

1
 2 INTRODUCED BY *Kevin Akkestad* *Senate Bill No. 386* *Greg Givver*
 3 *L. Nelson Streit*

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

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
 14 **Section 1.** Section 75-10-403, MCA, is amended to read:

15 **"75-10-403. Definitions.** Unless the context requires otherwise, in this part, the following
 16 definitions apply:

- 17 (1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.
- 18 (2) "Department" means the department of health and environmental sciences provided for in Title
 19 2, chapter 15, part 21.
- 20 (3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or
 21 placing of any regulated substance or hazardous waste into or onto the land or water so that the regulated
 22 substance, hazardous waste, or any constituent of the regulated substance or hazardous waste may enter
 23 the environment or be emitted into the air or discharged into any waters, including ground water.
- 24 (4) "Facility" or "hazardous waste management facility" means all contiguous land and structures,
 25 other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous
 26 waste. A facility may consist of several treatment, storage, or disposal operational units.
- 27 (5) "Generation" means the act or process of producing waste material.
- 28 (6) "Generator" means any person, by site, whose act or process produces hazardous waste or
 29 whose act first causes a hazardous waste to become subject to regulation under this part.
- 30 (7) (a) "Hazardous waste" means a waste or combination of wastes that, because of its quantity,

1 concentration, or physical, chemical, or infectious characteristics, may:

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

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

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

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

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

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

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

20 (12) "Regulated substance":

21 (a) means:

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

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

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

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

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

30 (15) "Transporter" means a person engaged in the offsite transportation of hazardous waste by

1 air, rail, highway, or water.

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

6 (17) "Underground storage tank":

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

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

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

13 (b) does not include:

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

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

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

21 ~~ii)(iv)~~ a septic tank;

22 ~~iii)(v)~~ a pipeline facility, ~~including gathering lines,~~ regulated under:

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

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

25 (C) state law comparable to the provisions of law referred to in subsection ~~(17)(b)(iii)(A)~~

26 (17)(b)(v)(A) or ~~(17)(b)(iii)(B)~~ (17)(b)(v)(B), if the facility is intrastate;

27 ~~iii)(vi)~~ a surface impoundment, pit, pond, or lagoon;

28 ~~iv)(vii)~~ a storm water or wastewater collection system;

29 ~~v)(viii)~~ a flow-through process tank;

30 ~~vi)(ix)~~ a liquid trap or associated gathering lines directly related to oil or gas production and

1 gathering operations;

2 ~~(viii)(x)~~ a storage tank situated in an underground area, such as a basement, cellar, mine, draft,
3 shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor; or

4 ~~(viii)(xi)~~ any pipe connected to a tank described in subsections (17)(b)(i) through ~~(17)(b)(vi)~~
5 (17)(b)(ix)."

6

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

8 "**75-11-209. Permits -- requirement for licensed installer.** (1) A person may not install or close, or
9 cause to be installed or closed, an underground storage tank system without a permit issued by the
10 department as provided in 75-11-212.

11 (2) In addition to obtaining a permit, an owner or operator shall obtain the services of a licensed
12 installer for the installation or closure of an underground storage tank system unless the installation or
13 closure is:

14 ~~(a)~~ inspected by a department inspector or a designated local inspector as provided in 75-11-213;

15 ~~or~~

16 ~~(b) exempt from the requirement for a licensed installer, as provided in 75-11-217."~~

17

18 **Section 3.** Section 75-11-307, MCA, is amended to read:

19 "**75-11-307. Reimbursement for expenses caused by a release.** (1) Subject to the availability of
20 money from the fund under subsection (5), an owner or operator who is eligible under 75-11-308 and
21 complies with 75-11-309 and any rules adopted to implement those sections must be reimbursed by the
22 board from the fund for the following eligible costs caused by a release from a petroleum storage tank:

23 (a) corrective action costs; and

24 (b) compensation paid to third parties for bodily injury or property damage.

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

26 (a) corrective action costs or the costs of bodily injury or property damage paid to third parties that
27 are determined by the board to be ineligible for reimbursement;

28 (b) costs for bodily injury and property damage, other than corrective action costs, incurred by the
29 owner or operator;

30 (c) penalties or payments for damages incurred under actions by the department, board, or federal,

1 state, local, or tribal agencies or other government entities involving judicial or administrative enforcement
2 activities and related negotiations;

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

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

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

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

12 (h) expenses for work from releases discovered and reported on or after [the effective date of this
13 act] for the following petroleum storage tanks:

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

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

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

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

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

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

30 (i) 50% of the first \$10,000 of eligible costs and 100% of subsequent eligible costs, up to a

1 maximum total reimbursement of \$495,000:

2 (A) for single-walled tank system releases; and

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

4 or

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

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

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

13 (A) for single-walled tank system releases; and

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

15 or

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

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

23

24 **NEW SECTION. Section 4. Repealer.** Section 75-11-217, MCA, is repealed.

25

26 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

27

-END-

1 SENATE BILL NO. 386

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

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4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING NONCOMMERCIAL FARM AND RESIDENTIAL
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9 CREATING A VOLUNTARY COMPLIANCE PROCEDURE FOR REIMBURSEMENT; AMENDING SECTIONS
10 75-10-403, 75-11-209, AND 75-11-307, MCA; REPEALING SECTION 75-11-217, MCA; AND PROVIDING
11 AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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19 (2) "Department" means the department of health and environmental sciences provided for in Title
20 2, chapter 15, part 21.

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

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

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

29 (6) "Generator" means any person, by site, whose act or process produces hazardous waste or
30 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:

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

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

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

22 ~~(iv)~~ (iv) a septic tank;

23 ~~(v)~~ (v) a pipeline facility, ~~including gathering lines,~~ regulated under:

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

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

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

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

29 ~~(vii)~~ (vii) a storm water or wastewater collection system;

30 ~~(viii)~~ (viii) a flow-through process tank;

1 ~~(vii)(ix)~~ a liquid trap or associated gathering lines directly related to oil or gas production and
 2 gathering operations;

3 ~~(vii)(x)~~ a storage tank situated in an underground area, such as a basement, cellar, mine, draft,
 4 shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor; or

5 ~~(viii)(xi)~~ any pipe connected to a tank described in subsections (17)(b)(i) through ~~(17)(b)(vi)~~
 6 (17)(b)(ix)."

7
 8 **Section 2.** Section 75-11-209, MCA, is amended to read:

9 **"75-11-209. Permits -- requirement for licensed installer.** (1) A person may not install or close, or
 10 cause to be installed or closed, an underground storage tank system without a permit issued by the
 11 department as provided in 75-11-212.

12 (2) In addition to obtaining a permit, an owner or operator shall obtain the services of a licensed
 13 installer for the installation or closure of an underground storage tank system unless the installation or
 14 closure is:

15 ~~(a)~~ inspected by a department inspector or a designated local inspector as provided in 75-11-213;
 16 or

17 ~~(b) exempt from the requirement for a licensed installer, as provided in 75-11-217."~~

18
 19 **Section 3.** Section 75-11-307, MCA, is amended to read:

20 **"75-11-307. Reimbursement for expenses caused by a release.** (1) Subject to the availability of
 21 money from the fund under subsection (5), an owner or operator who is eligible under 75-11-308 and
 22 complies with 75-11-309 and any rules adopted to implement those sections must be reimbursed by the
 23 board from the fund for the following eligible costs caused by a release from a petroleum storage tank:

24 (a) corrective action costs; and

25 (b) compensation paid to third parties for bodily injury or property damage.

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

27 (a) corrective action costs or the costs of bodily injury or property damage paid to third parties that
 28 are determined by the board to be ineligible for reimbursement;

29 (b) costs for bodily injury and property damage, other than corrective action costs, incurred by the
 30 owner or operator;

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

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

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

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

12 (g) expenses exceeding the maximum reimbursements provided for in subsection (4)-; and

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

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

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

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

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

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

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

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

3 (A) for single-walled tank system releases; and

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

5 or

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

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

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

14 (A) for single-walled tank system releases; and

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

16 or

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

20 (5) If the fund does not contain sufficient money to pay approved claims for eligible costs, a
21 reimbursement may not be made and the fund and the board are not liable for making any reimbursement
22 for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed
23 subsequently in the order in which they were approved by the board."
24

25 **NEW SECTION. SECTION 4. VOLUNTARY COMPLIANCE -- REIMBURSEMENT. (1) FOR THE**
26 **PURPOSES OF THIS SECTION, A TANK IS:**

27 **(A) A FARM OR RESIDENTIAL TANK WITH A CAPACITY OF 1,100 GALLONS OR LESS THAT IS**
28 **USED FOR STORING MOTOR FUEL FOR NONCOMMERCIAL PURPOSES;**

29 **(B) A FARM OR RESIDENTIAL TANK WITH A CAPACITY OF 1,100 GALLONS OR LESS THAT IS**
30 **USED FOR STORING HEATING OIL FOR CONSUMPTIVE USE ON THE PREMISES WHERE IT IS STORED;**

1 OR

2 (C) FARM OR RESIDENTIAL UNDERGROUND PIPES USED TO CONTAIN OR TO TRANSPORT
3 MOTOR FUELS FOR NONCOMMERCIAL PURPOSES OR HEATING OIL FOR CONSUMPTIVE USE ON THE
4 PREMISES WHERE IT IS STORED FROM AN ABOVEGROUND STORAGE TANK WITH A CAPACITY OF
5 1,100 GALLONS OR LESS.

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

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

11

12 NEW SECTION. Section 5. Repealer. Section 75-11-217, MCA, is repealed.

13

14 NEW SECTION. SECTION 6. CODIFICATION INSTRUCTION. [SECTION 4] IS INTENDED TO BE
15 CODIFIED AS AN INTEGRAL PART OF TITLE 75, CHAPTER 11, PART 2, AND THE PROVISIONS OF TITLE
16 75, CHAPTER 11, PART 2, APPLY TO [SECTION 4].

17

18 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

19

20 NEW SECTION. SECTION 8. TERMINATION. [SECTION 4 AND THE BRACKETED LANGUAGE IN
21 75-11-307] TERMINATE DECEMBER 31, 1995.

22

-END-

1 SENATE BILL NO. 386

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

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10 75-10-403, 75-11-209, AND 75-11-307, MCA; REPEALING SECTION 75-11-217, MCA; AND PROVIDING
11 AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

12

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
READING COPY (YELLOW) FOR COMPLETE TEXT.



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

cf.
Committee Vote:
Yes 10, No 2.

HOUSE



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

REJECT

74-11

SB 386

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-

SENATE BILL NO. 386

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

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A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING 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 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, 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:

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

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

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

22 ~~iv~~(iv) a septic tank;

23 ~~iv~~(v) a pipeline facility, ~~including gathering lines~~, regulated under:

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

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

26 (C) state law comparable to the provisions of law referred to in subsection ~~(17)(b)(iii)(A)~~

27 (17)(b)(v)(A) or ~~(17)(b)(iii)(B)~~ (17)(b)(v)(B), if the facility is intrastate;

28 ~~iii~~(vi) a surface impoundment, pit, pond, or lagoon;

29 ~~iv~~(vii) a storm water or wastewater collection system;

30 ~~iv~~(viii) a flow-through process tank;

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

7

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

9 **"75-11-209. Permits -- requirement for licensed installer.** (1) A person may not install or close, or
 10 cause to be installed or closed, an underground storage tank system without a permit issued by the
 11 department as provided in 75-11-212.

12 (2) In addition to obtaining a permit, an owner or operator shall obtain the services of a licensed
 13 installer for the installation or closure of an underground storage tank system unless the installation or
 14 closure is:

15 ~~(a)~~ inspected by a department inspector or a designated local inspector as provided in 75-11-213;

16 or

17 ~~(b) exempt from the requirement for a licensed installer, as provided in 75-11-217."~~

18

19 **Section 3.** Section 75-11-307, MCA, is amended to read:

20 **"75-11-307. Reimbursement for expenses caused by a release.** (1) Subject to the availability of
 21 money from the fund under subsection (5), an owner or operator who is eligible under 75-11-308 and
 22 complies with 75-11-309 and any rules adopted to implement those sections must be reimbursed by the
 23 board from the fund for the following eligible costs caused by a release from a petroleum storage tank:

24 (a) corrective action costs; and

25 (b) compensation paid to third parties for bodily injury or property damage.

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

27 (a) corrective action costs or the costs of bodily injury or property damage paid to third parties that
 28 are determined by the board to be ineligible for reimbursement;

29 (b) costs for bodily injury and property damage, other than corrective action costs, incurred by the
 30 owner or operator;

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

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

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

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

12 (g) expenses exceeding the maximum reimbursements provided for in subsection (4)-; and

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

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

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

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

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

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

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

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

3 (A) for single-walled tank system releases; and

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

5 or

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

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

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

14 (A) for single-walled tank system releases; and

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

16 or

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

20 (5) If the fund does not contain sufficient money to pay approved claims for eligible costs, a
21 reimbursement may not be made and the fund and the board are not liable for making any reimbursement
22 for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed
23 subsequently in the order in which they were approved by the board."
24

25 **NEW SECTION. SECTION 4. VOLUNTARY COMPLIANCE -- REIMBURSEMENT. (1) FOR THE**
26 **PURPOSES OF THIS SECTION, A TANK IS:**

27 **(A) A FARM OR RESIDENTIAL UNDERGROUND STORAGE TANK WITH A CAPACITY OF 1,100**
28 **GALLONS OR LESS THAT IS USED FOR STORING MOTOR FUEL FOR NONCOMMERCIAL PURPOSES;**

29 **(B) A FARM OR RESIDENTIAL UNDERGROUND STORAGE TANK WITH A CAPACITY OF 1,100**
30 **GALLONS OR LESS THAT IS USED FOR STORING HEATING OIL FOR CONSUMPTIVE USE ON THE**

1 PREMISES WHERE IT IS STORED; OR

2 (C) FARM OR RESIDENTIAL UNDERGROUND PIPES USED TO CONTAIN OR TO TRANSPORT
3 MOTOR FUELS FOR NONCOMMERCIAL PURPOSES OR HEATING OIL FOR CONSUMPTIVE USE ON THE
4 PREMISES WHERE IT IS STORED FROM AN ABOVEGROUND STORAGE TANK WITH A CAPACITY OF
5 1,100 GALLONS OR LESS.

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

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

11

12 NEW SECTION. Section 5. Repealer. Section 75-11-217, MCA, is repealed.

13

14 NEW SECTION. SECTION 6. CODIFICATION INSTRUCTION. [SECTION 4] IS INTENDED TO BE
15 CODIFIED AS AN INTEGRAL PART OF TITLE 75, CHAPTER 11, PART 2, AND THE PROVISIONS OF TITLE
16 75, CHAPTER 11, PART 2, APPLY TO [SECTION 4].

17

18 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

19

20 NEW SECTION. SECTION 8. TERMINATION. [SECTION 4 AND THE BRACKETED LANGUAGE IN
21 75-11-307] TERMINATE DECEMBER 31, 1995.

22

-END-

1 SENATE BILL NO. 386

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

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN NONCOMMERCIAL FARM AND
 5 RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN CAPACITY
 6 FROM THE MONTANA HAZARDOUS WASTE AND UNDERGROUND STORAGE TANK ACT; EXCLUDING
 7 CERTAIN NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE
 8 1,100 GALLONS OR LESS IN CAPACITY FROM REIMBURSEMENT FOR EXPENSES CAUSED BY A
 9 RELEASE; CREATING A VOLUNTARY COMPLIANCE PROCEDURE FOR REIMBURSEMENT; AMENDING
 10 SECTIONS 75-10-403, AND 75-11-209, AND ~~75-11-307~~, MCA; REPEALING SECTION 75-11-217, MCA;
 11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

12

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

14

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

16 **"75-10-403. Definitions.** Unless the context requires otherwise, in this part, the following
 17 definitions apply:

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

19 (2) "Department" means the department of health and environmental sciences provided for in Title
 20 2, chapter 15, part 21.

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

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

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

29 (6) "Generator" means any person, by site, whose act or process produces hazardous waste or
 30 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~~ 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)~~ (iv) a septic tank;

24 ~~(v)~~ (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)(iii)(A)~~
28 (17)(b)(v)(A) or ~~(17)(b)(iii)(B)~~ (17)(b)(v)(B), if the facility is intrastate;

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

30 ~~(vii)~~ (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 those 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~~

1 operator for:

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

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

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

6 or

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

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

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

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

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

17 or

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

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

25

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

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

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"

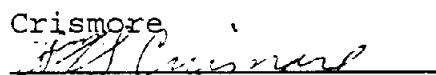
And that this Conference Committee report be adopted.

For the Senate:

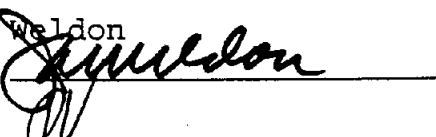
Devlin


Chair

Crismore

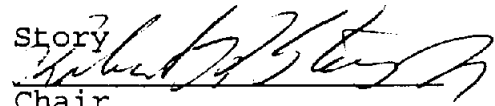


Weldon


And. Coord.

For the House:

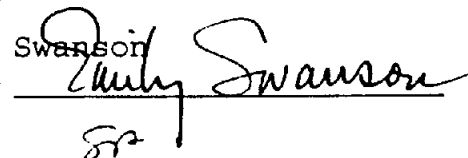
Story


Chair

Taylor



Swanson


Sec. of Senate

ADOPT

REJECT

SB 386
CCR#1

830903CC.SPV

1 SENATE BILL NO. 386

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

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN NONCOMMERCIAL FARM AND
5 RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN CAPACITY
6 FROM THE MONTANA HAZARDOUS WASTE AND UNDERGROUND STORAGE TANK ACT; EXCLUDING
7 CERTAIN NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE
8 1,100 GALLONS OR LESS IN CAPACITY FROM REIMBURSEMENT FOR EXPENSES CAUSED BY A
9 RELEASE; CREATING A VOLUNTARY COMPLIANCE PROCEDURE FOR REIMBURSEMENT; AMENDING
10 SECTIONS 75-10-403, AND 75-11-209, ~~AND 75-11-307~~, MCA; REPEALING SECTION 75-11-217, MCA;
11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14
15 **Section 1.** Section 75-10-403, MCA, is amended to read:16 "75-10-403. **Definitions.** Unless the context requires otherwise, in this part, the following
17 definitions apply:

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

19 (2) "Department" means the department of health and environmental sciences provided for in Title
20 2, chapter 15, part 21.21 (3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or
22 placing of any regulated substance or hazardous waste into or onto the land or water so that the regulated
23 substance, hazardous waste, or any constituent of the regulated substance or hazardous waste may enter
24 the environment or be emitted into the air or discharged into any waters, including ground water.25 (4) "Facility" or "hazardous waste management facility" means all contiguous land and structures,
26 other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous
27 waste. A facility may consist of several treatment, storage, or disposal operational units.

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

29 (6) "Generator" means any person, by site, whose act or process produces hazardous waste or
30 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 THAT WAS INSTALLED AS OF [THE EFFECTIVE DATE OF THIS
17 ACT], THAT HAS a capacity of 1,100 gallons or less, AND that is used for storing motor fuel for
18 noncommercial purposes;

19 (ii) a farm or residential tank with THAT WAS INSTALLED AS OF [THE EFFECTIVE DATE OF THIS
20 ACT], THAT HAS a capacity of 1,100 gallons or less, AND that is used for storing heating oil for
21 consumptive use on the premises where it is stored;

22 (iii) farm or residential underground pipes THAT WERE INSTALLED AS OF [THE EFFECTIVE DATE
23 OF THIS ACT] AND THAT ARE used to contain or to transport motor fuels for noncommercial purposes or
24 heating oil for consumptive use on the premises where it is stored from an aboveground storage tank with
25 a capacity of 1,100 gallons or less;

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

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

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

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

30 (C) state law comparable to the provisions of law referred to in subsection ~~(17)(b)(iii)(A)~~

1 (17)(b)(v)(A) or ~~(17)(b)(iii)(B)~~ (17)(b)(v)(B), if the facility is intrastate;
 2 ~~(iii)~~(vi) a surface impoundment, pit, pond, or lagoon;
 3 ~~(iv)~~(vii) a storm water or wastewater collection system;
 4 ~~(v)~~(viii) a flow-through process tank;
 5 ~~(vi)~~(ix) a liquid trap or associated gathering lines directly related to oil or gas production and
 6 gathering operations;
 7 ~~(vii)~~(x) a storage tank situated in an underground area, such as a basement, cellar, mine, draft,
 8 shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor; or
 9 ~~(viii)~~(xi) any pipe connected to a tank described in subsections (17)(b)(i) through ~~(17)(b)(vi)~~
 10 (17)(b)(ix)."

11

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

13 **"75-11-209. Permits -- requirement for licensed installer.** (1) A person may not install or close, or
 14 cause to be installed or closed, an underground storage tank system without a permit issued by the
 15 department as provided in 75-11-212.

16 (2) In addition to obtaining a permit, an owner or operator shall obtain the services of a licensed
 17 installer for the installation or closure of an underground storage tank system unless the installation or
 18 closure is:

19 ~~(a)~~ inspected by a department inspector or a designated local inspector as provided in 75-11-213;

20 or

21 ~~(b) exempt from the requirement for a licensed installer, as provided in 75-11-217."~~

22

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

24 **~~"75-11-307. Reimbursement for expenses caused by a release.~~** (1) ~~Subject to the availability of~~
 25 ~~money from the fund under subsection (5), an owner or operator who is eligible under 75-11-308 and~~
 26 ~~complies with 75-11-309 and any rules adopted to implement these sections must be reimbursed by the~~
 27 ~~board from the fund for the following eligible costs caused by a release from a petroleum storage tank:~~

28 ~~(a) corrective action costs; and~~

29 ~~(b) compensation paid to third parties for bodily injury or property damage.~~

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

1 ~~(a) corrective action costs or the costs of bodily injury or property damage paid to third parties that~~
2 ~~are determined by the board to be ineligible for reimbursement;~~

3 ~~(b) costs for bodily injury and property damage, other than corrective action costs, incurred by the~~
4 ~~owner or operator;~~

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

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

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

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

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

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

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

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

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

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

29 ~~(4) Subject to the availability of funds under subsection (5);~~

30 ~~(a) for releases eligible for reimbursement from the petroleum tank release cleanup fund that are~~

1 ~~discovered and reported on or after April 13, 1989, from a tank storing heating oil for consumptive use on~~
 2 ~~the premises where it is stored or from a farm or residential tank with a capacity of 1,100 gallons or less~~
 3 ~~that is used for storing motor fuel for noncommercial purposes, the board shall reimburse an owner or~~
 4 ~~operator for:~~

5 ~~(i) 50% of the first \$10,000 of eligible costs and 100% of subsequent eligible costs, up to a~~
 6 ~~maximum total reimbursement of \$405,000;~~

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

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

9 ~~or~~

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

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

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

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

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

20 ~~or~~

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

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

28
 29 NEW SECTION. SECTION 3. VOLUNTARY COMPLIANCE -- REIMBURSEMENT. (1) FOR THE
 30 PURPOSES OF THIS SECTION, A TANK IS:

