



February 8, 2023

## SENATE BILL No. 246

DIGEST OF SB 246 (Updated February 6, 2023 1:48 pm - DI 55)

**Citations Affected:** IC 4-10; IC 5-1.2; IC 13-11; IC 13-14; IC 13-23; IC 13-27; IC 13-30; IC 16-44; IC 22-12; noncode.

**Synopsis:** Excess liability trust fund. Defines "aboveground storage tank" as a tank that is at least 90% above the surface of the ground, that has a capacity of more than 1,500 gallons but not more than 20,000 gallons, and that is used for the bulk storage and distribution of motor fuel to retailers or used at an airport. Authorizes the use of the petroleum storage tank excess liability trust fund (ELTF) to provide a source of money to satisfy liabilities for corrective action involving aboveground storage tanks as well as underground petroleum storage tanks. Authorizes the use of the ELTF to provide reimbursement of 50% of costs of decommissioning or replacing underground petroleum storage tanks that meet the certain criteria. Requires the underground storage tank financial assurance board to adopt rules concerning this reimbursement program. Transfers, from the state fire marshal and the fire prevention and building safety commission to the Indiana department of environmental management (department) and the environmental rules board, the authority to issue certificates for people who work on underground storage tanks in Indiana. Provides that the commissioner of the department (commissioner) may not: (1) issue an order to secure compliance; or (2) proceed in court; to require the owner or operator of an underground storage tank to undertake corrective action with respect to a release of petroleum from the underground storage tank until the commissioner has received and reviewed the initial site characterization of the site of the release.  
(Continued next page)

**Effective:** July 1, 2023.

**Niemeyer**

January 11, 2023, read first time and referred to Committee on Environmental Affairs.  
February 7, 2023, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

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## Digest Continued

Establishes requirements for initial site characterizations. Provides that, if a quantity of the released petroleum remains or may remain underground at the site, the commissioner is prohibited from: (1) requesting that the owner or operator execute a restrictive covenant applying to the site of the underground storage tank; (2) making a determination of no further action being required at the site of the underground storage tank; or (3) approving closure of the site of the underground storage tank; unless the commissioner has received and reviewed the initial site characterization. However, allows the commissioner to require the owner or operator to undertake corrective action without having received and reviewed the initial site characterization if the commissioner reasonably believes that the release from the underground storage tank creates a threat to human health or the environment sufficient to necessitate an order or proceeding before the initial site characterization is submitted to the department of environmental management.



February 8, 2023

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

## SENATE BILL No. 246

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

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

- 1 SECTION 1. IC 4-10-18-12, AS AMENDED BY P.L.113-2014,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]: Sec. 12. If the amount of money in the ~~underground~~  
4 petroleum storage tank excess liability trust fund established by  
5 IC 13-23-7-1 reaches **fifteen million dollars (\$15,000,000)**, ~~zero (0)~~;  
6 ten million dollars (\$10,000,000) shall be transferred to the  
7 ~~underground~~ petroleum storage tank excess liability trust fund from the  
8 fund if the:  
9 (1) ~~underground~~ petroleum storage tank financial assurance  
10 board, **established by IC 13-23-11-1**, recommends that the  
11 appropriation should be made; and  
12 (2) budget committee approves the appropriation.  
13 SECTION 2. IC 5-1.2-12-3, AS AMENDED BY P.L.10-2019,  
14 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2023]: Sec. 3. (a) The Indiana brownfields fund is established  
16 to provide money for grants, loans, and other financial assistance to or  
17 for the benefit of political subdivisions under this chapter. The

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1 authority shall administer, hold, and manage the Indiana brownfields  
2 fund.

3 (b) Money in the fund at the end of a state fiscal year does not revert  
4 to the state general fund.

5 (c) Expenses of administering the Indiana brownfields fund shall be  
6 paid from money in the Indiana brownfields fund.

7 (d) The Indiana brownfields fund consists of the following:

8 (1) Appropriations made by the general assembly.

9 (2) Grants and gifts intended for deposit in the Indiana  
10 brownfields fund.

11 (3) Repayments of loans and other financial assistance from the  
12 Indiana brownfields fund, including premiums, interest, and  
13 penalties.

14 (4) Proceeds from the sale of loans and other financial assistance  
15 under section 8 of this chapter.

16 (5) Interest, premiums, gains, or other earnings on the Indiana  
17 brownfields fund.

18 (6) Money transferred from the hazardous substances response  
19 trust fund under IC 13-25-4-1(a)(9).

20 (7) Fees collected under section 6 of this chapter.

21 (8) Money transferred from the ~~underground~~ petroleum storage  
22 tank excess liability trust fund under IC 13-23-7 for the purpose  
23 of environmental assessment and remediation on a property  
24 containing at least one (1) underground storage tank **or**  
25 **aboveground storage tank**.

26 (9) Money transferred from the petroleum trust fund under  
27 IC 13-23-12-4(1) for the purpose of corrective actions that  
28 involve releases of regulated substances from underground  
29 storage tanks **or aboveground storage tanks** and are ineligible  
30 to receive funds from the ~~underground~~ petroleum storage tank  
31 excess liability trust fund under IC 13-23-7.

32 (e) The authority shall invest the money in the Indiana brownfields  
33 fund not currently needed to meet the obligations of the Indiana  
34 brownfields fund in accordance with an investment policy adopted by  
35 the authority. Interest, premiums, gains, or other earnings from the  
36 investments shall be credited to and deposited in the Indiana  
37 brownfields fund.

38 (f) As an alternative to subsection (e), the authority may invest or  
39 cause to be invested all or a part of the Indiana brownfields fund in a  
40 fiduciary account or accounts with a trustee that is a financial  
41 institution. Notwithstanding any other law, any investment may be  
42 made by the trustee in accordance with one (1) or more trust



1 agreements or indentures. A trust agreement or indenture may allow  
 2 disbursements by the trustee to the authority, a participant, or any other  
 3 person as provided in the trust agreement or indenture.

4 SECTION 3. IC 13-11-2-0.3 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2023]: **Sec. 0.3. "Aboveground petroleum storage tank", for**  
 7 **purposes of IC 13-23, means an aboveground storage tank that is**  
 8 **used to contain petroleum.**

9 SECTION 4. IC 13-11-2-0.4 IS ADDED TO THE INDIANA CODE  
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 11 1, 2023]: **Sec. 0.4. (a) "Aboveground storage tank" (or AST), for**  
 12 **purposes of this chapter and IC 13-23, means one (1) tank or**  
 13 **combination of tanks:**

14 (1) that is used to contain an accumulation of regulated  
 15 substances;

16 (2) the volume of which, including the volume of the  
 17 aboveground connected pipes described in subsection (b), is  
 18 not more than ten percent (10%) below the surface of the  
 19 ground;

20 (3) with a capacity of over one thousand five hundred (1,500)  
 21 gallons but not more than twenty thousand (20,000) gallons;  
 22 and

23 (4) that is used at:

24 (A) a bulk plant or facility regulated under the Pipeline  
 25 Safety Act (49 U.S.C. 60101 et seq.) for the bulk storage  
 26 and distribution of motor fuel to retailers; or

27 (B) an airport, including both primary and nonprimary  
 28 airports as defined in 49 U.S.C. 47102.

29 (b) If a:

30 (1) single tank; or

31 (2) combination of tanks;

32 constitutes an aboveground storage tank under subsection (a), any  
 33 pipes that are connected to the single tank or combination of tanks  
 34 are considered part of the aboveground storage tank.

35 (c) The term defined in subsection (a) includes a single tank:

36 (1) that meets the definition set forth in subsection (a); and

37 (2) in which there are separate compartments.

38 (d) The term does not include any of the following:

39 (1) A farm or residential tank with a capacity of not more  
 40 than one thousand one hundred (1,100) gallons that is used for  
 41 storing motor fuel for noncommercial purposes.

42 (2) A tank used for storing heating oil for consumptive use on



the premises on which the tank is stored.

(3) A septic tank.

(4) A surface impoundment, pit, pond, or lagoon.

(5) A storm water or wastewater collection system.

(6) A flow-through process tank.

(7) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

(8) Any other tank exempted by a rule adopted by the board in accordance with regulations adopted by the Administrator of the United States Environmental Protection Agency.

(9) A pipe connected to a tank described in subdivisions (1) through (8).

SECTION 5. IC 13-11-2-2, AS ADDED BY P.L.1-1996, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) "Administrator", **except as provided in subsection (b)**, refers to the administrator of the United States Environmental Protection Agency.

(b) "Administrator", for purposes of IC 13-23 and the administration of the ELTF, means the commissioner of the department of environmental management.

SECTION 6. IC 13-11-2-15.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15.3. "AST", as used in this chapter and IC 13-23, refers to an aboveground storage tank (as defined in section 0.4 of this chapter).

SECTION 7. IC 13-11-2-17, AS AMENDED BY P.L.13-2013, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 17. (a) "Board", except as provided in subsections (b) through (d), refers to the environmental rules board established by IC 13-13-8-3.

(b) "Board", for purposes of IC 13-21, refers to the board of directors of a solid waste management district.

(c) "Board", for purposes of IC 13-23-11, refers to the ~~underground~~ **petroleum** storage tank financial assurance board **established by IC 13-23-11-1**.

(d) "Board", for purposes of IC 13-26, refers to the board of trustees of a regional water, sewage, or solid waste district.

SECTION 8. IC 13-11-2-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 50. (a) "Decommissioning", for purposes of IC 13-23, means the removal or closure of an underground storage tank **or aboveground storage tank**.

(b) "Decommissioning", for purposes of IC 13-29-1, means the



measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

SECTION 9. IC 13-11-2-62.5, AS ADDED BY P.L.96-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 62.5. "Eligible party", as used in IC 13-23, means any of the following:

- (1) An owner, as defined in IC 13-11-2-150.
- (2) An operator, as defined in IC 13-11-2-148(d) and IC 13-11-2-148(e).
- (3) A former owner or operator of a UST **or AST**.
- (4) A transferee of property upon which a UST **or AST** is located.
- (5) A transferee of property upon which a UST **or AST** was located but from which the UST **or AST** has been removed.

SECTION 10. IC 13-11-2-62.7, AS ADDED BY P.L.96-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 62.7. "Eligible release", as used in IC 13-23, means a release of petroleum that meets all of the following criteria:

- (1) The release is from a UST **or AST** that was registered with the department before the date ~~of the ELTF claim on which the claimant confirmed the existence of the release or (if earlier) first suspected the existence of the release.~~
- (2) The release is reported to the department **in accordance with applicable regulations and statutes** not later than thirty (30) days after the date on which the claimant ~~discovered the release; confirmed the existence of the release or (if earlier) first suspected the existence of the release.~~
- (3) An initial site characterization of the facility on which the release occurred is submitted to the department as required by rules adopted by the environmental rules board.
- (4) The release from the UST **or AST** is from the tank or dispensing components of the UST **or AST**, not including the nozzle or hose connecting the nozzle to the pump.

SECTION 11. IC 13-11-2-63.5, AS ADDED BY P.L.96-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 63.5. "ELTF", as used in this chapter and IC 13-23, refers to the ~~underground~~ petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

SECTION 12. IC 13-11-2-73, AS AMENDED BY P.L.96-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 73. "Excess liability trust fund", for purposes of IC 13-23, refers to the ~~underground~~ petroleum storage tank excess



liability trust fund (or ELTF) established by IC 13-23-7-1.

SECTION 13. IC 13-11-2-75 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 75. "Exposure assessment", for purposes of IC 13-23, means an assessment to determine the extent of exposure, or potential for exposure, of individuals to any regulated substance from a release from an underground storage tank **or aboveground storage tank** based on factors such as the following:

- (1) The nature and extent of contamination and the existence of or potential for pathways of human exposure, including ground or surface water contamination, air emissions, and food chain contamination.
- (2) The size of the community within the likely pathway of exposure.
- (3) The comparison of expected human exposure levels to the short term and long term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for those contaminants.

SECTION 14. IC 13-11-2-77, AS AMENDED BY P.L.221-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 77. (a) "Facility", for purposes of IC 13-15-1-3, means a structure or an area of land used for the disposal, treatment, storage, recovery, processing, or transferring of solid waste, hazardous waste, or atomic radiation. The term includes the following:

- (1) A hazardous waste facility.
- (2) An incinerator.
- (3) A solid waste landfill.
- (4) A transfer station.

(b) "Facility", for purposes of IC 13-17-7, means a single structure, piece of equipment, installation, or operation that:

- (1) emits; or
- (2) has the potential to emit;

a regulated air pollutant.

(c) "Facility", for purposes of IC 13-18-5, means a building, a structure, equipment, or other stationary item that is located on:

- (1) a single site; or
- (2) contiguous or adjacent sites that are owned by, operated by, or under common control of the same person.

(d) "Facility", for purposes of IC 13-21, means a facility, a plant, a works, a system, a building, a structure, an improvement, machinery, equipment, a fixture, or other real or personal property of any nature that is to be used, occupied, or employed for the collection, storage,





1 separation, processing, recovery, treatment, marketing, transfer, or  
2 disposal of solid waste.

3 **(e) "Facility", for purposes of IC 13-23, means a parcel of land**  
4 **or site, together with the structures, equipment, and improvements**  
5 **on or appurtenant to the land or site, which is used or is being**  
6 **developed for the storage or distribution of petroleum.**

7 ~~(e)~~ **(f)** "Facility", for purposes of IC 13-25-2, means all buildings,  
8 equipment, structures, and other stationary items that are:

- 9 (1) located on a single site or on contiguous or adjacent sites; and  
10 (2) owned or operated by:  
11 (A) the same person; or  
12 (B) any person that controls, is controlled by, or is under  
13 common control with the same person.

14 For purposes of IC 13-25-2-6, the term includes motor vehicles, rolling  
15 stock, and aircraft.

16 ~~(f)~~ **(g)** "Facility", for purposes of IC 13-25-4, has the meaning set  
17 forth in 42 U.S.C. 9601(9).

18 ~~(g)~~ **(h)** "Facility", for purposes of IC 13-29-1, means a parcel of land  
19 or site, together with the structures, equipment, and improvements on  
20 or appurtenant to the land or site, which is used or is being developed  
21 for the treatment, storage, or disposal of low-level radioactive waste.

22 SECTION 15. IC 13-11-2-81 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 81. (a) "Fiduciary", for  
24 purposes of IC 13-23-13:

- 25 (1) means a person acting for the benefit of another party as a  
26 bona fide:  
27 (A) trustee;  
28 (B) executor;  
29 (C) administrator;  
30 (D) custodian;  
31 (E) guardian of estates or guardian ad litem;  
32 (F) receiver;  
33 (G) conservator;  
34 (H) committee of estates of incapacitated persons;  
35 (I) personal representative;  
36 (J) trustee (including a successor to a trustee) under an  
37 indenture agreement, trust agreement, lease, or similar  
38 financing agreement for debt securities, certificates of interest  
39 or certificates of participation in debt securities, or other forms  
40 of indebtedness as to which the trustee is not, in the capacity  
41 of trustee, the lender; or  
42 (K) representative in a capacity that is similar to the capacities



- 1 referred to in clauses (A) through (J); and  
 2 (2) does not include:  
 3 (A) a person that is acting as a fiduciary with respect to a trust  
 4 or other fiduciary estate that was organized for the primary  
 5 purpose of, or is engaged in, actively carrying on a trade or  
 6 business for profit, unless the trust or other fiduciary estate  
 7 was created as part of, or to facilitate, at least one (1) estate  
 8 plan or because of the incapacity of a natural person; or  
 9 (B) a person that acquires ownership or control of an  
 10 underground storage tank **or aboveground storage tank** with  
 11 the objective purpose of avoiding liability of the person or  
 12 another person.  
 13 (b) "Fiduciary", for purposes of IC 13-24-1:  
 14 (1) means a person acting for the benefit of another party as a  
 15 bona fide:  
 16 (A) trustee;  
 17 (B) executor;  
 18 (C) administrator;  
 19 (D) custodian;  
 20 (E) guardian of estates or guardian ad litem;  
 21 (F) receiver;  
 22 (G) conservator;  
 23 (H) committee of estates of incapacitated persons;  
 24 (I) personal representative;  
 25 (J) trustee (including a successor to a trustee) under an  
 26 indenture agreement, trust agreement, lease, or similar  
 27 financing agreement for debt securities, certificates of interest  
 28 or certificates of participation in debt securities, or other forms  
 29 of indebtedness as to which the trustee is not, in the capacity  
 30 of trustee, the lender; or  
 31 (K) representative in a capacity that is similar to the capacities  
 32 referred to in clauses (A) through (J); and  
 33 (2) does not include:  
 34 (A) a person that is acting as a fiduciary with respect to a trust  
 35 or other fiduciary estate that was organized for the primary  
 36 purpose of, or is engaged in, actively carrying on a trade or  
 37 business for profit, unless the trust or other fiduciary estate  
 38 was created as part of, or to facilitate, at least one (1) estate  
 39 plan or because of the incapacity of a natural person; or  
 40 (B) a person that acquires ownership or control of a petroleum  
 41 facility with the purpose of avoiding liability of the person or  
 42 of another person.



(c) "Fiduciary", for purposes of IC 13-25-4:

(1) means a person acting for the benefit of another party as a bona fide:

- (A) trustee;
- (B) executor;
- (C) administrator;
- (D) custodian;
- (E) guardian of estates or guardian ad litem;
- (F) receiver;
- (G) conservator;
- (H) committee of estates of incapacitated persons;
- (I) personal representative;
- (J) trustee (including a successor to a trustee) under an indenture agreement, trust agreement, lease, or similar financing agreement for debt securities, certificates of interest or certificates of participation in debt securities, or other forms of indebtedness as to which the trustee is not, in the capacity of trustee, the lender; or
- (K) representative in a capacity that is similar to the capacities referred to in clauses (A) through (J); and

(2) does not include:

- (A) a person that is acting as a fiduciary with respect to a trust or other fiduciary estate that was organized for the primary purpose of, or is engaged in, actively carrying on a trade or business for profit, unless the trust or other fiduciary estate was created as part of, or to facilitate, at least one (1) estate plan or because of the incapacity of a natural person; or
- (B) a person that acquires ownership or control of a vessel or facility with the objective purpose of avoiding liability of the person or of another person.

SECTION 16. IC 13-11-2-81.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 81.5. (a) "Fiduciary capacity", for purposes of IC 13-23-13, means the capacity of a person in holding title to an underground storage tank **or aboveground storage tank** pursuant to the exercise of the responsibilities of the person as a fiduciary.

(b) "Fiduciary capacity", for purposes of IC 13-24-1, means the capacity of a person in holding title to a petroleum facility pursuant to the exercise of the responsibilities of the person as a fiduciary.

(c) "Fiduciary capacity", for purposes of IC 13-25-4, means the capacity of a person in holding title to a vessel or facility pursuant to the exercise of the responsibilities of the person as a fiduciary.



1 SECTION 17. IC 13-11-2-84 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 84. "Financial  
 3 assurance board", for purposes of IC 13-23, refers to the ~~underground~~  
 4 petroleum storage tank financial assurance board **established by**  
 5 **IC 13-23-11-1.**

6 SECTION 18. IC 13-11-2-85.6, AS ADDED BY P.L.159-2011,  
 7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2023]: Sec. 85.6. "Foreclosure", for purposes of sections  
 9 148(e)(2), 150(c), and 151(e) of this chapter, means the acquisition of  
 10 a vessel or facility for purposes of IC 13-25-4-8(c), an underground  
 11 storage tank **or aboveground storage tank** for purposes of  
 12 IC 13-23-13, or a petroleum facility for purposes of IC 13-24-1 through  
 13 any of the following:

14 (1) If the vessel or facility, underground storage tank **or**  
 15 **aboveground storage tank**, or petroleum facility was security for  
 16 an extension of credit previously contracted:

17 (A) purchase at sale under a judgment or decree, power of  
 18 sale, or nonjudicial foreclosure;

19 (B) a deed in lieu of foreclosure or a similar conveyance from  
 20 a trustee; or

21 (C) repossession.

22 (2) Conveyance under an extension of credit previously  
 23 contracted, including the termination of a lease agreement.

24 (3) Any other formal or informal manner by which the person  
 25 acquires, for subsequent disposition, title to or possession of a  
 26 vessel or facility, underground storage tank **or aboveground**  
 27 **storage tank**, or petroleum facility in order to protect the security  
 28 interest of the person.

29 SECTION 19. IC 13-11-2-87, AS AMENDED BY P.L.100-2021,  
 30 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2023]: Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers  
 32 to the environmental management special fund.

33 (b) "Fund", for purposes of IC 13-15-10, refers to the waste facility  
 34 operator trust fund.

35 (c) "Fund", for purposes of IC 13-15-11, refers to the environmental  
 36 management permit operation fund.

37 (d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust  
 38 fund.

39 (e) "Fund", for purposes of IC 13-17-8, refers to the Title V  
 40 operating permit program trust fund.

41 (f) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.

42 (g) "Fund", for purposes of IC 13-19-3-3.2, refers to the CCR



- 1 program fund.
- 2 (h) "Fund", for purposes of IC 13-20-13, refers to the waste tire  
3 management fund.
- 4 (i) "Fund", for purposes of IC 13-20-22, refers to the state solid  
5 waste management fund.
- 6 (j) "Fund", for purposes of IC 13-21-7, refers to the waste  
7 management district bond fund.
- 8 (k) "Fund", for purposes of IC 13-21-13-2, refers to a district solid  
9 waste management fund.
- 10 (l) "Fund", for purposes of IC 13-23-6, refers to the ~~underground~~  
11 petroleum storage tank trust fund.
- 12 (m) "Fund", for purposes of IC 13-23-7 and IC 13-23-8, refers to the  
13 ~~underground~~ petroleum storage tank excess liability trust fund (or  
14 ELTF).
- 15 (n) "Fund", for purposes of IC 13-25-4, refers to the hazardous  
16 substances response trust fund.
- 17 (o) "Fund", for purposes of IC 13-25-5, refers to the voluntary  
18 remediation fund.
- 19 (p) "Fund", for purposes of IC 13-28-2, refers to the voluntary  
20 compliance fund.
- 21 SECTION 20. IC 13-11-2-119, AS AMENDED BY P.L.113-2014,  
22 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2023]: Sec. 119. (a) "Lender", for purposes of IC 13-23-13,  
24 means any of the following:
- 25 (1) An insured depository institution (as defined in Section 3 of  
26 the Federal Deposit Insurance Act (12 U.S.C. 1813)).
- 27 (2) An insured credit union (as defined in Section 101 of the  
28 Federal Credit Union Act (12 U.S.C. 1752)).
- 29 (3) A bank or association chartered under the Farm Credit Act of  
30 1971 (12 U.S.C. 2001 et seq.).
- 31 (4) A leasing or trust company that is an affiliate of an insured  
32 depository institution.
- 33 (5) A person (including a successor or assignee of the person)  
34 that:
- 35 (A) makes a bona fide extension of credit to; or  
36 (B) takes or acquires a security interest from;  
37 a nonaffiliated person.
- 38 (6) The Federal National Mortgage Association, the Federal  
39 Home Loan Mortgage Corporation, the Federal Agricultural  
40 Mortgage Corporation, or an entity that buys or sells loans or  
41 interests in loans in a bona fide manner.
- 42 (7) A person that:



- 1 (A) insures or guarantees against a default in the repayment of
- 2 an extension of credit; or
- 3 (B) acts as a surety with respect to an extension of credit;
- 4 to a nonaffiliated person.
- 5 (8) A person that provides title insurance and that acquires an
- 6 underground storage tank **or aboveground storage tank** as a
- 7 result of assignment or conveyance in the course of underwriting
- 8 claims and claims settlement.
- 9 (b) "Lender", for purposes of IC 13-24-1, means any of the
- 10 following:
- 11 (1) An insured depository institution (as defined in Section 3 of
- 12 the Federal Deposit Insurance Act (12 U.S.C. 1813)).
- 13 (2) An insured credit union (as defined in Section 101 of the
- 14 Federal Credit Union Act (12 U.S.C. 1752)).
- 15 (3) A bank or association chartered under the Farm Credit Act of
- 16 1971 (12 U.S.C. 2001 et seq.).
- 17 (4) A leasing or trust company that is an affiliate of an insured
- 18 depository institution.
- 19 (5) A person (including a successor or assignee of the person)
- 20 that:
- 21 (A) makes a bona fide extension of credit to; or
- 22 (B) takes or acquires a security interest from;
- 23 a nonaffiliated person.
- 24 (6) The Federal National Mortgage Association, the Federal
- 25 Home Loan Mortgage Corporation, the Federal Agricultural
- 26 Mortgage Corporation, or an entity that buys or sells loans or
- 27 interests in loans in a bona fide manner.
- 28 (7) A person that:
- 29 (A) insures or guarantees against a default in the repayment of
- 30 an extension of credit; or
- 31 (B) acts as a surety with respect to an extension of credit;
- 32 to a nonaffiliated person.
- 33 (8) A person that provides title insurance and that acquires a
- 34 petroleum facility as a result of assignment or conveyance in the
- 35 course of underwriting claims and claims settlement.
- 36 (c) "Lender", for purposes of IC 13-25-4, means any of the
- 37 following:
- 38 (1) An insured depository institution (as defined in Section 3 of
- 39 the Federal Deposit Insurance Act (12 U.S.C. 1813)).
- 40 (2) An insured credit union (as defined in Section 101 of the
- 41 Federal Credit Union Act (12 U.S.C. 1752)).
- 42 (3) A bank or association chartered under the Farm Credit Act of



1971 (12 U.S.C. 2001 et seq.).

(4) A leasing or trust company that is an affiliate of an insured depository institution.

(5) A person (including a successor or assignee of the person) that:

(A) makes a bona fide extension of credit to; or

(B) takes or acquires a security interest from; a nonaffiliated person.

(6) The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or an entity that buys or sells loans or interests in loans in a bona fide manner.

(7) A person that:

(A) insures or guarantees against a default in the repayment of an extension of credit; or

(B) acts as a surety with respect to an extension of credit; to a nonaffiliated person.

(8) A person that provides title insurance and that acquires a vessel or facility as a result of assignment or conveyance in the course of underwriting claims and claims settlement.

SECTION 21. IC 13-11-2-148, AS AMENDED BY P.L.6-2012, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the person in direct or responsible charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental management laws, means the person in direct or responsible charge and supervising the operation of:

(1) a water treatment plant;

(2) a wastewater treatment plant; or

(3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:

(1) A broker.

(2) A person who manages the activities of a transfer station that receives municipal waste.

(3) A transporter.

(d) "Operator", for purposes of IC 13-23, except as provided in subsections (e), (g), and (h), means a person:

(1) in control of; or

(2) having responsibility for;



the daily operation of an underground storage tank **or aboveground storage tank**.

(e) "Operator", for purposes of IC 13-23-13, does not include the following:

(1) A person who:

(A) does not participate in the management of an underground storage tank **or aboveground storage tank**;

(B) is otherwise not engaged in the:

(i) production;

(ii) refining; and

(iii) marketing;

of regulated substances; and

(C) holds evidence of ownership, primarily to protect the owner's security interest in the tank.

(2) A person that is a lender that did not participate in management of an underground storage tank **or aboveground storage tank** before foreclosure, notwithstanding that the person:

(A) forecloses on the vessel or facility; and

(B) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the underground storage tank **or aboveground storage tank**, maintains business activities, winds up operations, undertakes a response action under Section 107(d)(1) of CERCLA (42 U.S.C. 9607(d)(1)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan with respect to the underground storage tank **or aboveground storage tank**, or takes any other measure to preserve, protect, or prepare the underground storage tank **or aboveground storage tank** prior to sale or disposition;

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the underground storage tank **or aboveground storage tank** at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

(3) A person who:

(A) does not own or lease, directly or indirectly, the facility or business at which the underground storage tank **or aboveground storage tank** is located;

(B) does not participate in the management of the facility or business described in clause (A); and

(C) is engaged only in:





- 1 (i) filling;
- 2 (ii) gauging; or
- 3 (iii) filling and gauging;
- 4 the product level in the course of delivering fuel to an
- 5 underground storage tank **or aboveground storage tank.**
- 6 (4) A political subdivision (as defined in IC 36-1-2-13) or unit of
- 7 federal or state government that:
- 8 (A) acquires ownership or control of an underground storage
- 9 tank **or aboveground storage tank** on a brownfield because
- 10 of:
- 11 (i) bankruptcy;
- 12 (ii) foreclosure;
- 13 (iii) tax delinquency, including an acquisition under
- 14 IC 6-1.1-24 or IC 6-1.1-25;
- 15 (iv) abandonment;
- 16 (v) the exercise of eminent domain, including any purchase
- 17 of property once an offer to purchase has been tendered
- 18 under IC 32-24-1-5;
- 19 (vi) receivership;
- 20 (vii) transfer from another political subdivision or unit of
- 21 federal or state government;
- 22 (viii) acquiring an area needing redevelopment (as defined
- 23 in IC 36-7-1-3) or conducting redevelopment activities,
- 24 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,
- 25 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and
- 26 IC 36-7-15.1-15.5;
- 27 (ix) other circumstances in which the political subdivision
- 28 or unit of federal or state government involuntarily acquired
- 29 an interest in the property because of the political
- 30 subdivision's or unit's function as sovereign; or
- 31 (x) any other means to conduct remedial actions on a
- 32 brownfield; and
- 33 (B) is engaged only in activities in conjunction with:
- 34 (i) investigation or remediation of hazardous substances,
- 35 petroleum, and other pollutants associated with a
- 36 brownfield, including complying with land use restrictions
- 37 and institutional controls; or
- 38 (ii) monitoring or closure of an underground storage tank **or**
- 39 **aboveground storage tank;**
- 40 unless existing contamination on the brownfield is exacerbated
- 41 due to gross negligence or intentional misconduct by the
- 42 political subdivision or unit of federal or state government.



1 (f) For purposes of subsection (e)(4)(B), reckless, willful, or wanton  
2 misconduct constitutes gross negligence.

3 (g) "Operator" does not include a person that after June 30, 2009,  
4 meets, for purposes of the determination under IC 13-23-13 of liability  
5 for a release from an underground storage tank **or aboveground**  
6 **storage tank**, the exemption criteria under Section 107(q) of CERCLA  
7 (42 U.S.C. 9607(q)) that apply for purposes of the determination of  
8 liability for a release of a hazardous substance.

9 (h) "Operator" does not include a person that meets, for purposes of  
10 the determination under IC 13-23-13 of liability for a release from an  
11 underground storage tank **or aboveground storage tank**, the  
12 exemption criteria under Section 107(r) of CERCLA (42 U.S.C.  
13 9607(r)) that apply for purposes of the determination of liability for a  
14 release of a hazardous substance, except that the person acquires  
15 ownership of the facility after June 30, 2009.

16 SECTION 22. IC 13-11-2-150, AS AMENDED BY P.L.159-2011,  
17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2023]: Sec. 150. (a) "Owner", for purposes of IC 13-23  
19 (except as provided in subsections (b), (c), (d), (e), (f) and (g)) means:

20 (1) for an underground storage tank **or aboveground storage**  
21 **tank** that:

22 (A) was:

23 (i) in use on November 8, 1984; or

24 (ii) brought into use after November 8, 1984;

25 for the storage, use, or dispensing of regulated substances, a  
26 person who owns the underground storage tank **or**  
27 **aboveground storage tank** or the real property that is the  
28 underground storage tank site **or aboveground storage tank**  
29 **site**, or both; or

30 (B) was:

31 (i) in use before November 8, 1984; but

32 (ii) no longer in use on November 8, 1984;

33 a person who owned the tank immediately before the  
34 discontinuation of the tank's use; or

35 (2) a person who conveyed ownership or control of the  
36 underground storage tank **or aboveground storage tank** to a  
37 political subdivision (as defined in IC 36-1-2-13) or unit of  
38 federal or state government because of:

39 (A) bankruptcy;

40 (B) foreclosure;

41 (C) tax delinquency, including a conveyance under  
42 IC 6-1.1-24 or IC 6-1.1-25;



- 1 (D) abandonment;
- 2 (E) the exercise of eminent domain, including any purchase of
- 3 property once an offer to purchase has been tendered under
- 4 IC 32-24-1-5;
- 5 (F) receivership;
- 6 (G) acquiring an area needing redevelopment (as defined in
- 7 IC 36-7-1-3) or conducting redevelopment activities,
- 8 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,
- 9 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
- 10 (H) other circumstances in which a political subdivision or
- 11 unit of federal or state government involuntarily acquired
- 12 ownership or control because of the political subdivision's or
- 13 unit's function as sovereign; or
- 14 (I) any other means to conduct remedial actions on a
- 15 brownfield;
- 16 if the person was a person described in subdivision (1)
- 17 immediately before the person conveyed ownership or control of
- 18 the underground storage tank **or aboveground storage tank**.
- 19 (b) "Owner", for purposes of IC 13-23-13, does not include a person
- 20 who:
- 21 (1) does not participate in the management of an underground
- 22 storage tank **or aboveground storage tank**;
- 23 (2) is otherwise not engaged in the:
- 24 (A) production;
- 25 (B) refining; and
- 26 (C) marketing;
- 27 of regulated substances; and
- 28 (3) holds indicia of ownership primarily to protect the owner's
- 29 security interest in the tank.
- 30 (c) "Owner", for purposes of IC 13-23, does not include a person
- 31 that is a lender that did not participate in management of an
- 32 underground storage tank **or aboveground storage tank** before
- 33 foreclosure, notwithstanding that the person:
- 34 (1) forecloses on the underground storage tank **or aboveground**
- 35 **storage tank**; and
- 36 (2) after foreclosure, sells, re-leases (in the case of a lease finance
- 37 transaction), or liquidates the underground storage tank **or**
- 38 **aboveground storage tank**, maintains business activities, winds
- 39 up operations, undertakes a response action under Section
- 40 107(d)(1) of CERCLA (42 U.S.C. 9607(d)(1)) or under the
- 41 direction of an on-scene coordinator appointed under the National
- 42 Contingency Plan with respect to the underground storage tank **or**



1       **aboveground storage tank**, or takes any other measure to  
 2       preserve, protect, or prepare the underground storage tank **or**  
 3       **aboveground storage tank** prior to sale or disposition;  
 4       if the person seeks to sell, re-lease (in the case of a lease finance  
 5       transaction), or otherwise divest the person of the underground storage  
 6       tank **or aboveground storage tank** at the earliest practicable,  
 7       commercially reasonable time, on commercially reasonable terms,  
 8       taking into account market conditions and legal and regulatory  
 9       requirements.

10       (d) "Owner", for purposes of IC 13-23, does not include a political  
 11       subdivision (as defined in IC 36-1-2-13) or unit of federal or state  
 12       government that acquired ownership or control of an underground  
 13       storage tank **or aboveground storage tank** because of:

- 14       (1) bankruptcy;
- 15       (2) foreclosure;
- 16       (3) tax delinquency, including an acquisition under IC 6-1.1-24 or
- 17       IC 6-1.1-25;
- 18       (4) abandonment;
- 19       (5) the exercise of eminent domain, including any purchase of
- 20       property once an offer to purchase has been tendered under
- 21       IC 32-24-1-5;
- 22       (6) receivership;
- 23       (7) transfer from another political subdivision or unit of federal or
- 24       state government;
- 25       (8) acquiring an area needing redevelopment (as defined in
- 26       IC 36-7-1-3) or conducting redevelopment activities, specifically
- 27       under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1,
- 28       IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
- 29       (9) other circumstances in which the political subdivision or unit
- 30       of federal or state government involuntarily acquired ownership
- 31       or control because of the political subdivision's or unit's function
- 32       as sovereign; or
- 33       (10) any other means to conduct remedial actions on a
- 34       brownfield;

35       unless the political subdivision or unit of federal or state government  
 36       causes or contributes to the release or threatened release of a regulated  
 37       substance, in which case the political subdivision or unit of federal or  
 38       state government is subject to IC 13-23 in the same manner and to the  
 39       same extent as a nongovernmental entity under IC 13-23.

40       (e) "Owner", for purposes of IC 13-23, does not include a nonprofit  
 41       corporation that acquired ownership or control of an underground  
 42       storage tank **or aboveground storage tank** to assist and support a



political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-23 in the same manner and to the same extent as any other nongovernmental entity under IC 13-23.

(f) "Owner" does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank **or aboveground storage tank**, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(g) "Owner" does not include a person that meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank **or aboveground storage tank**, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

SECTION 23. IC 13-11-2-151.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 151.2. (a) "Participate in management", for purposes of IC 13-23-13, means actually participating in the management or operational affairs of an underground storage tank **or aboveground storage tank**.

(b) The term does not include the following:

- (1) Merely having the capacity to influence, or the unexercised right to control, underground **or aboveground** storage operations.
- (2) Performing an act or failing to perform an act before the time at which a security interest is created in an underground storage tank **or aboveground storage tank**.
- (3) Holding a security interest or abandoning a security interest.
- (4) Including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, a warranty, or another term or condition that relates to environmental compliance.
- (5) Monitoring or enforcing the terms and conditions of the extension of credit or security interest.
- (6) Monitoring or undertaking at least one (1) inspection of an underground storage tank **or aboveground storage tank**.
- (7) Requiring a response action or other lawful means of addressing the release or threatened release of a hazardous substance in connection with the underground storage tank **or**



**aboveground storage tank** prior to, during, or on the expiration of the term of the extension of credit.

(8) Providing financial advice or other advice or counseling in an effort to mitigate, prevent, or cure default or decrease in the value of an underground storage tank **or aboveground storage tank**.

(9) Restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance.

(10) Exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement.

(11) Conducting a response action under Section 107(d) of CERCLA (42 U.S.C. 9607(d)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, unless the person conducting the response action assumes or manifests responsibility:

(A) for the overall management of the underground storage tank **or aboveground storage tank**, encompassing day to day decision making with respect to environmental compliance; or

(B) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the underground storage tank **or aboveground storage tank** other than the function of environmental compliance.

(c) As used in this section, "extension of credit" includes a lease finance transaction:

(1) in which the lessor does not initially select the leased underground storage tank **or aboveground storage tank** and does not during the lease term control the daily operations or maintenance of the underground storage tank **or aboveground storage tank**; or

(2) that conforms with regulations issued by:

(A) the appropriate federal banking agency or the appropriate state bank supervisor (as those terms are defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813); or

(B) the National Credit Union Administration Board.

SECTION 24. IC 13-11-2-161 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 161. (a) "Petroleum facility", for purposes of IC 13-24-1, means any of the following:

(1) A building.

(2) A structure.

(3) An installation.

(4) A piece of equipment.



- 1 (5) A pipe, including a pipe that runs into a sewer or publicly
- 2 owned treatment facility.
- 3 (6) A well.
- 4 (7) A pit.
- 5 (8) A pond.
- 6 (9) A lagoon.
- 7 (10) An impoundment.
- 8 (11) A ditch.
- 9 (12) A landfill.
- 10 (13) A storage container.
- 11 (14) A motor vehicle.
- 12 (15) Rolling stock.
- 13 (16) Aircraft.
- 14 (17) A site or an area on which petroleum has been:
- 15 (A) deposited;
- 16 (B) stored;
- 17 (C) disposed of;
- 18 (D) placed; or
- 19 (E) located.
- 20 (b) The term does not include the following:
- 21 (1) A consumer product in consumer use.
- 22 (2) An underground storage tank **or aboveground storage tank**.
- 23 SECTION 25. IC 13-11-2-163 IS AMENDED TO READ AS
- 24 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 163. "Petroleum trust
- 25 fund", for purposes of IC 13-23, refers to the ~~underground~~ petroleum
- 26 storage tank trust fund established by IC 13-23-6-1.
- 27 SECTION 26. IC 13-11-2-172, AS AMENDED BY P.L.189-2018,
- 28 SECTION 115, IS AMENDED TO READ AS FOLLOWS
- 29 [EFFECTIVE JULY 1, 2023]: Sec. 172. "Program", for purposes of
- 30 IC 13-23, refers to an underground storage tank **and aboveground**
- 31 **storage tank** release:
- 32 (1) detection;
- 33 (2) prevention; and
- 34 (3) correction;
- 35 program created in accordance with the requirements of IC 13-23 or
- 36 IC 13-7-20 (before its repeal).
- 37 SECTION 27. IC 13-11-2-184 IS AMENDED TO READ AS
- 38 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 184. (a) "Release", for
- 39 purposes of IC 13-23, means any:
- 40 (1) spilling;
- 41 (2) leaking;
- 42 (3) emitting;



- 1 (4) discharging;
- 2 (5) escaping;
- 3 (6) leaching; or
- 4 (7) disposing;
- 5 from an underground storage tank **or aboveground storage tank** into
- 6 ground water, surface water, subsurface soils, or surface soils.
- 7 (b) "Release", for purposes of IC 13-24-1, means:
- 8 (1) a spill;
- 9 (2) a leak;
- 10 (3) an emission;
- 11 (4) a discharge;
- 12 (5) an escape;
- 13 (6) a leaching; or
- 14 (7) a disposing;
- 15 of petroleum into ground water, surface water, subsurface soils, or
- 16 surface soils. The term does not include the release of petroleum into
- 17 land used by a scrap metal processor (as defined in IC 9-13-2-162) or
- 18 farmer, unless the commissioner determines that the release of the
- 19 petroleum is adverse to human health.
- 20 (c) "Release", for purposes of IC 13-25-2, means any:
- 21 (1) spilling;
- 22 (2) leaking;
- 23 (3) pumping;
- 24 (4) pouring;
- 25 (5) emitting;
- 26 (6) emptying;
- 27 (7) discharging;
- 28 (8) injecting;
- 29 (9) escaping;
- 30 (10) leaching;
- 31 (11) dumping; or
- 32 (12) disposing;
- 33 into the environment of any hazardous chemical, extremely hazardous
- 34 substance, or toxic chemical. The term includes the abandonment or
- 35 discarding of barrels, containers, and other closed receptacles.
- 36 (d) "Release", for purposes of IC 13-25-4, means any:
- 37 (1) spilling;
- 38 (2) leaking;
- 39 (3) pumping;
- 40 (4) pouring;
- 41 (5) emitting;
- 42 (6) emptying;





(7) discharging;  
 (8) injecting;  
 (9) escaping;  
 (10) leaching;  
 (11) dumping; or  
 (12) disposing;  
 into the environment. The term includes the abandonment or discarding of barrels, containers, or other closed receptacles containing any hazardous substance.

(e) "Release", for purposes of IC 13-25-5, means any:

(1) spilling;  
 (2) leaking;  
 (3) pumping;  
 (4) pouring;  
 (5) emitting;  
 (6) emptying;  
 (7) discharging;  
 (8) injecting;  
 (9) escaping;  
 (10) leaching;  
 (11) dumping; or  
 (12) disposing;  
 into the environment. The term includes the abandonment or discarding of barrels, containers, or other closed receptacles containing any hazardous substance or petroleum.

SECTION 28. IC 13-11-2-194, AS AMENDED BY P.L.178-2009, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 194. (a) "Retailer", for purposes of IC 13-20-14, means a person engaged in the business of selling new tires at retail in Indiana.

(b) "Retailer", for purposes of IC 13-20-16, means a person engaged in the business of selling lead acid batteries at retail in Indiana.

(c) "Retailer", for purposes of section 195.7 of this chapter and IC 13-20.5, means a person that sells, rents, or leases, through sales outlets, catalogs, or the Internet, a video display device to a covered entity and not for resale in any form.

**(d) "Retailer", for purposes of section 0.4 of this chapter and IC 13-23, means a person who purchases motor fuel for sale to the general public for ultimate consumption.**

SECTION 29. IC 13-11-2-241, AS AMENDED BY P.L.96-2016, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 241. (a) "Underground storage tank" (or UST), for



purposes of this chapter and IC 13-23, means one (1) tank or a combination of tanks:

- (1) that is used to contain an accumulation of regulated substances; and
- (2) the volume of which, including the volume of the underground connected pipes described in subsection (b), is at least ten percent (10%) beneath the surface of the ground.

(b) If:

- (1) a single tank; or
- (2) a combination of tanks;

constitutes an underground storage tank under subsection (a), any underground pipes that are connected to the single tank or combination of tanks are also part of the underground storage tank.

(c) The term defined in subsection (a) includes a single tank:

- (1) that meets the definition set forth in subsection (a); and
- (2) in which there are separate compartments.

(d) The term does not include any of the following:

- (1) A farm or residential tank with a capacity of not more than one thousand one hundred (1,100) gallons that is used for storing motor fuel for noncommercial purposes.
- (2) A tank used for storing heating oil for consumptive use on the premises on which the tank is stored.
- (3) A septic tank.
- (4) A pipeline facility, including gathering lines, that:
  - (A) is regulated under ~~the Pipeline Safety Act the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.);~~
  - ~~(B) is regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 60101 et seq.); or~~
  - ~~(C) (B)~~ is an intrastate pipeline facility regulated under state laws comparable to the laws identified in ~~clauses~~ **clause** (A).
- through ~~(B)~~;
- (5) A surface impoundment, pit, pond, or lagoon.
- (6) A ~~stormwater~~ **storm water** or wastewater collection system.
- (7) A flow-through process tank.
- (8) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.
- (9) A storage tank situated in an underground area such as:
  - (A) a basement;
  - (B) a cellar;
  - (C) a mineworking;
  - (D) a drift;
  - (E) a shaft; or



- 1 (F) a tunnel;  
 2 if the storage tank is situated upon or above the surface of the  
 3 floor.  
 4 (10) Any other tank exempted by a rule adopted by the board in  
 5 accordance with regulations adopted by the Administrator of the  
 6 United States Environmental Protection Agency.  
 7 (11) A pipe connected to a tank described in subdivisions (1)  
 8 through (10).

9 SECTION 30. IC 13-14-9-1, AS AMENDED BY P.L.133-2012,  
 10 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2023]: Sec. 1. (a) Except as provided in sections 8 and 14 of  
 12 this chapter, this chapter applies to the following:

- 13 (1) The board.  
 14 (2) The ~~underground~~ **petroleum** storage tank financial assurance  
 15 board established by IC 13-23-11-1.  
 16 (b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a  
 17 board may not adopt a rule except in accordance with this chapter.

18 SECTION 31. IC 13-23-2-2 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. A unit of local  
 20 government may not enact or enforce an ordinance that requires:

- 21 (1) a permit;  
 22 (2) a license;  
 23 (3) an approval;  
 24 (4) an inspection; or  
 25 (5) the payment of a fee or tax;  
 26 for the installation, use, retrofitting, closure, or removal of an  
 27 underground storage tank **or aboveground storage tank** unless the  
 28 department has approved the ordinance or a proposed ordinance in  
 29 writing.

30 SECTION 32. IC 13-23-3-1 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The ~~state fire~~  
 32 ~~marshal department~~ shall, under rules adopted by the ~~fire prevention~~  
 33 ~~and building safety commission board~~ under IC 4-22-2 **and**  
 34 **IC 13-14-9**, establish a certification program for persons who  
 35 supervise, manage, or direct underground storage tank **or**  
 36 **aboveground storage tank**:

- 37 (1) installation or retrofitting;  
 38 (2) testing;  
 39 (3) cathodic protection procedures; or  
 40 (4) decommissioning.  
 41 (b) A person may be certified by the ~~state fire marshal department~~  
 42 if the person submits evidence to the ~~state fire marshal department~~



that the person has successfully completed:

- (1) the International Fire Code Institute examination; or
- (2) another appropriate examination approved by the state fire marshal.

(c) The ~~state fire marshal~~ **department** may create a supplemental educational library concerning proper installation and closure of underground storage tanks **or aboveground storage tanks**, which includes the American Petroleum Institute's series, "An Education and Certification Program for Underground Storage Tank Professionals" **and "API 653 Aboveground Storage Tank Inspector Certification Program"**.

SECTION 33. IC 13-23-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) A person described under section 1 of this chapter may not:

- (1) install or retrofit;
- (2) test;
- (3) provide cathodic protection for; or
- (4) decommission;

an underground storage tank **or aboveground storage tank** unless the person has been certified by the ~~state fire marshal~~ **department**.

(b) The ~~state fire marshal~~ **department** may temporarily deny or revoke the certification of a person made under subsection (a) if the person has negligently violated a standard established by the board **or the fire prevention and building safety commission** concerning the:

- (1) installation or retrofitting;
- (2) testing;
- (3) cathodic protection; or
- (4) decommissioning;

of an underground storage tank **or aboveground storage tank**.

(c) If a person:

- (1) has been denied certification; or
- (2) had the person's certification revoked under subsection (b) or IC 13-7-20-13.3(b) (before its repeal);

the ~~state fire marshal~~ **department** may certify the person only if the person files a performance bond with the ~~state fire marshal~~ **department** in an amount established by the ~~fire prevention and building safety commission~~ **board**.

(d) If a person who is certified or attempts to become certified under subsection (c) intentionally or negligently violates a standard established by the board **or the fire prevention and building safety commission** concerning the installation or retrofitting of, testing of, provision of cathodic protection for, or decommissioning of an



1 underground storage tank **or aboveground storage tank**, the ~~state fire~~  
 2 ~~marshal department~~ may:

- 3 (1) permanently deny the certification of the person; or
- 4 (2) permanently revoke the certification of the person.

5 SECTION 34. IC 13-23-3-4 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) A certificate  
 7 issued under section 1 of this chapter expires two (2) years from the  
 8 date a person successfully completes the examination to qualify to  
 9 obtain the certificate.

10 (b) The ~~fire prevention and building safety commission board~~ may  
 11 adopt rules establishing renewal procedures for certificates that expire  
 12 under subsection (a).

13 SECTION 35. IC 13-23-5-1, AS AMENDED BY P.L.96-2016,  
 14 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2023]: Sec. 1. (a) Subject to section 2 of this chapter, and  
 16 except as provided in subsection (b), an underground storage tank,  
 17 whether of single or double wall construction, may not be installed  
 18 before the effective date of the rules adopted under IC 13-23-1-2 for the  
 19 purpose of storing regulated substances unless:

- 20 (1) the tank will prevent releases due to corrosion or structural
- 21 failure for the operational life of the tank;
- 22 (2) the tank is:
  - 23 (A) cathodically protected against corrosion;
  - 24 (B) constructed of noncorrosive material;
  - 25 (C) steel clad with a noncorrosive material; or
  - 26 (D) designed to prevent the release or threatened release of
  - 27 any stored substance;
- 28 (3) the material used in the construction or lining of the tank is
- 29 compatible with the substance to be stored; and
- 30 (4) after July 1, 2007, all newly installed or replaced piping
- 31 connected to the tank meets the secondary containment
- 32 requirements adopted by the board.

33 (b) An underground storage tank system that contains alcohol  
 34 blended fuels composed of greater than fifteen percent (15%) alcohol  
 35 is a ~~petroleum UST system (as defined in 329 IAC 9-1-36 as in effect~~  
 36 ~~January 1, 2007)~~ and may be installed during the period referred to in  
 37 subsection (a) if the system is otherwise in compliance with rules  
 38 adopted by the board concerning technical and safety requirements  
 39 relating to the physical characteristics of underground petroleum  
 40 storage tanks and ancillary equipment, including dispensing equipment,  
 41 used in the storing or dispensing of alcohol blended fuels for purposes  
 42 of all other provisions of this article.



(c) Owners and operators of underground storage tank systems that store, carry, or dispense alcohol blended fuels composed of greater than fifteen percent (15%) alcohol that comply with subsection (b) are considered to meet the standards of:

(1) compatibility under subsection (a)(3); and

(2) compliance for purposes of all other provisions of this article.

SECTION 36. IC 13-23-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. The ~~underground~~ petroleum storage tank trust fund is established to provide a source of money for the uses set forth in IC 13-23-13-6.

SECTION 37. IC 13-23-6-2, AS AMENDED BY P.L.38-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. The sources of money for the fund are as follows:

(1) Grants made by the United States Environmental Protection Agency to the state under cooperative agreements under Section 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C. 6991b(h)(7)).

(2) Costs recovered by the state under IC 13-23-13-8 in connection with any corrective action undertaken under IC 13-23-13-2 with respect to a release of petroleum.

(3) Costs recovered by the state in connection with the enforcement of this article with respect to any release of petroleum.

(4) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.

(5) Penalties imposed under IC 13-23-14.

(6) Revenue from the ~~underground~~ petroleum storage tank registration fee deposited in the fund under ~~IC 13-23-12-4~~.

**IC 13-23-12-4(1).**

SECTION 38. IC 13-23-7-1, AS AMENDED BY P.L.96-2016, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The ~~underground~~ petroleum storage tank excess liability trust fund (or ELTF) is established for the following purposes:

(1) Assisting owners and operators of underground petroleum storage tanks to establish evidence of financial responsibility as required under IC 13-23-4.

(2) Providing a source of money to satisfy liabilities for corrective action **for underground petroleum storage tanks and aboveground storage tanks.**

(3) Providing a source of money for the indemnification of third



parties under IC 13-23-9-3.

(4) Providing a source of money to pay for the expenses of the department incurred in:

(A) paying and administering claims against the ELTF for those job activities and expenses that consist exclusively of administering the ELTF;

(B) inspecting underground storage tanks **and aboveground storage tanks; and**

(C) establishing and implementing an online underground storage tank **and aboveground storage tank** operator training program that complies with the requirements of the federal Energy Policy Act of 2005; **and**

**(D) project management and oversight of eligible releases.**

(5) Providing a source of money to pay for the expenses of the department incurred under section 7(b) of this chapter.

(b) The expenses described in subsection (a)(4) that are paid from the ELTF in a state fiscal year may not exceed eleven percent (11%) of the fund income in the immediately preceding state fiscal year.

(c) The ELTF is designated as a trust fund.

SECTION 39. IC 13-23-9-1.3, AS AMENDED BY P.L.200-2017, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1.3. (a) The total amount otherwise available from the ELTF in connection with an eligible release discovered on or after July 1, 2016, shall be reduced by:

(1) a deductible amount of fifteen thousand dollars (\$15,000); and

(2) if any annual registration fees that were due in 2014 or a later year are not paid in full before the submittal of the initial site characterization as required by the rules adopted by the environmental rules board, an additional amount under subsection

(b).

(b) The additional amount referred to in subsection (a)(2) is the sum of:

(1) all annual registration fees due under IC 13-23-12-1 for USTs **and ASTs, as applicable**, located at the facility from which the release occurred that:

(A) were due in 2014 or a later year; and

(B) have not been paid; plus

(2) an additional amount of one thousand dollars (\$1,000) for each annual registration fee imposed by IC 13-23-12-1 on a UST **and AST, as applicable**, located at the facility from which the release occurred that:

(A) was due in 2014 or a later year; and



1 (B) was not paid in the year the fee was originally due.  
 2 SECTION 40. IC 13-23-9-1.5, AS AMENDED BY P.L.200-2017,  
 3 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2023]: Sec. 1.5. (a) The administrator may pay ELTF claims  
 5 only for costs that:

- 6 (1) are reasonable and cost effective; and  
 7 (2) result from or reimburse the claimant for the following:  
 8 (A) Work performed for site characterization.  
 9 (B) Development and implementation of a corrective action  
 10 plan that:  
 11 (i) is approved by the commissioner under rules adopted by  
 12 the environmental rules board; and  
 13 (ii) has not been suspended.  
 14 (C) Work performed as part of an emergency response  
 15 necessary to abate an immediate threat of harm to human  
 16 health, property, or the environment.  
 17 (D) Third party indemnification claims submitted in  
 18 accordance with section 3 of this chapter.  
 19 (E) Reasonable attorney's fees incurred in defense of third  
 20 party claims.  
 21 (F) Releases that occurred on or after April 1, 1988.  
 22 (G) Compensation paid by the claimant to technicians for  
 23 services performed in preparation of the claimant's ELTF  
 24 claim.  
 25 **(H) Work performed to decommission or replace an**  
 26 **underground petroleum storage tank as provided under**  
 27 **section 1.7 of this chapter.**

28 (b) The administrator may also pay ELTF claims for costs not  
 29 described in subsection (a) if allowed under rules adopted by the  
 30 **petroleum storage tank** financial assurance board.

31 SECTION 41. IC 13-23-9-1.7 IS ADDED TO THE INDIANA  
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2023]: **Sec. 1.7. (a) The administrator may**  
 34 **pay an ELTF claim for fifty percent (50%) of the costs of**  
 35 **decommissioning or replacing an underground petroleum storage**  
 36 **tank, provided that:**

- 37 (1) **the applicant is the owner of the tank;**  
 38 (2) **such decommissioning or replacement is necessary, in the**  
 39 **judgment of the administrator, to protect human health and**  
 40 **the environment considering the age, obsolescence, and level**  
 41 **of deterioration of the tank; and**  
 42 (3) **the costs are:**





1 (A) reasonable and cost effective; and  
 2 (B) result from or reimburse the claimant for work  
 3 performed decommissioning the tank or replacing the tank  
 4 with a new tank.

5 (b) The expenses described in subsection (a) that are paid from  
 6 the ELTF in a state fiscal year may not exceed:

- 7 (1) ten million dollars (\$10,000,000) each year for claims  
 8 submitted by applicants owning not more than twelve (12)  
 9 underground petroleum storage tanks;  
 10 (2) seven million five hundred thousand dollars (\$7,500,000)  
 11 each year for claims submitted by applicants owning more  
 12 than twelve (12) but not more than one hundred (100)  
 13 underground petroleum storage tanks; and  
 14 (3) two million five hundred dollars (\$2,500,000) each year for  
 15 claims submitted by applicants owning more than one  
 16 hundred (100) underground petroleum storage tanks.

17 SECTION 42. IC 13-23-11-1 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. The ~~underground~~  
 19 **petroleum** storage tank financial assurance board is created.

20 SECTION 43. IC 13-23-11-2, AS AMENDED BY P.L.200-2017,  
 21 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2023]: Sec. 2. (a) The board consists of the following nine (9)  
 23 members:

- 24 (1) The commissioner or the commissioner's designee.  
 25 (2) One (1) member nominated by the treasurer of state in  
 26 consultation with the commissioner of the department of state  
 27 revenue.  
 28 (3) One (1) member representing the independent petroleum  
 29 wholesale distributor-marketer industry. In making this  
 30 appointment, the governor may consider the recommendation of  
 31 the Indiana petroleum marketers and convenience store  
 32 association.  
 33 (4) One (1) member representing the petroleum refiner-supplier  
 34 industry. In making this appointment, the governor may consider  
 35 the recommendation of the Indiana petroleum council.  
 36 (5) One (1) member of the financial lending community who has  
 37 experience with loan guaranty programs.  
 38 (6) One (1) member representing the convenience store operator  
 39 industry or independent petroleum retail distributor-marketer  
 40 industry. In making this appointment, the governor may consider  
 41 the recommendation of the Indiana petroleum marketers and  
 42 convenience store association.



(7) One (1) member representing environmental interests.

(8) One (1) member representing an environmental consulting firm that performs work involving underground storage tank **or aboveground storage tank** corrective actions.

(9) One (1) member representing the property and casualty insurance industry.

(b) The governor shall appoint the members specified in subsection (a)(2) through (a)(9) for terms of two (2) years.

SECTION 44. IC 13-23-11-7, AS AMENDED BY P.L.96-2016, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) The board shall do the following:

(1) Adopt rules under IC 4-22-2 and IC 13-14-9 necessary to do the following:

(A) Carry out the duties of the board under this article.

(B) Establish standards and procedures under which:

(i) eligible parties may submit ELTF claims; and

(ii) the administrator of the ELTF may pay ELTF claims.

(C) Establish standards for determining the reasonableness and cost effectiveness of corrective action for purposes of reimbursement from the ELTF under IC 13-23-9-1.5(a)(1).

(D) Establish standards for priorities in the payment of ELTF claims, including a priority for claims associated with releases from USTs **and ASTs** that pose an immediate and significant threat to the environment.

**(E) Provide reimbursement from the petroleum storage tank excess liability trust fund for fifty percent (50%) of costs of decommissioning or replacing underground petroleum storage tanks that meet the criteria under IC 13-23-9-1.7.**

**(F) Establish procedures to reopen ELTF eligibility and funding for a release previously granted "no further action" (NFA) status by the department should either the department or the owner of the underground petroleum storage tank or aboveground petroleum storage tank subsequently decide to permanently decommission the use of the site as a petroleum facility and undertake the investigation and remediation of any residual contamination arising from the site's former use as a petroleum facility. Before reopening ELTF eligibility and funding, the administrator may require that the applicant provide information regarding the planned future use of the site.**



(2) Take testimony and receive a written report at every meeting of the board from the commissioner or the commissioner's designee regarding the financial condition and operation of the ELTF, including:

(A) a detailed breakdown of contractual and administrative expenses the department is claiming from the ELTF under IC 13-23-7-1(a)(4); and

(B) a claims statistics report consisting of:

(i) the status and amounts of claims submitted to the ELTF; and

(ii) ELTF claims payments made.

Testimony shall be taken and a written report shall be received under this subdivision at every meeting of the board. However, the testimony and written report are not required more than one (1) time during any thirty (30) day period.

(3) Consult with the department on administration of the ELTF in developing uniform policies and procedures for revenue collection and claims administration of the ELTF.

(b) The department shall consult with the board on administration of the ELTF. The consultation must include evaluation of alternative means of administering the ELTF in a cost effective and efficient manner.

(c) At each meeting of the board, the department shall provide the board with a written report on the financial condition and operation of the ELTF.

SECTION 45. IC 13-23-12-1, AS AMENDED BY P.L.96-2016, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) Each year, if an underground storage tank **or aboveground storage tank** has not been closed before January 1 of the year under:

(1) rules adopted under IC 13-23-1-2; or

(2) a requirement imposed by the commissioner before the adoption of rules under IC 13-23-1-2;

the owner of the underground storage tank **or aboveground storage tank** shall pay to the department an annual registration fee.

(b) The annual registration fee required by this section is as follows:

(1) Ninety dollars (\$90) for each underground petroleum storage tank **or aboveground petroleum storage tank**.

(2) Two hundred forty-five dollars (\$245) for each underground storage tank containing regulated substances other than petroleum.

(c) If an underground storage tank **or aboveground storage tank**



consists of a single tank in which there are separate compartments, a separate fee shall be paid under subsection (b) for each compartment within the single tank.

(d) If an underground storage tank consists of a combination of tanks, a separate fee shall be paid under subsection (b) for each compartment within each tank in the combination of tanks.

(e) The following apply to tanks that contain separate compartments and that were in use before July 1, 2014:

(1) For the period preceding July 1, 2014, the payment of a single annual fee of ninety dollars (\$90) for a tank containing separate compartments shall be deemed to satisfy the requirements of subsection (b).

(2) The department shall not be required to pay any refunds to a tank owner that paid a separate fee under subsection (b) for each compartment within a tank before July 1, 2014.

SECTION 46. IC 13-23-12-4, AS AMENDED BY P.L.220-2014, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. The department shall collect the fees paid under this chapter and deposit the fees as follows:

(1) Fees paid in connection with underground petroleum storage tanks **or aboveground petroleum storage tanks under section 1(b)(1) of this chapter** shall be deposited in the petroleum trust fund.

(2) Fees paid **under section 1(b)(2) of this chapter** in connection with underground storage tanks used to contain regulated substances other than petroleum shall be deposited in the hazardous substances response trust fund **established by IC 13-25-4-1.**

SECTION 47. IC 13-23-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) **Subject to subsections (b)(1) and (d),** the commissioner may, under rules adopted under IC 13-23-1-2:

(1) issue an order under IC 13-14-2-7 or IC 4-21.5-4; or

(2) proceed under IC 13-14-2-6;

to require the owner or operator of an underground storage tank **or aboveground storage tank** to undertake corrective action with respect to any release of a regulated substance.

**(b) Except as provided in subsection (d), the commissioner may not, with respect to a release of petroleum from an underground storage tank:**

**(1) take action under subsection (a); or**

**(2) if a quantity of the released petroleum remains or may**



1 remain underground at the site of the underground storage  
2 tank:

3 (A) request that the owner or operator of the underground  
4 storage tank execute a restrictive covenant (as defined in  
5 IC 13-11-2-193.5) applying to the site of the underground  
6 storage tank;

7 (B) make a determination of no further action being  
8 required at the site of the underground storage tank; or

9 (C) approve closure, or its equivalent, of the site of the  
10 underground storage tank;

11 unless the commissioner has received and reviewed the initial site  
12 characterization of the site of the release.

13 (c) An initial site characterization must include:

14 (1) site-specific geologic information obtained from a  
15 minimum of three (3) continuously sampled soil borings; and

16 (2) hydrogeologic information, including depth to ground  
17 water and ground water flow directions and gradients,  
18 obtained from a minimum of three (3) monitoring wells  
19 screened across the water table.

20 If an initial site characterization does not define the nature and  
21 extent of the contaminant plume, additional investigation shall be  
22 performed.

23 (d) The commissioner may take action under subsection (a)  
24 without having received and reviewed the initial site  
25 characterization if the commissioner reasonably believes that the  
26 release from the underground storage tank creates a threat to  
27 human health or the environment sufficient to necessitate action  
28 under subsection (a) before the initial site characterization is  
29 submitted to the department.

30 ~~(b)~~ (e) If the commissioner:

31 (1) requires corrective action under subsection (a); and

32 (2) determines that the corrective action will be done properly and  
33 promptly by the owner or operator of the underground storage  
34 tank **or aboveground storage tank** from which the release  
35 occurs;

36 the commissioner may enter into an agreed order with the owner or  
37 operator to implement necessary corrective action.

38 SECTION 48. IC 13-23-13-2 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. The commissioner,  
40 under rules adopted under IC 13-23-1-2, may undertake corrective  
41 action with respect to any release of a regulated substance into the  
42 environment from an underground storage tank **or aboveground**



1 **storage tank if:**

2 (1) that action is necessary, in the judgment of the commissioner,  
3 to protect human health and the environment; and

4 (2) at least one (1) of the following conditions exists:

5 (A) A person cannot be found not later than ninety (90) days  
6 after a suspected or confirmed release is identified (or a  
7 shorter time necessary to protect human health and the  
8 environment) who is:

9 (i) an owner or operator of the underground storage tank **or**  
10 **aboveground storage tank;**

11 (ii) subject to the rules concerning corrective action; and

12 (iii) capable of properly carrying out corrective action with  
13 respect to the release.

14 (B) An existing situation requires prompt action by the  
15 commissioner under this section to protect human health and  
16 the environment.

17 (C) The cost of corrective action at the site of an underground  
18 storage tank exceeds the amount of financial responsibility  
19 required under IC 13-23-1-2(c)(6), IC 13-23-4-4, and  
20 IC 13-23-4-5 and, considering the class or category of  
21 underground storage tank from which the release occurred,  
22 expenditures by the state are necessary to ensure an effective  
23 corrective action.

24 (D) The owner or operator of the underground storage tank **or**  
25 **aboveground storage tank** has failed or refused to comply  
26 with an order of the commissioner or a judgment of a court of  
27 competent jurisdiction under section 1 of this chapter to take  
28 corrective action with respect to the release.

29 SECTION 49. IC 13-23-13-4 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. In:

31 (1) issuing orders requiring corrective action under section 1 of  
32 this chapter; or

33 (2) undertaking corrective action under section 2 of this chapter;  
34 the commissioner shall give priority to releases of regulated substances  
35 from underground storage tanks **or aboveground storage tanks** that  
36 pose the greatest threat to human health and the environment.

37 SECTION 50. IC 13-23-13-5 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. In issuing orders  
39 requiring corrective action under section 1 of this chapter or  
40 undertaking corrective action under section 2 of this chapter the  
41 commissioner may:

42 (1) require only a limited form of corrective action; and



(2) implement streamlined administrative procedures; with respect to a release of a regulated substance from an underground storage tank **or aboveground storage tank** that, in the judgment of the commissioner, poses little or no immediate threat to human health or to the environment.

SECTION 51. IC 13-23-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5.5. (a) Notwithstanding any other provision of this chapter, a person who is not an owner or operator of an underground storage tank **or an aboveground storage tank** is liable to the state only for corrective action to address a surface spill or overfill of a regulated substance from the underground storage tank **or aboveground storage tank** that is intentionally caused by the person during the delivery of the regulated substance into the underground storage tank **or aboveground storage tank**.

(b) A person who is liable for corrective action under subsection (a) is subject to a claim for contribution to corrective action costs arising solely from the surface spill or overfill by a person described in section 8(b)(1) or 8(b)(2) of this chapter. Except as otherwise provided in ~~subsection~~ **subsections** (c) and (d), an action for contribution under this section may be brought in the same manner and is subject to the same provisions as an action brought under section 8(b) of this chapter.

(c) Before a person brings a contribution action under this section, the person must provide written notice of intent to bring the action by certified mail to:

(1) the department; and

(2) each person allegedly responsible for the surface spill or overfill that occurred during the delivery of a regulated substance into the underground storage tank **or aboveground storage tank**.

(d) A person that provides notice under subsection (c) may not bring a contribution action if:

(1) the department commences an administrative proceeding or a civil action concerning the alleged surface spill or overfill not later than ninety (90) days after receiving notice under subsection (c)(1); or

(2) the person who receives the notice under subsection (c)(2) agrees in writing, within ninety (90) days after receipt of the notice, to remediate the surface spill or overfill in accordance with the state's rules governing spills and overfills.

SECTION 52. IC 13-23-13-6, AS AMENDED BY P.L.220-2014, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) Except as provided in subsection (b), the



commissioner, under rules adopted under IC 13-23-1-2, may use money in the petroleum trust fund to pay the following costs and expenses associated with underground petroleum storage tanks **or aboveground petroleum storage tanks**:

(1) Costs incurred for corrective action conducted under cooperative agreements entered into between the state and the Administrator of the United States Environmental Protection Agency under Section 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C. 6991b(h)(7)), in accordance with the provisions of the cooperative agreements.

(2) Expenses incurred by the state for the following:

(A) Corrective actions that are ordered or undertaken under this chapter.

(B) Enforcement of this article.

(3) Expenses incurred by the state under section 8 of this chapter in recovering the costs of corrective actions undertaken under section 2 of this chapter.

(4) Administrative expenses and personnel expenses incurred by the state in carrying out this article.

(b) Notwithstanding subsection (a), fifty percent (50%) of the fees deposited in the petroleum trust fund under IC 13-23-12-4(1) shall be used by the commissioner to pay for corrective actions:

(1) **that are** taken under this chapter ~~that and~~ involve releases of regulated substances from underground storage tanks **or aboveground storage tanks**; and

(2) that are not eligible to receive funds from the ~~underground~~ petroleum storage tank excess liability trust fund under IC 13-23-7.

Not more than eleven percent (11%) of the funds expended under this subsection may be used to pay for administrative and personnel expenses incurred in carrying out this subsection.

SECTION 53. IC 13-23-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) Except where an owner or operator can prove that a release from an underground storage tank **or aboveground storage tank** was caused solely by:

(1) an act of God;

(2) an act of war;

(3) negligence on the part of the state or the United States government; or

(4) any combination of the causes set forth in subdivisions (1) through (3);

the owner or operator of an underground storage tank **or aboveground**





**storage tank** is liable to the state for the actual costs of any corrective action taken under section 2 of this chapter or IC 13-7-20-19(b) (before its repeal) involving the underground storage tank **or aboveground storage tank** and is responsible for undertaking any corrective action, including undertaking an exposure assessment, ordered under this chapter, IC 13-23-14-1, IC 13-7-20-19 (before its repeal), or IC 13-7-20-26 (before its repeal), or required by this title or a rule adopted under this title.

(b) A person who:

- (1) pays to the state the costs described under subsection (a); or
- (2) undertakes corrective action resulting from a release from an underground storage tank **or aboveground storage tank**, regardless of whether the corrective action is undertaken voluntarily or under an order issued under this chapter, IC 13-23-14-1, IC 13-7-20-19 (before its repeal), or IC 13-7-20-26 (before its repeal);

is entitled to receive a contribution from a person who owned or operated the underground storage tank **or aboveground storage tank** at the time the release occurred. A person who brings a successful action to receive a contribution from an owner or operator is also entitled to receive reasonable attorney's fees and court costs from the owner or operator. An action brought under this subsection may be brought in a circuit or superior court. In resolving a contribution claim, a court may allocate the cost of a corrective action among the parties to the action using equitable factors that the court determines are appropriate.

(c) Money recovered by the state under this section in connection with any corrective action undertaken with respect to a release of petroleum shall be deposited in the petroleum trust fund.

(d) Money recovered by the state under this section in connection with any corrective action undertaken with respect to a release of a regulated substance other than petroleum shall be deposited in the hazardous substances response trust fund.

(e) The state may recover corrective action costs under this section in an action commenced under IC 13-14-2-6, IC 13-14-2-7, IC 13-7-5-7 (before its repeal), or IC 13-7-5-8 (before its repeal). An action to recover corrective action costs under this section may be combined, as appropriate, with an action to enforce an order issued under section 1 of this chapter or IC 13-7-20-19(a) (before its repeal) to require corrective action not already undertaken by the commissioner.

SECTION 54. IC 13-23-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) An



indemnification agreement, a hold harmless agreement, or other similar agreement or conveyance is not effective to transfer the liability imposed under section 8 of this chapter from:

(1) the owner or operator of an:

(A) underground storage tank; or

(B) **aboveground storage tank; or**

(2) any person who may be liable for a release or threat of release under this article;

to any other person.

(b) This section does not bar an agreement to:

(1) insure;

(2) hold harmless; or

(3) indemnify;

a party to an agreement for any liability under this article.

SECTION 55. IC 13-23-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 12. (a) For the purpose of enabling the commissioner to take or to assess the need for corrective action under this chapter or to enforce this article, an owner or operator of an underground storage tank **or aboveground storage tank**, upon the request of an officer, an employee, or a designated representative of the department, shall do the following:

(1) Furnish information relating to the:

(A) underground storage tank; ~~or~~

(B) **aboveground storage tank; or**

(C) associated equipment or contents.

(2) Conduct monitoring or testing of the underground storage tank **or aboveground storage tank**, including associated equipment or contents.

(3) Conduct monitoring or testing of soils, air, surface water, or ground water surrounding the underground storage tank **or aboveground storage tank** if:

(A) tank testing, using methods that are applicable to but not in excess of federal standards, confirms a release of regulated substance; or

(B) other evidence exists that gives cause for reasonable suspicion that a release has occurred.

(4) Permit, at all reasonable times, the officer, employee, or designated representative to have access to and to copy all records relating to the underground storage tank **or aboveground storage tank**.

(5) Permit the officer, employee, or designated representative to have access for corrective action.



(b) For the purposes set forth in subsection (a), an officer, an employee, or a designated representative of the department may enter at reasonable times any establishment or other place where an underground storage tank **or aboveground storage tank** is located or where a regulated substance may be present due to a release from an underground storage tank **or aboveground storage tank** to do the following:

(1) Inspect and obtain samples from any person of any regulated substances contained in the underground storage tank **or aboveground storage tank**.

(2) Conduct monitoring or testing of:

(A) the underground storage tank;

**(B) the aboveground storage tank;**

~~(B)~~ (C) associated equipment or contents; or

~~(C)~~ (D) surrounding:

(i) soils;

(ii) air;

(iii) surface water; or

(iv) ground water.

(3) Take corrective action under section 2 of this chapter.

(c) Every action authorized by this section shall be commenced and completed with reasonable promptness.

SECTION 56. IC 13-23-13-14, AS AMENDED BY P.L.159-2011, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 14. For purposes of IC 13-11-2-148(e), IC 13-11-2-150(b), and IC 13-11-2-150(c), a person that is a lender and that holds evidence of ownership primarily to protect a security interest in an underground storage tank **or aboveground storage tank** shall be considered to participate in management (as defined in IC 13-11-2-151.2) of the underground storage tank **or aboveground storage tank** only if, while the borrower is still in possession of the underground storage tank **or aboveground storage tank** encumbered by the security interest, the person:

(1) exercises decision making control over the environmental compliance related to the underground storage tank **or aboveground storage tank** such that the person has undertaken responsibility for the hazardous substance handling or disposal practices related to the underground storage tank **or aboveground storage tank**; or

(2) exercises control at a level comparable to that of a manager of the underground storage tank **or aboveground storage tank** such that the person has assumed or manifested responsibility:



(A) for the overall management of the underground storage tank **or aboveground storage tank** encompassing day to day decision making with respect to environmental compliance; or  
 (B) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the underground storage tank **or aboveground storage tank** other than the function of environmental compliance.

SECTION 57. IC 13-23-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15. (a) The liability of a fiduciary under this title for the release or threatened release of a hazardous substance at, from, or in connection with an underground storage tank **or aboveground storage tank** held in a fiduciary capacity shall not exceed the assets held in the fiduciary capacity.

(b) Subsection (a) does not apply to the extent that a person is liable under this title independently of the person's ownership of an underground storage tank **or aboveground storage tank** as a fiduciary or actions taken in a fiduciary capacity.

(c) Subsections (a) and (d) do not limit the liability pertaining to a release or threatened release of a hazardous substance if negligence of a fiduciary causes or contributes to the release or threatened release.

(d) A fiduciary is not liable in its personal capacity under this title for any of the following:

- (1) Undertaking or directing another person to undertake a response action under 42 U.S.C. 9607(d)(1) or under the direction of an on-scene coordinator designated under the National Contingency Plan.
- (2) Undertaking or directing another person to undertake other lawful means of addressing a hazardous substance in connection with the underground storage tank **or aboveground storage tank**.
- (3) Terminating the fiduciary relationship.
- (4) Including in the terms of the fiduciary agreement a covenant, warranty, or other term or condition that relates to compliance with an environmental law, or monitoring, modifying, or enforcing the term or condition.
- (5) Monitoring or undertaking at least one (1) inspection of the underground storage tank **or aboveground storage tank**.
- (6) Providing financial advice or other advice or counseling to other parties to the fiduciary relationship, including the settlor or beneficiary.
- (7) Restructuring, renegotiating, or otherwise altering the terms and conditions of the fiduciary relationship.
- (8) Administering, as a fiduciary, an underground storage tank **or**



**aboveground storage tank** that was contaminated before the fiduciary relationship began.

(9) Declining to take any of the actions referred to in subdivisions (2) through (8).

(e) This section does not apply to a person if the person:

(1) acts in a capacity other than:

(A) a fiduciary capacity; or

(B) a beneficiary capacity;

and, in that capacity, directly or indirectly benefits from a trust or fiduciary relationship; or

(2) is a beneficiary and a fiduciary with respect to the same fiduciary estate and, as a fiduciary, receives benefits that exceed customary or reasonable compensation and incidental benefits permitted under other applicable law.

(f) This section does not preclude a claim against the assets of the estate or trust administered by:

(1) the fiduciary; or

(2) a nonemployee agent or independent contractor retained by a fiduciary.

(g) This section does not:

(1) affect the rights, immunities, or other defenses that are available under:

(A) this title; or

(B) other law that is applicable to a person subject to this chapter; or

(2) create:

(A) any liability for a person; or

(B) a private right of action against a fiduciary or any other person.

SECTION 58. IC 13-23-13-16, AS ADDED BY P.L.221-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 16. (a) A political subdivision or unit of federal or state government that acquired ownership or control of an underground storage tank **or aboveground storage tank** on a brownfield by any of the means listed in IC 13-11-2-150(c) and IC 13-11-2-151(b) may undertake any activity in conjunction with:

(1) investigation or remediation of hazardous substances, petroleum, and other pollutants associated with a brownfield, including complying with land use restrictions and institutional controls; or

(2) monitoring or closure of an:

(A) underground storage tank; **or**



1                   **(B) aboveground storage tank;**

2 without being considered as contributing to the existing release or  
3 threatened release of a regulated substance on, in, or at the brownfield  
4 unless existing contamination on the brownfield is exacerbated due to  
5 gross negligence or intentional misconduct by the political subdivision  
6 or unit of federal or state government.

7           (b) For purposes of subsection (a), reckless, willful, or wanton  
8 misconduct constitutes gross negligence.

9           SECTION 59. IC 13-23-14-2 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. A person who  
11 violates a rule adopted under IC 13-23-1-2 by:

12           (1) knowingly failing to give a required notification; or

13           (2) submitting false information;

14 is subject to a civil penalty of not more than ten thousand dollars  
15 (\$10,000) for each underground storage tank **or aboveground storage**  
16 **tank** for which a required notification is not given or for which false  
17 information is submitted.

18           SECTION 60. IC 13-23-14-3 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) Except as  
20 provided in subsection (b), a person who violates:

21           (1) a requirement or standard set forth in this article; or

22           (2) a rule adopted under IC 13-23-1-2 other than a violation  
23 described in section 2 of this chapter;

24 is subject to a civil penalty of not more than ten thousand dollars  
25 (\$10,000) per underground storage tank **or aboveground storage tank**  
26 for each day of violation.

27           (b) A person is not subject to the civil penalty described in  
28 subsection (a) if:

29           (1) the violation arose from an underground storage tank **or**  
30 **aboveground storage tank** that is on a brownfield;

31           (2) the person was not the owner or operator of the underground  
32 storage tank **or aboveground storage tank** when the violation  
33 first occurred;

34           (3) the person does not dispense a regulated substance into or  
35 from the underground **storage tank or aboveground storage**  
36 **tank**;

37           (A) for any purpose other than temporary or permanent  
38 closure; or

39           (B) in violation of any federal, state, or local regulations; and

40           (4) the underground storage tank **or aboveground storage tank**  
41 is brought into compliance with this article not later than one (1)  
42 year after the person acquired ownership of the property.



1 SECTION 61. IC 13-23-14-4, AS AMENDED BY P.L.38-2012,  
 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2023]: Sec. 4. (a) A person who fails to comply with an order  
 4 issued by the commissioner under this article or IC 13-7-20 (before its  
 5 repeal) after the order becomes effective is subject to a civil penalty of  
 6 not more than twenty-five thousand dollars (\$25,000) for each day of  
 7 continued noncompliance.

8 (b) It is a defense to a violation of this section due to noncompliance  
 9 with an order issued under IC 13-23-1-4 that the person has not been  
 10 notified that an underground storage tank **or aboveground storage**  
 11 **tank** that is the subject of the order is ineligible for delivery, deposit,  
 12 or acceptance of a regulated substance as determined by the  
 13 commissioner.

14 SECTION 62. IC 13-23-16-2, AS ADDED BY P.L.221-2007,  
 15 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2023]: Sec. 2. If the department receives a report concerning:

- 17 (1) the discovery of released regulated substances at an
- 18 underground storage tank **or aboveground storage tank** site or
- 19 in the surrounding area under 329 IAC 9-4-1(1); or
- 20 (2) a spill or overfill under 329 IAC 9-4-4(a);

21 the department shall, not more than seven (7) days after receiving the  
 22 report, provide notice of the release, spill, or overfill to the county  
 23 health officer of each county in which the release, spill, or overfill  
 24 occurred.

25 SECTION 63. IC 13-27-8-3, AS AMENDED BY P.L.133-2012,  
 26 SECTION 155, IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) The following boards may  
 28 adopt rules to implement this chapter to the extent consistent with  
 29 federal law:

- 30 (1) The board.
- 31 (2) The ~~underground~~ **petroleum** storage tank financial assurance
- 32 board established by IC 13-23-11-1.

33 (b) The rules adopted under subsection (a) may establish the  
 34 following:

- 35 (1) Eligibility requirements for participation in environmental
- 36 performance based programs.
- 37 (2) Compliance methods and schedules that:
- 38 (A) differ from compliance methods and schedules that apply
- 39 to nonparticipants in environmental performance based
- 40 programs under rules adopted by the boards;
- 41 (B) apply only to participants in environmental performance
- 42 based programs; and



- 1 (C) include any of the following:
- 2 (i) Changes to monitoring and reporting requirements and
- 3 schedules.
- 4 (ii) Streamlined submission requirements for permit
- 5 renewals.
- 6 (iii) Prioritized applications.
- 7 (iv) Authorization to make without prior governmental
- 8 approval certain operational changes that do not result in
- 9 additional environmental impact.
- 10 (3) Recognition incentives to encourage participation in
- 11 environmental performance based programs.
- 12 (4) Other incentives consistent with the policies of this title and
- 13 federal law to encourage participation in environmental
- 14 performance based programs.
- 15 (5) Requirements for participants in environmental performance
- 16 based programs to implement any of the following:
- 17 (A) Continuous improvement environmental systems.
- 18 (B) Pollution prevention and waste minimization programs
- 19 developed under IC 13-27-7.
- 20 SECTION 64. IC 13-30-3-11, AS AMENDED BY P.L.133-2012,
- 21 SECTION 159, IS AMENDED TO READ AS FOLLOWS
- 22 [EFFECTIVE JULY 1, 2023]: Sec. 11. An order of the commissioner
- 23 under this chapter may do any of the following:
- 24 (1) Include a direction to cease and desist from violations of the
- 25 following:
- 26 (A) Environmental management laws.
- 27 (B) Air pollution control laws.
- 28 (C) Water pollution control laws.
- 29 (D) A rule adopted by the board.
- 30 (E) A rule adopted by the ~~underground~~ **petroleum** storage
- 31 tank financial assurance board ~~created~~ **established** by
- 32 IC 13-23-11-1.
- 33 (2) Impose monetary penalties in accordance with the following:
- 34 (A) Environmental management laws.
- 35 (B) Air pollution control laws.
- 36 (C) Water pollution control laws.
- 37 (3) Mandate corrective action, including corrective action to be
- 38 taken beyond the boundaries of the area owned or controlled by
- 39 the person to whom the order is directed, to alleviate the violation.
- 40 (4) Revoke a permit or condition or modify the terms of a permit.
- 41 SECTION 65. IC 13-30-4-1, AS AMENDED BY P.L.133-2012,
- 42 SECTION 160, IS AMENDED TO READ AS FOLLOWS





[EFFECTIVE JULY 1, 2023]: Sec. 1. (a) Subject to IC 13-14-6 and except as provided in IC 13-23-14-2 and IC 13-23-14-3, a person who violates:

(1) any provision of:

(A) environmental management laws;

(B) air pollution control laws;

(C) water pollution control laws;

(D) IC 13-18-14-1;

(E) a rule or standard adopted by the board; or

(F) a rule or standard adopted by the ~~underground petroleum~~ storage tank financial assurance board ~~created~~ **established** by IC 13-23-11-1; or

(2) any determination, permit, or order made or issued by the commissioner under:

(A) environmental management laws or IC 13-7 (before its repeal);

(B) air pollution control laws or IC 13-1-1 (before its repeal); or

(C) water pollution control laws or IC 13-1-3 (before its repeal);

is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day of any violation.

(b) The department may:

(1) recover the civil penalty described in subsection (a) in a civil action commenced in any court with jurisdiction; and

(2) request in the action that the person be enjoined from continuing the violation.

SECTION 66. IC 13-30-7-7, AS AMENDED BY P.L.133-2012, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. The following shall adopt rules under IC 4-22-2 and IC 13-14-9 to administer this chapter:

(1) The board.

(2) The ~~underground petroleum~~ storage tank financial assurance board ~~created~~ **established** by IC 13-23-11-1.

SECTION 67. IC 16-44-2-18.5, AS AMENDED BY P.L.1-2006, SECTION 307, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 18.5. (a) As used in this section, "special fuel" has the meaning set forth in IC 6-6-2.5-22, except that the term does not include kerosene.

(b) Except as provided in subsection (c), fees for the inspection of special fuel shall be at the rate of fifty cents (\$0.50) per barrel (fifty (50) gallons) on all special fuel sold or used in producing or generating



power for propelling motor vehicles in Indiana less deductions provided in this section.

(c) A fee for the inspection of special fuel may not be charged with respect to special fuel that is exempt from the special fuel tax under IC 6-6-2.5-30.

(d) The fee imposed by this chapter on special fuel sold or used in producing or generating power for propelling motor vehicles in Indiana shall be collected and remitted to the state at the same time, by the same person, and in accordance with the same requirements for collection and remittance of the special fuels tax under IC 6-6-2.5-35.

(e) Fees collected under this section shall be deposited by the department in the ~~underground~~ petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

(f) A person who receives a refund of special fuel tax under IC 6-6-2.5 is also entitled to a refund of fees paid under this section if:

(1) the fees were paid with respect to special fuel that was used for an exempt purpose described in IC 6-6-2.5-30; and

(2) the person submits to the department of state revenue a claim for a refund, in the form prescribed by the department of state revenue, that includes the following information:

(A) Any evidence requested by the department of state revenue concerning the person's:

(i) payment of the fee imposed by this section; and

(ii) receipt of a refund of special fuel taxes from the department of state revenue under IC 6-6-2.5.

(B) Any other information reasonably requested by the department of state revenue.

The department of state revenue may make any investigation it considers necessary before refunding fees to a person.

SECTION 68. IC 16-44-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 19. All money collected for inspections under this chapter shall be deposited in the ~~underground~~ petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

SECTION 69. IC 22-12-2-2, AS AMENDED BY P.L.249-2019, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) The commission consists of eleven (11) members, nine (9) of whom shall be appointed by the governor.

(b) The term of a commission member is four (4) years.

(c) The state health commissioner or the commissioner's designee shall serve as a member of the commission, and the commissioner of labor or the commissioner's designee shall serve as a member of the



commission.

(d) Each appointed member of the commission must have a recognized interest, knowledge, and experience in the field of fire prevention, fire protection, building safety, or other related matters. The governor shall consider appointing individuals to the commission with experience in the following:

- (1) A paid fire department.
- (2) A volunteer fire department.
- (3) The field of fire insurance.
- (4) The fire service industry.
- (5) The manufactured housing industry.
- (6) The field of fire protection engineering.
- (7) As a professionally licensed engineer.
- (8) Building contracting.
- (9) The field of building one (1) and two (2) family dwellings.
- (10) As a professionally licensed architect.
- (11) The design or construction of heating, ventilating, air conditioning, or plumbing systems.
- (12) The design or construction of regulated lifting devices.
- (13) City, town, or county building inspection.
- (14) Regulated amusement devices.
- (15) Accessibility requirements and personal experience with a disability.
- ~~(16) Underground and aboveground motor fuel storage tanks and dispensing systems.~~
- ~~(17)~~ **(16)** The masonry trades.
- ~~(18)~~ **(17)** Energy conservation codes and standards, including the manner in which energy conservation codes and standards apply to:

- (A) residential;
  - (B) single and multiple family dwelling; or
  - (C) commercial;
- building codes.
- ~~(19)~~ **(18)** The boiler and pressure vessel industry.

(e) Not more than five (5) of the appointed members of the commission may be affiliated with the same political party.

**SECTION 70. [EFFECTIVE JULY 1, 2023] (a) As used in this SECTION, "board" refers to the environmental rules board established by IC 13-13-8-3.**

**(b) As used in this SECTION, "department" means the department of environmental management established by IC 13-13-1-1.**



(c) On July 1, 2023, all powers, duties, agreements, and liabilities of the:

(1) state fire marshal to regulate the certification of underground storage tank workers under IC 13-23-3, before its amendment by this act, are transferred to the department; and

(2) fire prevention and building safety commission to regulate the certification of underground storage tank workers under IC 13-23-3, before its amendment by this act, are transferred to the board.

(d) On July 1, 2023, all records, property, and funds used by the:

(1) state fire marshal to regulate the certification of underground storage tank workers under IC 13-23-3, before its amendment by this act, are transferred to the department; and

(2) fire prevention and building safety commission to regulate the certification of underground storage tank workers under IC 13-23-3, before its amendment by this act, are transferred to the board.

(e) After June 30, 2023, any amounts owed to the:

(1) state fire marshal in connection with regulation of the certification of underground storage tank workers before July 1, 2023, are considered to be owed to the department as the successor agency; and

(2) fire prevention and building safety commission in connection with the regulation of certification of underground storage tank workers before July 1, 2023, are considered to be owed to the board as the successor agency.

(f) The rules adopted by the fire prevention and building safety commission before July 1, 2023, under 675 IAC 12-12, concerning the underground storage tank certification program are considered, after June 30, 2023, rules of the board.

(g) This SECTION expires July 1, 2024.

SECTION 71. [EFFECTIVE JULY 1, 2023] (a) The administrator may reimburse the following costs from the fund:

(1) Investigation and remediation of petroleum contamination from an eligible above ground petroleum storage tank;

(2) Fifty percent (50%) of decommissioning or replacing of an underground petroleum storage tank, if the administrator determines that removal is necessary to protect human health and the environment, considering the condition of the tank,



1 including the age, level of deterioration, and obsolescence of  
2 the tank; and

3 (3) Costs for investigation and remediation of a site for which  
4 a "no further action (NFA)" has been granted if the owner  
5 decides to permanently decommission the site as a petroleum  
6 facility and undertake the investigation and remediation of  
7 the remaining contamination for the site's former use as a  
8 petroleum facility. The administrator shall allow for the  
9 restoration of ELTF eligibility in such a case and may require  
10 information regarding the planned future use for the site.

11 (b) This SECTION expires upon the effective date of the rules  
12 adopted by the petroleum storage tank financial assurance board  
13 under IC 13-23-11-7.



## COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 246, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 7, after "is" insert **"used to contain petroleum."**

Page 3, delete line 8.

Page 4, line 18, delete "administrating" and insert **"IC 13-23 and the administration of"**.

Page 4, line 33, reset in roman "IC 13-23-11,".

Page 4, line 33, delete "IC 13-23,".

Page 11, delete lines 21 through 31.

Page 13, delete lines 32 through 38.

Page 24, delete lines 16 through 20.

Page 25, delete lines 41 through 42.

Delete pages 26 through 27.

Page 28, delete lines 1 through 8.

Page 30, delete lines 4 through 42.

Delete pages 31 through 32.

Page 33, delete lines 1 through 13.

Page 33, line 17, delete "tank or" and insert "tank,".

Page 33, line 18, delete "aboveground storage tank,".

Page 33, line 35, delete "or aboveground storage tank".

Page 33, line 42, delete "or aboveground petroleum".

Page 34, line 1, delete "storage tanks".

Page 34, line 4, delete "or".

Page 34, line 5, delete "aboveground storage tank".

Page 34, delete lines 11 through 31.

Page 35, line 12, strike "IC 13-23-12-4." and insert **"IC 13-23-12-4(1)."**

Page 35, line 19, delete "and aboveground petroleum storage tanks".

Page 35, line 23, delete "." and insert **"for underground petroleum storage tanks and aboveground storage tanks."**

Page 39, between lines 6 and 7, begin a new line double block indented and insert:

**"(E) Provide reimbursement from the petroleum storage tank excess liability trust fund for fifty percent (50%) of costs of decommissioning or replacing underground petroleum storage tanks that meet the criteria under IC 13-23-9-1.7.**

**(F) Establish procedures to reopen ELTF eligibility and**



funding for a release previously granted "no further action" (NFA) status by the department should either the department or the owner of the underground petroleum storage tank or aboveground petroleum storage tank subsequently decide to permanently decommission the use of the site as a petroleum facility and undertake the investigation and remediation of any residual contamination arising from the site's former use as a petroleum facility. Before reopening ELTF eligibility and funding, the administrator may require that the applicant provide information regarding the planned future use of the site."

Page 40, line 4, delete "or aboveground storage tank".

Page 40, line 10, delete "or aboveground storage tank".

Page 40, line 28, after "storage tanks" insert "**under section 1(b)(1) of this chapter**".

Page 40, line 30, after "paid" insert "**under section 1(b)(2) of this chapter**".

Page 40, line 30, delete "or".

Page 40, line 31, delete "aboveground storage tanks".

Page 40, line 33, delete "fund." and insert "fund **established by IC 13-25-4-1.**".

Page 40, line 35, delete "The" and insert "**Subject to subsections (b)(1) and (d), the**".

Page 40, between lines 41 and 42, begin a new paragraph and insert:  
**"(b) Except as provided in subsection (d), the commissioner may not, with respect to a release of petroleum from an underground storage tank:**

**(1) take action under subsection (a); or**

**(2) if a quantity of the released petroleum remains or may remain underground at the site of the underground storage tank:**

**(A) request that the owner or operator of the underground storage tank execute a restrictive covenant (as defined in IC 13-11-2-193.5) applying to the site of the underground storage tank;**

**(B) make a determination of no further action being required at the site of the underground storage tank; or**

**(C) approve closure, or its equivalent, of the site of the underground storage tank;**

**unless the commissioner has received and reviewed the initial site characterization of the site of the release.**



(c) An initial site characterization must include:

- (1) site-specific geologic information obtained from a minimum of three (3) continuously sampled soil borings; and
- (2) hydrogeologic information, including depth to ground water and ground water flow directions and gradients, obtained from a minimum of three (3) monitoring wells screened across the water table.

If an initial site characterization does not define the nature and extent of the contaminant plume, additional investigation shall be performed.

(d) The commissioner may take action under subsection (a) without having received and reviewed the initial site characterization if the commissioner reasonably believes that the release from the underground storage tank creates a threat to human health or the environment sufficient to necessitate action under subsection (a) before the initial site characterization is submitted to the department."

Page 40, line 42, strike "(b)" and insert "(e)".

Page 40, line 42, delete "commissioner" and insert "commissioner:

- (1) requires corrective action under subsection (a); and
- (2)".

Page 41, line 3, delete "occurs," and insert "occurs;".

Page 41, line 3, beginning with "the commissioner" begin a new line blocked left.

Page 41, line 27, delete "or aboveground storage tank".

Page 41, line 31, delete "or aboveground storage tank".

Page 43, line 33, after "(1)" insert "**that are**".

Page 43, line 33, after "chapter" strike "that" and insert "**and**".

Page 43, delete line 42.

Page 44, delete lines 1 through 13.

Page 45, delete lines 23 through 31.

Page 57, line 4, delete "IC 13-23-1-5." and insert "**IC 13-23-11-7.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 246 as introduced.)

NIEMEYER, Chairperson

Committee Vote: Yeas 10, Nays 0.

SB 246—LS 7314/DI 150

