendments seemed to serve **CHAIRMAN DEVLIN'S** intent of the bill. Regulation and permitting of new tanks would discourage their installation. He did not see how deregulation would discourage the installation. People would be more likely to go underground because of increased pressure from fire marshals. He stated he could not support allowing people to install tanks without regulation and did not believe telling them they would be responsible for leaks would discourage them. Chances were the person who had the tank installed would be long gone before any leaks were discovered.

**REP. SWANSON** asked if the House amendments reinstituted the fund. **CHAIRMAN DEVLIN** explained the reimbursement fund was the only part of the fund which expired at the end of the year. **SEN.**

**CRISMORE** speculated with deregulation sometime down the road people would again have to spend extra money getting the tanks removed. **CHAIRMAN DEVLIN** commented farmers would have to make a choice. Fire marshals were putting the squeeze on above ground tanks and underground tanks were a problem.

**REP. SWANSON** declared she favored the House amendments because they seemed to be the middle ground allowing the opportunity for voluntary compliance for old tanks. The amendments acknowledged the tension between above and below ground tanks and required underground tanks to be installed correctly. She noted there was no simple and clean solution to take away the expense and hassle.

**CHAIRMAN DEVLIN** asked if some sort of notification would be distributed to underground storage tank owners regarding the provisions of SB 386. **Mr. Gessaman** stated after the Governor signed the bill every underground storage tank owner with an 1100 gallon tank or smaller of record would be notified of the changes to the law via a letter. The Department would also place legal notices in the major newspapers.

**REP. STORY** summarized the cost of installing a new tank would be approximately \$55 for a permit, \$250 for an inspection, plus the cost of the tank which was about \$1 per gallon.

**CHAIRMAN DEVLIN** asked if the bill would pass the House without the amendments. **REP. TAYLOR** stated she would have never changed the bill if she had thought it would pass without amendments.

**REP. STORY** noted several people thought the amendment provided for the regulation of all 1100 gallon tanks.

**CHAIRMAN DEVLIN** informed the committee there were technical changes that needed to be made to the amendments if they remained on the bill.

**Vote:** The motion to **REFUSE REP. TAYLOR'S AMENDMENT AND EMBRACE REP. KNOX'S AMENDMENT** failed with **SEN. WELDON AND REPRESENTATIVES STORY, TAYLOR, AND SWANSON VOTING NO.**

**Motion:** **REP. SWANSON MADE THE MOTION AMENDMENTS SB038603.AMK, EXHIBIT 1, BE ADOPTED.**

**Discussion:** **Michael Kakuk** explained Amendment SB038603.AMK was necessary due to a drafting error in the House amendments. Because of the error septic tanks would be included as underground storage tanks. He explained Amendment SB038603.AMK would correct that.

**Vote:** The motion **CARRIED UNANIMOUSLY.**

**Discussion:** **CHAIRMAN DEVLIN** stated he did not want the bill to die. **Mr. Gessaman** informed the committee the Department rules require all existing tanks to be upgraded with corrosion

protection by 1998. He summarized the choice would be to replace the tank under the window of opportunity or pay for the corrosion protection.

SEN. WELDON reiterated the goal of SB 386 was to deter people from installing underground tanks. The requirements and costs with the House amendment may prevent some people from installing the tanks. He added the window of opportunity for removing the tanks was important enough that if the bill would not pass the House without the amendment it would be worth it to leave the amendment.

Motion/Vote: SEN. WELDON MADE THE MOTION TO ADOPT THE HOUSE AMENDMENTS (BOTH THE TAYLOR AND KNOX AMENDMENTS) AS AMENDED. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: CHAIRMAN GERRY DEVLIN adjourned the meeting at 4:50  
p.m.

  
CHAIRMAN GERRY DEVLIN, Chairman

  
TINA PRICE, Secretary

GD/tp



Conference Committee  
on SB 386  
Report No. 1, April 11, 1995

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on SB 386, met and considered:

House Committee of the Whole amendments to the third reading copy -- blue, dated March 30, 1995.

We recommend that SB 386 (reference copy, second printing as amended -- salmon) be amended as follows:

1. Page 3, lines 14 and 15.

Strike: first "THE" on line 14 through "ACT]"

2. Page 3, lines 16 and 18.

Strike: "with"

Insert: "that was installed as of [the effective date of this act], that has"

Following: "less"

Insert: ", and"

3. Page 3, line 20.

Following: "pipes"

Insert: "that were installed as of [the effective date of this act] and that are"

4. Page 7, lines 22 and 23.


Strike: "AND" on line 22 through "TERMINATE" on line 23

Insert: "]" terminates"


And that this Conference Committee report be adopted.

For the Senate:

Devlin

  
Chair

Crismore




Weldon




And. Coord.

For the House:

Story

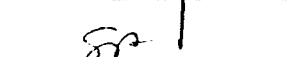
  
Chair

Taylor



Swanson



  
Sec. of Senate

ADOPT

REJECT

830903CC.SPV

Amendments to Senate Bill No. 386  
Reference Copy

For the SB 386 Conference Committee

Prepared by Michael S. Kakuk  
April 10, 1995

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Insert: "]" terminates"



## HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 386  
Representative Taylor

March 30, 1995 12:45 pm  
Page 1 of 2

Mr. Chairman: I move to amend Senate Bill 386 (third reading copy -- blue).

Signed: *Taylor*  
Representative Taylor

And, that such amendments to Senate Bill 386 read as follows:

1. Title, line 4.

Following: "EXEMPTING"

Insert: "CERTAIN"

2. Title, line 7.

Following: "EXCLUDING"

Insert: "CERTAIN"

3. Title, line 10.

Following: "75-10-403,"

Insert: "AND"

Following: "75-10-209,"

Insert: "AND 75-11-307,"

4. Page 3, line 14.

Following: "include"

Insert: "the following tanks or pipes installed as of [the  
effective date of this act]"

5. Page 4, line 19 through page 6, line 23.

Strike: section 3 in its entirety

Renumber: subsequent sections

6. Page 6, lines 27 and 29.

Following: "TANK"

Insert: "installed as of [the effective date of this act]"

7. Page 7, line 2.

ADOPT

74-11

SB 386

REJECT

HOUSE

Following: "PIPES"

Insert: "installed as of [the effective date of this act]"

8. Page 7, line 6.

Strike: "EXCEPT" through "IF"

Insert: "If"

9. Page 7, lines 9 and 10.

Strike: subsection (3) in its entirety

10. Page 7, lines 14, 16, and 20.

Strike: "4"

Insert: "3"

-END-



## HOUSE STANDING COMMITTEE REPORT

March 21, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 386 (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

*Dick Knox*

*Dick Knox, Chair*

Carried by: Rep. Orr

And, that such amendments read:

1. Page 6, line 27.

Following: "RESIDENTIAL"

Insert: "underground storage"

2. Page 6, line 29.

Following: "RESIDENTIAL"

Insert: "underground storage"

- END -

SB 386

Committee Vote:  
Yes 10, No 2

HOUSE

## SENATE BILL NO. 386

INTRODUCED BY DEVLIN, SWYSGOOD, ZOOK, GRINDE, AKLESTAD, L. NELSON, TVEIT

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN CAPACITY FROM THE MONTANA HAZARDOUS WASTE AND UNDERGROUND STORAGE TANK ACT; EXCLUDING CERTAIN NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN CAPACITY FROM REIMBURSEMENT FOR EXPENSES CAUSED BY A RELEASE; CREATING A VOLUNTARY COMPLIANCE PROCEDURE FOR REIMBURSEMENT; AMENDING SECTIONS 75-10-403, AND 75-11-209, ~~AND 75-11-307~~, MCA; REPEALING SECTION 75-11-217, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 75-10-403, MCA, is amended to read:

**"75-10-403. Definitions.** Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any regulated substance or hazardous waste into or onto the land or water so that the regulated substance, hazardous waste, or any constituent of the regulated substance or hazardous waste may enter the environment or be emitted into the air or discharged into any waters, including ground water.

(4) "Facility" or "hazardous waste management facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units.

(5) "Generation" means the act or process of producing waste material.

(6) "Generator" means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation under this part.

1 (7) (a) "Hazardous waste" means a waste or combination of wastes that, because of its quantity,  
2 concentration, or physical, chemical, or infectious characteristics, may:

3 (i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible  
4 or incapacitating reversible illness; or

5 (ii) pose a substantial present or potential hazard to human health or the environment when  
6 improperly treated, stored, transported, or disposed of or otherwise managed.

7 (b) Hazardous wastes do not include those substances governed by Title 82, chapter 4, part 2.

8 (8) "Hazardous waste management" means the management of the collection, source separation,  
9 storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

10 (9) "Hazardous waste transfer facility" means any land, structure, or improvement, including  
11 loading docks, parking areas, holding sites, and other similar areas, used for the transfer and temporary  
12 storage of hazardous wastes and where shipments of hazardous waste are temporarily held for a period  
13 of 10 days or less during the normal course of transportation up to but not including the point of ultimate  
14 treatment, storage, or disposal.

15 (10) "Manifest" means the shipping document originated and signed by the generator and ~~which~~  
16 that is used to identify the hazardous waste, and its quantity, origin, and destination during its  
17 transportation.

18 (11) "Person" means the United States, an individual, firm, trust, estate, partnership, company,  
19 association, corporation, city, town, local governmental entity, or any other governmental or private entity,  
20 whether organized for profit or not.

21 (12) "Regulated substance":

22 (a) means:

23 (i) a hazardous substance as defined in 75-10-602; or

24 (ii) petroleum, including crude oil or any fraction ~~thereof~~ of crude oil, ~~which that~~ is liquid at  
25 standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute);

26 (b) does not include a substance regulated as a hazardous waste under this part.

27 (13) "Storage" means the actual or intended containment of regulated substances, hazardous  
28 wastes, or both, either on a temporary basis or for a period of years.

29 (14) "Transportation" means the movement of hazardous wastes from the point of generation to  
30 any intermediate points and finally to the point of ultimate storage or disposal.

1 (15) "Transporter" means a person engaged in the offsite transportation of hazardous waste by  
2 air, rail, highway, or water.

3 (16) "Treatment" means a method, technique, or process, including neutralization, designed to  
4 change the physical, chemical, or biological character or composition of any hazardous waste so as to  
5 neutralize the waste or so as to render it nonhazardous, safer for transportation, amenable for recovery,  
6 amenable for storage, or reduced in volume.

7 (17) "Underground storage tank":

8 (a) means, except as provided in subsections (17)(b)(i) through ~~(17)(b)(viii)~~ (17)(b)(xi):

9 (i) any one or combination of tanks used to contain a regulated substance, the volume of which  
10 is 10% or more beneath the surface of the ground; and

11 (ii) any underground pipes used to contain or transport a regulated substance and connected to  
12 a storage tank, whether the storage tank is entirely ~~above ground~~ aboveground, partially ~~above ground~~  
13 aboveground, or entirely underground;

14 (b) does not include THE FOLLOWING TANKS OR PIPES INSTALLED AS OF [THE EFFECTIVE DATE  
15 OF THIS ACT]:

16 (i) a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor  
17 fuel for noncommercial purposes;

18 (ii) a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing heating  
19 oil for consumptive use on the premises where it is stored;

20 (iii) farm or residential underground pipes used to contain or to transport motor fuels for  
21 noncommercial purposes or heating oil for consumptive use on the premises where it is stored from an  
22 aboveground storage tank with a capacity of 1,100 gallons or less;

23 ~~##~~(iv) a septic tank;

24 ~~###~~(v) a pipeline facility, ~~{including gathering lines}~~, regulated under:

25 (A) the Natural Gas Pipeline Safety Act of 1968, ~~{49 U.S.C. 1671, et seq.}~~;

26 (B) the Hazardous Liquid Pipeline Safety Act of 1979, ~~{49 U.S.C. 2001, et seq.}~~; or

27 (C) state law comparable to the provisions of law referred to in subsection ~~{17}(b)(ii)(A)}~~  
28 (17)(b)(v)(A) or ~~{17}(b)(ii)(B)}~~ (17)(b)(v)(B), if the facility is intrastate;

29 ~~####~~(vi) a surface impoundment, pit, pond, or lagoon;

30 ~~{iv}~~(vii) a storm water or wastewater collection system;



- 1       ~~(v)~~(viii) a flow-through process tank;
- 2       ~~(vi)~~(ix) a liquid trap or associated gathering lines directly related to oil or gas production and
- 3 gathering operations;
- 4       ~~(vii)~~(x) a storage tank situated in an underground area, such as a basement, cellar, mine, draft,
- 5 shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor; or
- 6       ~~(viii)~~(xi) any pipe connected to a tank described in subsections (17)(b)(i) through ~~(17)(b)(vi)~~
- 7 (17)(b)(ix)."

8

9       Section 2. Section 75-11-209, MCA, is amended to read:

10       "75-11-209. Permits -- requirement for licensed installer. (1) A person may not install or close, or

11 cause to be installed or closed, an underground storage tank system without a permit issued by the

12 department as provided in 75-11-212.

13       (2) In addition to obtaining a permit, an owner or operator shall obtain the services of a licensed

14 installer for the installation or closure of an underground storage tank system unless the installation or

15 closure is:

- 16       ~~(a)~~ inspected by a department inspector or a designated local inspector as provided in 75-11-213;
- 17       or
- 18       ~~(b) exempt from the requirement for a licensed installer, as provided in 75-11-217."~~

19

20       Section 3. ~~Section 75-11-307, MCA, is amended to read:~~

21       ~~"75-11-307. Reimbursement for expenses caused by a release. (1) Subject to the availability of~~

22 ~~money from the fund under subsection (5), an owner or operator who is eligible under 75-11-308 and~~

23 ~~complies with 75-11-309 and any rules adopted to implement these sections must be reimbursed by the~~

24 ~~board from the fund for the following eligible costs caused by a release from a petroleum storage tank:~~

- 25       ~~(a) corrective action costs; and~~
- 26       ~~(b) compensation paid to third parties for bodily injury or property damage.~~

27       ~~(2) An owner or operator may not be reimbursed from the fund for the following expenses:~~

- 28       ~~(a) corrective action costs or the costs of bodily injury or property damage paid to third parties that~~
- 29 ~~are determined by the board to be ineligible for reimbursement;~~
- 30       ~~(b) costs for bodily injury and property damage, other than corrective action costs, incurred by the~~

1 owner or operator;

2 (c) ~~penalties or payments for damages incurred under actions by the department, board, or federal,~~  
3 ~~state, local, or tribal agencies or other government entities involving judicial or administrative enforcement~~  
4 ~~activities and related negotiations;~~

5 (d) ~~attorney fees and legal costs of the owner, operator, or a third party;~~

6 (e) ~~costs for the repair or replacement of a tank or piping or costs of other materials, equipment,~~  
7 ~~or labor related to the operation, repair, or replacement of a tank or piping;~~

8 (f) ~~expenses incurred before April 13, 1989, for owners or operators seeking reimbursement from~~  
9 ~~the petroleum tank release cleanup fund and expenses incurred before May 15, 1991, for owners or~~  
10 ~~operators seeking reimbursement from the petroleum tank release cleanup fund for a tank storing heating~~  
11 ~~oil for consumptive use on the premises where it is stored or a farm or residential tank with a capacity of~~  
12 ~~1,100 gallons or less that is used for storing motor fuel for noncommercial purposes;~~

13 (g) ~~expenses exceeding the maximum reimbursements provided for in subsection (4); and~~

14 (h) ~~<aa> [EXCEPT AS PROVIDED IN [SECTION 4],] expenses for work from releases discovered~~  
15 ~~and reported on or after [the effective date of this act] for the following petroleum storage tanks:~~

16 (i) ~~a farm or residential underground storage tank with a capacity of 1,100 gallons or less that is~~  
17 ~~used for storing motor fuel for noncommercial purposes;~~

18 (ii) ~~a farm or residential underground storage tank with a capacity of 1,100 gallons or less that is~~  
19 ~~used for storing heating oil for consumptive use on the premises where it is stored; or~~

20 (iii) ~~farm or residential underground pipes used to contain or to transport motor fuels for~~  
21 ~~noncommercial purposes or heating oil for consumptive use on the premises where it is stored from an~~  
22 ~~aboveground storage tank with a capacity of 1,100 gallons or less.~~

23 (3) ~~An owner or operator may designate a person as an agent to receive the reimbursement,~~  
24 ~~provided that the owner or operator remains legally responsible for all costs and liabilities incurred as a~~  
25 ~~result of the release.~~

26 (4) ~~Subject to the availability of funds under subsection (5):~~

27 (a) ~~for releases eligible for reimbursement from the petroleum tank release cleanup fund that are~~  
28 ~~discovered and reported on or after April 13, 1989, from a tank storing heating oil for consumptive use on~~  
29 ~~the premises where it is stored or from a farm or residential tank with a capacity of 1,100 gallons or less~~  
30 ~~that is used for storing motor fuel for noncommercial purposes, the board shall reimburse an owner or~~

operator for:

(i) ~~50% of the first \$10,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$495,000;~~

~~(A) for single walled tank system releases; and~~

~~(B) for double walled tank system releases for which the release date was prior to October 1, 1993;~~

or

(iii) ~~100% of the eligible costs, up to a maximum total reimbursement of \$500,000, for properly designed and installed double walled tank system accidental releases that were discovered and reported on or after October 1, 1993; and~~

(b) ~~for all other releases eligible for reimbursement from the petroleum tank release cleanup fund that are discovered and reported on or after April 13, 1989, the board shall reimburse an owner or operator for:~~

(i) ~~50% of the first \$35,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$982,500;~~

~~(A) for single walled tank system releases; and~~

~~(B) for double walled tank system releases for which the release date was prior to October 1, 1993;~~

or

(iii) ~~100% of the eligible costs, up to a maximum total reimbursement of \$1 million, for properly designed and installed double walled tank system accidental releases that were discovered and reported on or after October 1, 1993.~~

(5) ~~If the fund does not contain sufficient money to pay approved claims for eligible costs, a reimbursement may not be made and the fund and the board are not liable for making any reimbursement for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed subsequently in the order in which they were approved by the board."~~

NEW SECTION. SECTION 3. VOLUNTARY COMPLIANCE -- REIMBURSEMENT. (1) FOR THE PURPOSES OF THIS SECTION, A TANK IS:

(A) A FARM OR RESIDENTIAL UNDERGROUND STORAGE TANK INSTALLED AS OF [THE EFFECTIVE DATE OF THIS ACT] WITH A CAPACITY OF 1,100 GALLONS OR LESS THAT IS USED FOR STORING MOTOR FUEL FOR NONCOMMERCIAL PURPOSES;

1 (B) A FARM OR RESIDENTIAL UNDERGROUND STORAGE TANK INSTALLED AS OF [THE  
2 EFFECTIVE DATE OF THIS ACT] WITH A CAPACITY OF 1,100 GALLONS OR LESS THAT IS USED FOR  
3 STORING HEATING OIL FOR CONSUMPTIVE USE ON THE PREMISES WHERE IT IS STORED; OR

4 (C) FARM OR RESIDENTIAL UNDERGROUND PIPES INSTALLED AS OF [THE EFFECTIVE DATE OF  
5 THIS ACT] USED TO CONTAIN OR TO TRANSPORT MOTOR FUELS FOR NONCOMMERCIAL PURPOSES  
6 OR HEATING OIL FOR CONSUMPTIVE USE ON THE PREMISES WHERE IT IS STORED FROM AN  
7 ABOVEGROUND STORAGE TANK WITH A CAPACITY OF 1,100 GALLONS OR LESS.

8 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), IF IF AN OWNER OR OPERATOR OF A TANK  
9 VOLUNTARILY COMPLIES WITH THE REQUIREMENTS UNDER TITLE 75, CHAPTERS 10 AND 11, THAT  
10 OWNER MAY BE ELIGIBLE FOR REIMBURSEMENT SUBJECT TO THE REQUIREMENTS OF 75-11-307.

11 (3) A TANK INSTALLED AFTER [THE EFFECTIVE DATE OF THIS ACT] IS NOT ELIGIBLE FOR  
12 REIMBURSEMENT UNDER 75-11-307.

13  
14 NEW SECTION. Section 4. Repealer. Section 75-11-217, MCA, is repealed.

15  
16 NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION. [SECTION 4 3] IS INTENDED TO BE  
17 CODIFIED AS AN INTEGRAL PART OF TITLE 75, CHAPTER 11, PART 2, AND THE PROVISIONS OF TITLE  
18 75, CHAPTER 11, PART 2, APPLY TO [SECTION 4 3].

19  
20 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

21  
22 NEW SECTION. SECTION 7. TERMINATION. [SECTION 4 3 AND THE BRACKETED LANGUAGE  
23 IN 75-11-307] TERMINATE DECEMBER 31, 1995.

24 -END-