

PRINTING CODE. Deletions appear in <this style type>. Insertions appear in [this style type]. Typeface changes are shown in < this > < style > < type > or in [this] [style] [type].

ENGROSSED SENATE BILL No. 246

Proposed Changes to March 30, 2023 printing by AM024624

DIGEST OF PROPOSED AMENDMENT

Airports. Voids an administrative rule concerning eligibility of projects for which funding is available from the airport development grant fund (grant fund) and relocates (with stylistic changes) the contents of the voided administrative rule. Requires the Indiana department of transportation, in determining the match for a state grant for which federal grants are not available, to: (1) consider the airport classification and the type of project; and (2) require matching funds of at least 25%.

—
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

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

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

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
 4 revert to the state general fund.
 5 (c) Expenses of administering the Indiana brownfields fund shall
 6 be 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

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

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 8-21-11-5 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) The department
6 shall adopt rules under IC 4-22-2 to establish a program to foster
7 airport development in Indiana with special emphasis on improvement
8 of airports as an economic development tool. The program must
9 include the following components:

10 (1) State grants to airports from the grant fund to match federal
11 Aviation Trust Fund grants.

12 (2) State grants to airports from the grant fund for airport
13 development projects for which federal grants are not available.

14 (3) Loans to airports from the loan fund for airport development
15 projects.

16 (b) The rules must establish the following for both grants and
17 loans:

18 (1) Standards of eligibility.

19 (2) The maximum amount of money for which any one (1)
20 airport or airport development project is eligible.

21 (3) Application procedures.

22 (4) The local matching funds that are required.

23 **(5) In determining the amount of the match for a state grant**
24 **for which federal grants are not available as described in**
25 **subsection (a)(2), the department shall:**

26 **(A) consider the airport classification and the type of**
27 **project; and**

28 **(B) require matching funds of at least twenty-five**
29 **percent (25%).**

30 ~~(5)~~ (6) Other provisions to administer the grant and loan
31 programs.

32 SECTION 4. IC 8-21-11-5.5 IS ADDED TO THE INDIANA
33 CODE AS A NEW SECTION TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2023]: Sec. 5.5. (a) The program described
35 in section 5 of this chapter is designed to optimize the use of the
36 grant fund. The primary goals of the allocation program are to:

37 (1) further the proper development and maintenance of a
38 statewide system of airports;

39 (2) further economic development; and

40 (3) provide safety of aircraft operations.

41 (b) This program requires the project to do the following:

42 (1) Be for the establishment or improvement of a public use

M
a
r
k
u
p



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- airport.
- (2) Be included in the Indiana airports system plan, as provided in IC 8-21-1-8.
- (3) Be located on a site approved by the department.
- (4) Follow an airport layout plan approved by the department.
- (5) Meet the general design criteria of the Federal Aviation Administration Advisory Circulars.

However, subdivisions (1) through (5) are examples and guidelines and may be waived by the department, where, in the judgment of the department, the public interest is best served by allowing less stringent criteria.

(c) Engineering agreements for work to be financed in part by the grant fund must be reviewed for approval by the department.

(d) Airport development items that are eligible for funding include the following:

- (1) Land acquisition for development of airport facilities.
- (2) Engineering and legal fees for airport planning and development.
- (3) Grading, drainage, paving, and miscellaneous items necessary for the construction or reconstruction of runways, taxiways, and aprons.
- (4) Acquisition of runway clear zones and aviation easements, or other interests in air space as may be reasonably required for safeguarding aircraft operations in the vicinity of an airport.
- (5) Removal of obstructions from approach areas.
- (6) Installation or relocation of any of the following:
 - (A) Segmented circles.
 - (B) Runway, apron, and taxiway lights.
 - (C) Taxiway guidance signs.
 - (D) Obstruction lights.
 - (E) Security flood lights.
 - (F) Airport beacons.
 - (G) Wind and landing direction indicators.
 - (H) Auxiliary power units.
 - (I) REILs (Runway End Identification Lights) and visual glideslope indicator systems.
- (7) Grading, drainage, paving, and miscellaneous items necessary for the construction or reconstruction of airport access roads and public auto parking areas.
- (8) Construction of airport safety facilities, security fencing,

M
a
r
k
u
p



1 acquisition of aircraft rescue and firefighting (ARFF)
 2 vehicles, and snow removal equipment.

3 (9) Installation of instrument landing systems, approach
 4 lighting systems, and other approach aids.

5 (10) Development of master planning grants.

6 (11) Airport operational buildings. However, additional
 7 building projects will not be eligible until the eighth fiscal
 8 year after the completion of the previous building project.

9 (12) Terminal buildings, fuel farms, and hangars.

10 (13) Other items approved by the department, where, in the
 11 judgment of the department, the public interest is best
 12 served.

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

18 SECTION ~~<4>~~ [6]. IC 13-11-2-0.4 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2023]: Sec. 0.4. (a) "Aboveground storage
 21 tank" (or AST), for purposes of this chapter and IC 13-23, means
 22 one (1) tank or combination of tanks:

23 (1) that is used to contain an accumulation of regulated
 24 substances;

25 (2) the volume of which, including the volume of the
 26 aboveground connected pipes described in subsection (b), is
 27 not more than ten percent (10%) below the surface of the
 28 ground;

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

32 (4) that is used at:

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

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

38 (b) If a:

39 (1) single tank; or

40 (2) combination of tanks;

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

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

4 (c) The term includes a single tank:
5 (1) that meets the definition set forth in subsection (a); and
6 (2) in which there are separate compartments.

7 (d) The term does not include any of the following:
8 (1) A farm or residential tank with a capacity of not more
9 than one thousand one hundred (1,100) gallons that is used
10 for storing motor fuel for noncommercial purposes.
11 (2) A tank used for storing heating oil for consumptive use on
12 the premises on which the tank is stored.
13 (3) A septic tank.
14 (4) A surface impoundment, pit, pond, or lagoon.
15 (5) A storm water or wastewater collection system.
16 (6) A flow-through process tank.
17 (7) A liquid trap or associated gathering lines directly related
18 to oil or gas production and gathering operations.
19 (8) Any other tank exempted by a rule adopted by the board
20 in accordance with regulations adopted by the Administrator
21 of the United States Environmental Protection Agency.
22 (9) A pipe connected to a tank described in subdivisions (1)
23 through (8).

24 SECTION ~~↔~~[7]. IC 13-11-2-2, AS ADDED BY P.L.1-1996,
25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2023]: Sec. 2. (a) "Administrator", **except as provided in**
27 **subsection (b)**, refers to the administrator of the United States
28 Environmental Protection Agency.

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

32 SECTION ~~↔~~[8]. IC 13-11-2-15.3 IS ADDED TO THE
33 INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2023]: Sec. 15.3. "AST", as used in this
35 chapter and IC 13-23, refers to an aboveground storage tank (as
36 defined in section 0.4 of this chapter).

37 SECTION ~~↔~~[9]. IC 13-11-2-17, AS AMENDED BY
38 P.L.13-2013, SECTION 46, IS AMENDED TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2023]: Sec. 17. (a) "Board", except as provided
40 in subsections (b) through (d), refers to the environmental rules board
41 established by IC 13-13-8-3.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

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

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

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

8 SECTION ~~8~~ [10]. IC 13-11-2-50 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 50. (a)
10 "Decommissioning", for purposes of IC 13-23, means the removal or
11 closure of an underground storage tank **or aboveground storage tank.**

12 (b) "Decommissioning", for purposes of IC 13-29-1, means the
13 measures taken at the end of a facility's operating life to assure the
14 continued protection of the public from any residual radioactivity or
15 other potential hazards present at a facility.

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

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

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

- 33 (1) The release is from a UST **or AST** that was registered with
34 the department before the date of the ~~ELTF claim~~ **claim on which the**
35 **claimant confirmed the existence of the release or (if earlier)**
36 **first suspected the existence of the release.**
- 37 (2) The release is reported to the department **in accordance with**
38 **applicable regulations and statutes** not later than thirty (30)
39 days after the date on which the claimant ~~discovered the release.~~
40 **confirmed the existence of the release or (if earlier) first**
41 **suspected the existence of the release.**

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

1 (3) An initial site characterization of the facility on which the
2 release occurred is submitted to the department as required by
3 rules adopted by the environmental rules board.

4 (4) The release from the UST **or** AST is from the tank or
5 dispensing components of the UST **or** AST, not including the
6 nozzle or hose connecting the nozzle to the pump.

7 SECTION 1↔[3]. IC 13-11-2-63.5, AS ADDED BY
8 P.L.96-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2023]: Sec. 63.5. "ELTF", as used in this
10 chapter and IC 13-23, refers to the ~~underground~~ petroleum storage tank
11 excess liability trust fund established by IC 13-23-7-1.

12 SECTION 1↔[4]. IC 13-11-2-73, AS AMENDED BY
13 P.L.96-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2023]: Sec. 73. "Excess liability trust fund", for
15 purposes of IC 13-23, refers to the ~~underground~~ petroleum storage tank
16 excess liability trust fund (or ELTF) established by IC 13-23-7-1.

17 SECTION 1↔[5]. IC 13-11-2-75 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 75. "Exposure
19 assessment", for purposes of IC 13-23, means an assessment to
20 determine the extent of exposure, or potential for exposure, of
21 individuals to any regulated substance from a release from an
22 underground storage tank **or aboveground storage tank** based on
23 factors such as the following:

24 (1) The nature and extent of contamination and the existence of
25 or potential for pathways of human exposure, including ground
26 or surface water contamination, air emissions, and food chain
27 contamination.

28 (2) The size of the community within the likely pathway of
29 exposure.

30 (3) The comparison of expected human exposure levels to the
31 short term and long term health effects associated with identified
32 contaminants and any available recommended exposure or
33 tolerance limits for those contaminants.

34 SECTION 1↔[6]. IC 13-11-2-77, AS AMENDED BY
35 P.L.221-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2023]: Sec. 77. (a) "Facility", for purposes of
37 IC 13-15-1-3, means a structure or an area of land used for the disposal,
38 treatment, storage, recovery, processing, or transferring of solid waste,
39 hazardous waste, or atomic radiation. The term includes the following:

40 (1) A hazardous waste facility.

41 (2) An incinerator.

42 (3) A solid waste landfill.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 (4) A transfer station.
- 2 (b) "Facility", for purposes of IC 13-17-7, means a single structure,
- 3 piece of equipment, installation, or operation that:
- 4 (1) emits; or
- 5 (2) has the potential to emit;
- 6 a regulated air pollutant.
- 7 (c) "Facility", for purposes of IC 13-18-5, means a building, a
- 8 structure, equipment, or other stationary item that is located on:
- 9 (1) a single site; or
- 10 (2) contiguous or adjacent sites that are owned by, operated by,
- 11 or under common control of the same person.
- 12 (d) "Facility", for purposes of IC 13-21, means a facility, a plant,
- 13 a works, a system, a building, a structure, an improvement, machinery,
- 14 equipment, a fixture, or other real or personal property of any nature
- 15 that is to be used, occupied, or employed for the collection, storage,
- 16 separation, processing, recovery, treatment, marketing, transfer, or
- 17 disposal of solid waste.
- 18 **(e) "Facility", for purposes of IC 13-23, means a parcel of land**
- 19 **or site, together with the structures, equipment, and improvements**
- 20 **on or appurtenant to the land or site, which is used or is being**
- 21 **developed for the storage or distribution of petroleum.**
- 22 (f) "Facility", for purposes of IC 13-25-2, means all buildings,
- 23 equipment, structures, and other stationary items that are:
- 24 (1) located on a single site or on contiguous or adjacent sites;
- 25 and
- 26 (2) owned or operated by:
- 27 (A) the same person; or
- 28 (B) any person that controls, is controlled by, or is under
- 29 common control with the same person.
- 30 For purposes of IC 13-25-2-6, the term includes motor vehicles, rolling
- 31 stock, and aircraft.
- 32 (g) "Facility", for purposes of IC 13-25-4, has the meaning set
- 33 forth in 42 U.S.C. 9601(9).
- 34 (h) "Facility", for purposes of IC 13-29-1, means a parcel of
- 35 land or site, together with the structures, equipment, and improvements
- 36 on or appurtenant to the land or site, which is used or is being
- 37 developed for the treatment, storage, or disposal of low-level
- 38 radioactive waste.
- 39 SECTION 1 ~~7~~ [7]. IC 13-11-2-81 IS AMENDED TO READ AS
- 40 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 81. (a) "Fiduciary", for
- 41 purposes of IC 13-23-13:

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

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

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

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

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(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 1 ~~6~~ [8]. 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.

SECTION 1 ~~7~~ [9]. IC 13-11-2-84 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 84. "Financial assurance board", for purposes of IC 13-23, refers to the ~~underground~~ petroleum storage tank financial assurance board **established by IC 13-23-11-1**.

SECTION ~~18~~ [20]. IC 13-11-2-85.6, AS ADDED BY P.L.159-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 85.6. "Foreclosure", for purposes of sections 148(e)(2), 150(c), and 151(e) of this chapter, means the acquisition of a vessel or facility for purposes of IC 13-25-4-8(c), an underground storage tank **or aboveground storage tank** for purposes of IC 13-23-13, or a petroleum facility for purposes of IC 13-24-1 through any of the following:

- (1) If the vessel or facility, underground storage tank **or aboveground storage tank**, or petroleum facility was security for an extension of credit previously contracted:
 - (A) purchase at sale under a judgment or decree, power of sale, or nonjudicial foreclosure;
 - (B) a deed in lieu of foreclosure or a similar conveyance from a trustee; or

M
a
r
k
u
p



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (C) repossession.
 - (2) Conveyance under an extension of credit previously contracted, including the termination of a lease agreement.
 - (3) Any other formal or informal manner by which the person acquires, for subsequent disposition, title to or possession of a vessel or facility, underground storage tank **or aboveground storage tank**, or petroleum facility in order to protect the security interest of the person.
- SECTION ~~<19>~~[21]. IC 13-11-2-87, AS AMENDED BY P.L.100-2021, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers to the environmental management special fund.
- (b) "Fund", for purposes of IC 13-15-10, refers to the waste facility operator trust fund.
 - (c) "Fund", for purposes of IC 13-15-11, refers to the environmental management permit operation fund.
 - (d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust fund.
 - (e) "Fund", for purposes of IC 13-17-8, refers to the Title V operating permit program trust fund.
 - (f) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.
 - (g) "Fund", for purposes of IC 13-19-3-3.2, refers to the CCR program fund.
 - (h) "Fund", for purposes of IC 13-20-13, refers to the waste tire management fund.
 - (i) "Fund", for purposes of IC 13-20-22, refers to the state solid waste management fund.
 - (j) "Fund", for purposes of IC 13-21-7, refers to the waste management district bond fund.
 - (k) "Fund", for purposes of IC 13-21-13-2, refers to a district solid waste management fund.
 - (l) "Fund", for purposes of IC 13-23-6, refers to the ~~underground~~ petroleum storage tank trust fund.
 - (m) "Fund", for purposes of IC 13-23-7 and IC 13-23-8, refers to the ~~underground~~ petroleum storage tank excess liability trust fund (or ELTF).
 - (n) "Fund", for purposes of IC 13-25-4, refers to the hazardous substances response trust fund.
 - (o) "Fund", for purposes of IC 13-25-5, refers to the voluntary remediation fund.
 - (p) "Fund", for purposes of IC 13-28-2, refers to the voluntary compliance fund.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1 SECTION 2~~0~~[2]. IC 13-11-2-119, AS AMENDED BY
2 P.L.113-2014, SECTION 51, IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 119. (a) "Lender", for
4 purposes of IC 13-23-13, means any of the following:

5 (1) An insured depository institution (as defined in Section 3 of
6 the Federal Deposit Insurance Act (12 U.S.C. 1813)).

7 (2) An insured credit union (as defined in Section 101 of the
8 Federal Credit Union Act (12 U.S.C. 1752)).

9 (3) A bank or association chartered under the Farm Credit Act of
10 1971 (12 U.S.C. 2001 et seq.).

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

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

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

16 (B) takes or acquires a security interest from;

17 a nonaffiliated person.

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

22 (7) A person that:

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

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

27 (8) A person that provides title insurance and that acquires an
28 underground storage tank **or aboveground storage tank** as a
29 result of assignment or conveyance in the course of underwriting
30 claims and claims settlement.

31 (b) "Lender", for purposes of IC 13-24-1, means any of the
32 following:

33 (1) An insured depository institution (as defined in Section 3 of
34 the Federal Deposit Insurance Act (12 U.S.C. 1813)).

35 (2) An insured credit union (as defined in Section 101 of the
36 Federal Credit Union Act (12 U.S.C. 1752)).

37 (3) A bank or association chartered under the Farm Credit Act of
38 1971 (12 U.S.C. 2001 et seq.).

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

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

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

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

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1 SECTION 24[3]. IC 13-11-2-148, AS AMENDED BY
 2 P.L.6-2012, SECTION 100, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2023]: Sec. 148. (a) "Operator", for purposes of
 4 IC 13-18-10, means the person in direct or responsible charge or
 5 control of one (1) or more confined feeding operations.
 6 (b) "Operator", for purposes of IC 13-18-11 and environmental
 7 management laws, means the person in direct or responsible charge and
 8 supervising the operation of:
 9 (1) a water treatment plant;
 10 (2) a wastewater treatment plant; or
 11 (3) a water distribution system.
 12 (c) "Operator", for purposes of IC 13-20-6, means a corporation,
 13 a limited liability company, a partnership, a business association, a
 14 unit, or an individual who is a sole proprietor that is one (1) of the
 15 following:
 16 (1) A broker.
 17 (2) A person who manages the activities of a transfer station that
 18 receives municipal waste.
 19 (3) A transporter.
 20 (d) "Operator", for purposes of IC 13-23, except as provided in
 21 subsections (e), (g), and (h), means a person:
 22 (1) in control of; or
 23 (2) having responsibility for;
 24 the daily operation of an underground storage tank **or aboveground**
 25 **storage tank**.
 26 (e) "Operator", for purposes of IC 13-23-13, does not include the
 27 following:
 28 (1) A person who:
 29 (A) does not participate in the management of an
 30 underground storage tank **or aboveground storage tank**;
 31 (B) is otherwise not engaged in the:
 32 (i) production;
 33 (ii) refining; and
 34 (iii) marketing;
 35 of regulated substances; and
 36 (C) holds evidence of ownership, primarily to protect the
 37 owner's security interest in the tank.
 38 (2) A person that is a lender that did not participate in
 39 management of an underground storage tank **or aboveground**
 40 **storage tank** before foreclosure, notwithstanding that the
 41 person:
 42 (A) forecloses on the vessel or facility; and

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(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:
 - (i) filling;
 - (ii) gauging; or
 - (iii) filling and gauging;

the product level in the course of delivering fuel to an underground storage tank **or aboveground storage tank**.

- (4) A political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that:

- (A) acquires ownership or control of an underground storage tank **or aboveground storage tank** on a brownfield because of:
 - (i) bankruptcy;
 - (ii) foreclosure;
 - (iii) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;
 - (iv) abandonment;
 - (v) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 (vi) receivership;
- 2 (vii) transfer from another political subdivision or unit
- 3 of federal or state government;
- 4 (viii) acquiring an area needing redevelopment (as
- 5 defined in IC 36-7-1-3) or conducting redevelopment
- 6 activities, specifically under IC 36-7-14-22.2,
- 7 IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2,
- 8 and IC 36-7-15.1-15.5;
- 9 (ix) other circumstances in which the political
- 10 subdivision or unit of federal or state government
- 11 involuntarily acquired an interest in the property
- 12 because of the political subdivision's or unit's function
- 13 as sovereign; or
- 14 (x) any other means to conduct remedial actions on a
- 15 brownfield; and
- 16 (B) is engaged only in activities in conjunction with:
 - 17 (i) investigation or remediation of hazardous
 - 18 substances, petroleum, and other pollutants associated
 - 19 with a brownfield, including complying with land use
 - 20 restrictions and institutional controls; or
 - 21 (ii) monitoring or closure of an underground storage
 - 22 tank **or aboveground storage tank;**
 - 23 unless existing contamination on the brownfield is
 - 24 exacerbated due to gross negligence or intentional
 - 25 misconduct by the political subdivision or unit of federal or
 - 26 state government.
- 27 (f) For purposes of subsection (e)(4)(B), reckless, willful, or
- 28 wanton misconduct constitutes gross negligence.
- 29 (g) "Operator" does not include a person that after June 30, 2009,
- 30 meets, for purposes of the determination under IC 13-23-13 of liability
- 31 for a release from an underground storage tank **or aboveground**
- 32 **storage tank,** the exemption criteria under Section 107(q) of CERCLA
- 33 (42 U.S.C. 9607(q)) that apply for purposes of the determination of
- 34 liability for a release of a hazardous substance.
- 35 (h) "Operator" does not include a person that meets, for purposes
- 36 of the determination under IC 13-23-13 of liability for a release from
- 37 an underground storage tank **or aboveground storage tank,** the
- 38 exemption criteria under Section 107(r) of CERCLA (42 U.S.C.
- 39 9607(r)) that apply for purposes of the determination of liability for a
- 40 release of a hazardous substance, except that the person acquires
- 41 ownership of the facility after June 30, 2009.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1 SECTION 2 ~~2~~[4]. IC 13-11-2-150, AS AMENDED BY
2 P.L.159-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2023]: Sec. 150. (a) "Owner", for purposes of
4 IC 13-23 (except as provided in subsections (b), (c), (d), (e), (f) and
5 (g)) means:

6 (1) for an underground storage tank **or aboveground storage**
7 **tank** that:

8 (A) was:

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

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

11 for the storage, use, or dispensing of regulated substances,
12 a person who owns the underground storage tank **or**
13 **aboveground storage tank** or the real property that is the
14 underground storage tank site **or aboveground storage**
15 **tank site**, or both; or

16 (B) was:

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

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

19 a person who owned the tank immediately before the
20 discontinuation of the tank's use; or

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

25 (A) bankruptcy;

26 (B) foreclosure;

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

29 (D) abandonment;

30 (E) the exercise of eminent domain, including any purchase
31 of property once an offer to purchase has been tendered
32 under IC 32-24-1-5;

33 (F) receivership;

34 (G) acquiring an area needing redevelopment (as defined in
35 IC 36-7-1-3) or conducting redevelopment activities,
36 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,
37 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and
38 IC 36-7-15.1-15.5;

39 (H) other circumstances in which a political subdivision or
40 unit of federal or state government involuntarily acquired
41 ownership or control because of the political subdivision's
42 or unit's function as sovereign; or

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 (I) any other means to conduct remedial actions on a
 2 brownfield;
 3 if the person was a person described in subdivision (1)
 4 immediately before the person conveyed ownership or control of
 5 the underground storage tank **or aboveground storage tank**.
 6 (b) "Owner", for purposes of IC 13-23-13, does not include a
 7 person who:
 8 (1) does not participate in the management of an underground
 9 storage tank **or aboveground storage tank**;
 10 (2) is otherwise not engaged in the:
 11 (A) production;
 12 (B) refining; and
 13 (C) marketing;
 14 of regulated substances; and
 15 (3) holds indicia of ownership primarily to protect the owner's
 16 security interest in the tank.
 17 (c) "Owner", for purposes of IC 13-23, does not include a person
 18 that is a lender that did not participate in management of an
 19 underground storage tank **or aboveground storage tank** before
 20 foreclosure, notwithstanding that the person:
 21 (1) forecloses on the underground storage tank **or aboveground**
 22 **storage tank**; and
 23 (2) after foreclosure, sells, re-leases (in the case of a lease
 24 finance transaction), or liquidates the underground storage tank
 25 **or aboveground storage tank**, maintains business activities,
 26 winds up operations, undertakes a response action under Section
 27 107(d)(1) of CERCLA (42 U.S.C. 9607(d)(1)) or under the
 28 direction of an on-scene coordinator appointed under the
 29 National Contingency Plan with respect to the underground
 30 storage tank **or aboveground storage tank**, or takes any other
 31 measure to preserve, protect, or prepare the underground storage
 32 tank **or aboveground storage tank** prior to sale or disposition;
 33 if the person seeks to sell, re-lease (in the case of a lease finance
 34 transaction), or otherwise divest the person of the underground storage
 35 tank **or aboveground storage tank** at the earliest practicable,
 36 commercially reasonable time, on commercially reasonable terms,
 37 taking into account market conditions and legal and regulatory
 38 requirements.
 39 (d) "Owner", for purposes of IC 13-23, does not include a political
 40 subdivision (as defined in IC 36-1-2-13) or unit of federal or state
 41 government that acquired ownership or control of an underground
 42 storage tank **or aboveground storage tank** because of:

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

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

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

27 (e) "Owner", for purposes of IC 13-23, does not include a
 28 nonprofit corporation that acquired ownership or control of an
 29 underground storage tank **or aboveground storage tank** to assist and
 30 support a political subdivision's revitalization and reuse of a brownfield
 31 for noncommercial purposes, including conservation, preservation, and
 32 recreation, unless the nonprofit corporation causes or contributes to the
 33 release or threatened release of a regulated substance, in which case the
 34 nonprofit corporation is subject to IC 13-23 in the same manner and to
 35 the same extent as any other nongovernmental entity under IC 13-23.

36 (f) "Owner" does not include a person that after June 30, 2009,
 37 meets, for purposes of the determination under IC 13-23-13 of liability
 38 for a release from an underground storage tank **or aboveground**
 39 **storage tank**, the exemption criteria under Section 107(q) of CERCLA
 40 (42 U.S.C. 9607(q)) that apply for purposes of the determination of
 41 liability for a release of a hazardous substance.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

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

8 SECTION 2↔[5]. IC 13-11-2-151.2 IS AMENDED TO READ
9 AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 151.2. (a)
10 "Participate in management", for purposes of IC 13-23-13, means
11 actually participating in the management or operational affairs of an
12 underground storage tank **or aboveground storage tank**.

- 13 (b) The term does not include the following:
- 14 (1) Merely having the capacity to influence, or the unexercised
- 15 right to control, underground **or aboveground** storage
- 16 operations.
- 17 (2) Performing an act or failing to perform an act before the time
- 18 at which a security interest is created in an underground storage
- 19 tank **or aboveground storage tank**.
- 20 (3) Holding a security interest or abandoning a security interest.
- 21 (4) Including in the terms of an extension of credit, or in a
- 22 contract or security agreement relating to the extension, a
- 23 covenant, a warranty, or another term or condition that relates to
- 24 environmental compliance.
- 25 (5) Monitoring or enforcing the terms and conditions of the
- 26 extension of credit or security interest.
- 27 (6) Monitoring or undertaking at least one (1) inspection of an
- 28 underground storage tank **or aboveground storage tank**.
- 29 (7) Requiring a response action or other lawful means of
- 30 addressing the release or threatened release of a hazardous
- 31 substance in connection with the underground storage tank **or**
- 32 **aboveground storage tank** prior to, during, or on the expiration
- 33 of the term of the extension of credit.
- 34 (8) Providing financial advice or other advice or counseling in an
- 35 effort to mitigate, prevent, or cure default or decrease in the
- 36 value of an underground storage tank **or aboveground storage**
- 37 **tank**.
- 38 (9) Restructuring, renegotiating, or otherwise agreeing to alter
- 39 the terms and conditions of the extension of credit or security
- 40 interest, exercising forbearance.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 (10) Exercising other remedies that may be available under
 2 applicable law for the breach of a term or condition of the
 3 extension of credit or security agreement.
- 4 (11) Conducting a response action under Section 107(d) of
 5 CERCLA (42 U.S.C. 9607(d)) or under the direction of an
 6 on-scene coordinator appointed under the National Contingency
 7 Plan, unless the person conducting the response action assumes
 8 or manifests responsibility:
- 9 (A) for the overall management of the underground storage
 10 tank **or aboveground storage tank**, encompassing day to
 11 day decision making with respect to environmental
 12 compliance; or
- 13 (B) over all or substantially all of the operational functions
 14 (as distinguished from financial or administrative functions)
 15 of the underground storage tank **or aboveground storage**
 16 **tank** other than the function of environmental compliance.
- 17 (c) As used in this section, "extension of credit" includes a lease
 18 finance transaction:
- 19 (1) in which the lessor does not initially select the leased
 20 underground storage tank **or aboveground storage tank** and
 21 does not during the lease term control the daily operations or
 22 maintenance of the underground storage tank **or aboveground**
 23 **storage tank**; or
- 24 (2) that conforms with regulations issued by:
- 25 (A) the appropriate federal banking agency or the
 26 appropriate state bank supervisor (as those terms are
 27 defined in Section 3 of the Federal Deposit Insurance Act,
 28 12 U.S.C. 1813); or
- 29 (B) the National Credit Union Administration Board.
- 30 SECTION 2 ~~4~~ [6]. IC 13-11-2-161 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 161. (a) "Petroleum
 32 facility", for purposes of IC 13-24-1, means any of the following:
- 33 (1) A building.
 34 (2) A structure.
 35 (3) An installation.
 36 (4) A piece of equipment.
 37 (5) A pipe, including a pipe that runs into a sewer or publicly
 38 owned treatment facility.
 39 (6) A well.
 40 (7) A pit.
 41 (8) A pond.
 42 (9) A lagoon.

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

- 1 (10) An impoundment.
- 2 (11) A ditch.
- 3 (12) A landfill.
- 4 (13) A storage container.
- 5 (14) A motor vehicle.
- 6 (15) Rolling stock.
- 7 (16) Aircraft.
- 8 (17) A site or an area on which petroleum has been:
 - 9 (A) deposited;
 - 10 (B) stored;
 - 11 (C) disposed of;
 - 12 (D) placed; or
 - 13 (E) located.
- 14 (b) The term does not include the following:
 - 15 (1) A consumer product in consumer use.
 - 16 (2) An underground storage tank **or aboveground storage tank.**
- 17 SECTION 2 ~~6~~ **[7]**. IC 13-11-2-163 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 163. "Petroleum trust
- 19 fund", for purposes of IC 13-23, refers to the ~~underground~~ petroleum
- 20 storage tank trust fund established by IC 13-23-6-1.
- 21 SECTION 2 ~~6~~ **[8]**. IC 13-11-2-172, AS AMENDED BY
- 22 P.L.189-2018, SECTION 115, IS AMENDED TO READ AS
- 23 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 172. "Program", for
- 24 purposes of IC 13-23, refers to an underground storage tank **and**
- 25 **aboveground storage tank** release:
 - 26 (1) detection;
 - 27 (2) prevention; and
 - 28 (3) correction;
- 29 program created in accordance with the requirements of IC 13-23 or
- 30 IC 13-7-20 (before its repeal).
- 31 SECTION 2 ~~7~~ **[9]**. IC 13-11-2-177.7 IS ADDED TO THE
- 32 INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS
- 33 [EFFECTIVE JULY 1, 2023]: **Sec. 177.7. "Qualified environmental**
- 34 **professional", for purposes of IC 13-23-13, means the following:**
 - 35 (1) A **registered professional engineer (as defined in**
 - 36 **IC 25-31-1-2).**
 - 37 (2) A **licensed professional geologist (as defined in**
 - 38 **IC 25-17.6-1-6.5).**
 - 39 (3) A **certified hazardous materials manager (CHMM) as**
 - 40 **certified by the Institute of Hazardous Material**
 - 41 **Management.**

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 **(4) A professional soil scientist registered under**
 2 **IC 25-31.5-4-1.**
 3 SECTION ~~28~~ [30]. IC 13-11-2-184 IS AMENDED TO READ
 4 AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 184. (a) "Release",
 5 for purposes of IC 13-23, means any:
 6 (1) spilling;
 7 (2) leaking;
 8 (3) emitting;
 9 (4) discharging;
 10 (5) escaping;
 11 (6) leaching; or
 12 (7) disposing;
 13 from an underground storage tank **or aboveground storage tank** into
 14 ground water, surface water, subsurface soils, or surface soils.
 15 (b) "Release", for purposes of IC 13-24-1, means:
 16 (1) a spill;
 17 (2) a leak;
 18 (3) an emission;
 19 (4) a discharge;
 20 (5) an escape;
 21 (6) a leaching; or
 22 (7) a disposing;
 23 of petroleum into ground water, surface water, subsurface soils, or
 24 surface soils. The term does not include the release of petroleum into
 25 land used by a scrap metal processor (as defined in IC 9-13-2-162) or
 26 farmer, unless the commissioner determines that the release of the
 27 petroleum is adverse to human health.
 28 (c) "Release", for purposes of IC 13-25-2, means any:
 29 (1) spilling;
 30 (2) leaking;
 31 (3) pumping;
 32 (4) pouring;
 33 (5) emitting;
 34 (6) emptying;
 35 (7) discharging;
 36 (8) injecting;
 37 (9) escaping;
 38 (10) leaching;
 39 (11) dumping; or
 40 (12) disposing;

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1 into the environment of any hazardous chemical, extremely hazardous
 2 substance, or toxic chemical. The term includes the abandonment or
 3 discarding of barrels, containers, and other closed receptacles.

4 (d) "Release", for purposes of IC 13-25-4, means any:

- 5 (1) spilling;
- 6 (2) leaking;
- 7 (3) pumping;
- 8 (4) pouring;
- 9 (5) emitting;
- 10 (6) emptying;
- 11 (7) discharging;
- 12 (8) injecting;
- 13 (9) escaping;
- 14 (10) leaching;
- 15 (11) dumping; or
- 16 (12) disposing;

17 into the environment. The term includes the abandonment or discarding
 18 of barrels, containers, or other closed receptacles containing any
 19 hazardous substance.

20 (e) "Release", for purposes of IC 13-25-5, 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. The term includes the abandonment or discarding
 34 of barrels, containers, or other closed receptacles containing any
 35 hazardous substance or petroleum.

36 SECTION ~~29~~ [31]. IC 13-11-2-194, AS AMENDED BY
 37 P.L.178-2009, SECTION 21, IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 194. (a) "Retailer", for
 39 purposes of IC 13-20-14, means a person engaged in the business of
 40 selling new tires at retail in Indiana.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

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

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

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

11 SECTION 3 ~~3~~ [2]. IC 13-11-2-241, AS AMENDED BY
12 P.L.96-2016, SECTION 9, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2023]: Sec. 241. (a) "Underground storage
14 tank" (or UST), for purposes of this chapter and IC 13-23, means one
15 (1) tank or a combination of tanks:

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

21 (b) If:
22 (1) a single tank; or
23 (2) a combination of tanks;
24 constitutes an underground storage tank under subsection (a), any
25 underground pipes that are connected to the single tank or combination
26 of tanks are also part of the underground storage tank.

27 (c) The term defined in subsection (a) includes a single tank:
28 (1) that meets the definition set forth in subsection (a); and
29 (2) in which there are separate compartments.

30 (d) The term does not include any of the following:
31 (1) A farm or residential tank with a capacity of not more than
32 one thousand one hundred (1,100) gallons that is used for storing
33 motor fuel for noncommercial purposes.
34 (2) A tank used for storing heating oil for consumptive use on
35 the premises on which the tank is stored.
36 (3) A septic tank.
37 (4) A pipeline facility, including gathering lines, that:
38 (A) is regulated under ~~the Pipeline Safety Act the Natural~~
39 ~~Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.);~~
40 (B) is regulated under the Hazardous Liquid Pipeline Safety
41 Act of 1979 (49 U.S.C. 60101 et seq.); or

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 ~~(C)~~ **(B)** is an intrastate pipeline facility regulated under state
- 2 laws comparable to the laws identified in ~~clauses~~ **clause**
- 3 (A). ~~[3]~~ **through (B)**:
- 4 (5) A surface impoundment, pit, pond, or lagoon.
- 5 (6) A ~~stormwater~~ **storm water** or wastewater collection system.
- 6 (7) A flow-through process tank.
- 7 (8) A liquid trap or associated gathering lines directly related to
- 8 oil or gas production and gathering operations.
- 9 (9) A storage tank situated in an underground area such as:
- 10 (A) a basement;
- 11 (B) a cellar;
- 12 (C) a mineworking;
- 13 (D) a drift;
- 14 (E) a shaft; or
- 15 (F) a tunnel;
- 16 if the storage tank is situated upon or above the surface of the
- 17 floor.
- 18 (10) Any other tank exempted by a rule adopted by the board in
- 19 accordance with regulations adopted by the Administrator of the
- 20 United States Environmental Protection Agency.
- 21 (11) A pipe connected to a tank described in subdivisions (1)
- 22 through (10).

23 SECTION 3 ~~↔~~ **[3]**. IC 13-14-9-1, AS AMENDED BY
 24 P.L.133-2012, SECTION 89, IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) Except as
 26 provided in sections 8 and 14 of this chapter, this chapter applies to the
 27 following:

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

33 SECTION 3 ~~↔~~ **[4]**. IC 13-23-2-2 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. A unit of local
 35 government may not enact or enforce an ordinance that requires:

- 36 (1) a permit;
- 37 (2) a license;
- 38 (3) an approval;
- 39 (4) an inspection; or
- 40 (5) the payment of a fee or tax;
- 41 for the installation, use, retrofitting, closure, or removal of an
- 42 underground storage tank **or aboveground storage tank** unless the

M
a
r
k
u
p

ES 246—LS 7314/DI 150



1 department has approved the ordinance or a proposed ordinance in
2 writing.

3 SECTION 3 ~~↔~~ [5]. IC 13-23-3-1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The ~~state fire~~
5 ~~marshal department~~ shall, under rules adopted by the ~~fire prevention~~
6 ~~and building safety commission board~~ under IC 4-22-2 and
7 **IC 13-14-9**, establish a certification program for persons who
8 supervise, manage, or direct underground storage tank or
9 **aboveground storage tank:**

- 10 (1) installation or retrofitting;
11 (2) testing;
12 (3) cathodic protection procedures; or
13 (4) decommissioning.

14 (b) A person may be certified by the ~~state fire marshal~~
15 **department** if the person submits evidence to the ~~state fire marshal~~
16 **department** that the person has successfully completed:

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

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

27 SECTION 3 ~~↔~~ [6]. IC 13-23-3-3 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) A person
29 described under section 1 of this chapter may not:

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

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

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

- 40 (1) installation or retrofitting;
41 (2) testing;
42 (3) cathodic protection; or

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

1 (4) decommissioning;
 2 of an underground storage tank **or aboveground storage tank.**
 3 (c) If a person:
 4 (1) has been denied certification; or
 5 (2) had the person's certification revoked under subsection (b) or
 6 IC 13-7-20-13.3(b) (before its repeal);
 7 the **state fire marshal department** may certify the person only if the
 8 person files a performance bond with the **state fire marshal**
 9 **department** in an amount established by the **fire prevention and**
 10 **building safety commission board.**
 11 (d) If a person who is certified or attempts to become certified
 12 under subsection (c) intentionally or negligently violates a standard
 13 established by the board **or the fire prevention and building safety**
 14 **commission** concerning the installation or retrofitting of, testing of,
 15 provision of cathodic protection for, or decommissioning of an
 16 underground storage tank **or aboveground storage tank**, the **state fire**
 17 **marshal department** may:
 18 (1) permanently deny the certification of the person; or
 19 (2) permanently revoke the certification of the person.
 20 SECTION 3 ~~↔~~ [7]. IC 13-23-3-4 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) A certificate
 22 issued under section 1 of this chapter expires two (2) years from the
 23 date a person successfully completes the examination to qualify to
 24 obtain the certificate.
 25 (b) The **fire prevention and building safety commission board** may
 26 adopt rules establishing renewal procedures for certificates that expire
 27 under subsection (a).
 28 SECTION 3 ~~↔~~ [8]. IC 13-23-5-1, AS AMENDED BY
 29 P.L.96-2016, SECTION 11, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) Subject to section 2 of this
 31 chapter, and except as provided in subsection (b), an underground
 32 storage tank, whether of single or double wall construction, may not be
 33 installed before the effective date of the rules adopted under
 34 IC 13-23-1-2 for the purpose of storing regulated substances unless:
 35 (1) the tank will prevent releases due to corrosion or structural
 36 failure for the operational life of the tank;
 37 (2) the tank is:
 38 (A) cathodically protected against corrosion;
 39 (B) constructed of noncorrosive material;
 40 (C) steel clad with a noncorrosive material; or
 41 (D) designed to prevent the release or threatened release of
 42 any stored substance;

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 (3) the material used in the construction or lining of the tank is
- 2 compatible with the substance to be stored; and
- 3 (4) after July 1, 2007, all newly installed or replaced piping
- 4 connected to the tank meets the secondary containment
- 5 requirements adopted by the board.
- 6 (b) An underground storage tank system that contains alcohol
- 7 blended fuels composed of greater than fifteen percent (15%) alcohol
- 8 is a petroleum UST system (as defined in 329 IAC 9-1-36 as in effect
- 9 January 1, 2007) and may be installed during the period referred to in
- 10 subsection (a) if the system is otherwise in compliance with rules
- 11 adopted by the board concerning technical and safety requirements
- 12 relating to the physical characteristics of underground petroleum
- 13 storage tanks and ancillary equipment, including dispensing equipment,
- 14 used in the storing or dispensing of alcohol blended fuels for purposes
- 15 of all other provisions of this article.
- 16 (c) Owners and operators of underground storage tank systems that
- 17 store, carry, or dispense alcohol blended fuels composed of greater than
- 18 fifteen percent (15%) alcohol that comply with subsection (b) are
- 19 considered to meet the standards of:
- 20 (1) compatibility under subsection (a)(3); and
- 21 (2) compliance for purposes of all other provisions of this article.
- 22 SECTION 3 ~~38~~ [9]. IC 13-23-6-1 IS AMENDED TO READ AS
- 23 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. The ~~underground~~
- 24 petroleum storage tank trust fund is established to provide a source of
- 25 money for the uses set forth in IC 13-23-13-6.
- 26 SECTION ~~38~~ [40]. IC 13-23-6-2, AS AMENDED BY
- 27 P.L.38-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS
- 28 [EFFECTIVE JULY 1, 2023]: Sec. 2. The sources of money for the
- 29 fund are as follows:
- 30 (1) Grants made by the United States Environmental Protection
- 31 Agency to the state under cooperative agreements under Section
- 32 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C.
- 33 6991b(h)(7)).
- 34 (2) Costs recovered by the state under IC 13-23-13-8 in
- 35 connection with any corrective action undertaken under
- 36 IC 13-23-13-2 with respect to a release of petroleum.
- 37 (3) Costs recovered by the state in connection with the
- 38 enforcement of this article with respect to any release of
- 39 petroleum.
- 40 (4) Appropriations made by the general assembly, gifts, and
- 41 donations intended for deposit in the fund.
- 42 (5) Penalties imposed under IC 13-23-14.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1 (6) Revenue from the ~~underground~~ petroleum storage tank
2 registration fee deposited in the fund under ~~IC 13-23-12-4~~.
3 IC 13-23-12-4(1).

4 SECTION ~~39~~[41]. IC 13-23-7-1, AS AMENDED BY
5 P.L.96-2016, SECTION 12, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The ~~underground~~ petroleum
7 storage tank excess liability trust fund (or ELTF) is established for the
8 following purposes:

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

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

15 (3) Providing a source of money for the indemnification of third
16 parties under IC 13-23-9-3.

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

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

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

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

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

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

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

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

36 SECTION 4~~39~~[2]. IC 13-23-7-1.2 IS ADDED TO THE
37 INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2023]: **Sec. 1.2. (a) The aviation fuel account**
39 **is established within the ELTF. The account shall be administered**
40 **by the commissioner or the commissioner's designee.**

41 (b) **The account consists of the following:**

M
a
r
k
u
p



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

(1) Fees on the inspection of avgas (as defined in IC 16-44-2-0.5) and jet fuel (as defined in IC 16-44-2-1.5) that are deposited in the account under IC 16-44-2-18(g).

(2) All earnings on investments of funds in the account.

(3) Gifts and donations intended for deposit in the fund.

(4) Any other money authorized to be deposited in or appropriated to the account.

(c) Money in the account is continuously appropriated for purposes of this section.

(d) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(e) Money in the account may be used only for the following purposes:

(1) Assisting owners and operators of tanks used for the storage of avgas or jet fuel in establishing evidence of financial responsibility, if necessary under IC 13-23-4.

(2) Providing a source of money to satisfy liabilities for corrective action involving avgas or jet fuel.

(3) Providing a source of money for the indemnification of third parties under IC 13-23-9-3 in claims involving avgas or jet fuel.

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

(A) for job activities and expenses that consist exclusively of administering the aviation fuel account;

(B) in inspecting aviation fuel storage tanks; and

(C) in providing training through the program established under IC 13-23-7-1(a)(4)(C) to operators of underground tanks used to store avgas or jet fuel.

(5) Beginning December 31, 2023, annually providing to the airport development grant fund established by IC 8-21-11-4 an amount equal to the difference between:

(A) the entire balance in the aviation fuel account; and

(B) a reserve amount that, in combination with an estimate of the fees that will be deposited in the aviation fuel account under subsection (b)(1) during the following calendar year, is reasonably anticipated by the commissioner or the commissioner's designee as administrator of the aviation fuel account to be

M
a
r
k
u
p



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

sufficient to meet the purposes set forth in subdivisions (1) through (4) in the following year.

(f) The expenses of administering the account shall be paid from money in the account.

(g) Money that is in the account at the end of a state fiscal year does not revert to the state general fund.

SECTION 4 ~~4~~ [3]. IC 13-23-8-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 9. (a) For purposes of this section, the term "remediation expenses" includes reimbursement for the expenses incurred to remediate the site and all other eligible expenses under this article.

(b) Each subsequent owner of a property that has had a restrictive covenant placed on it because of soil or water contamination due to a leaking underground or aboveground storage tank is eligible for reimbursement for the remediation expenses to remediate the site under the ELTF if:

- (1) the tank was registered under IC 13-23-12; and
- (2) all annual fees for the tank were paid before the eligible release.

SECTION 4 ~~4~~ [4]. 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

M
a
r
k
u
p



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

and AST, as applicable, located at the facility from which the release occurred that:

- (A) was due in 2014 or a later year; and
- (B) was not paid in the year the fee was originally due.

SECTION 4 ~~4~~ [5]. IC 13-23-9-1.5, AS AMENDED BY P.L.200-2017, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1.5. (a) The administrator may pay ELTF claims only for costs that:

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

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

SECTION 4 ~~4~~ [6]. IC 13-23-9-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 1.7. (a) The administrator may pay an ELTF claim for fifty percent (50%) of the costs of decommissioning or replacing an underground petroleum storage tank, provided that:**

- (1) the applicant is the owner of the tank;**
- (2) such decommissioning or replacement is necessary, in the judgment of the administrator, to protect human health and**

M
a
r
k
u
p



1 the environment considering the age, obsolescence, and level
 2 of deterioration of the tank; and
 3 (3) the costs:
 4 (A) are reasonable and cost effective; and
 5 (B) result from or reimburse the claimant for work
 6 performed decommissioning the tank or replacing the
 7 tank with a new tank.
 8 (b) The expenses described in subsection (a) that are paid from
 9 the ELTF in a state fiscal year may not exceed:
 10 (1) ten million dollars (\$10,000,000) each year for claims
 11 submitted by applicants owning not more than twelve (12)
 12 underground petroleum storage tanks;
 13 (2) seven million five hundred thousand dollars (\$7,500,000)
 14 each year for claims submitted by applicants owning more
 15 than twelve (12) but not more than one hundred (100)
 16 underground petroleum storage tanks; and
 17 (3) two million five hundred thousand dollars (\$2,500,000)
 18 each year for claims submitted by applicants owning more
 19 than one hundred (100) underground petroleum storage
 20 tanks.
 21 SECTION 4~~6~~⁷. IC 13-23-11-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. The ~~underground~~
 23 ~~petroleum~~ storage tank financial assurance board is created.
 24 SECTION 4~~6~~⁸. IC 13-23-11-2, AS AMENDED BY
 25 P.L.200-2017, SECTION 16, IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) The board
 27 consists of the following nine (9) members:
 28 (1) The ~~commissioner~~ **administrator** or the ~~commissioner's~~
 29 ~~administrator's~~ designee.
 30 (2) One (1) member nominated by the treasurer of state in
 31 consultation with the commissioner of the department of state
 32 revenue.
 33 (3) One (1) member representing the independent petroleum
 34 wholesale distributor-marketer industry. In making this
 35 appointment, the governor may consider the recommendation of
 36 the Indiana petroleum marketers and convenience store
 37 association.
 38 (4) One (1) member representing the petroleum refiner-supplier
 39 industry. In making this appointment, the governor may consider
 40 the recommendation of the Indiana petroleum council.
 41 (5) One (1) member of the financial lending community who has
 42 experience with loan guaranty programs.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 (6) One (1) member representing the convenience store operator
- 2 industry or independent petroleum retail distributor-marketer
- 3 industry. In making this appointment, the governor may consider
- 4 the recommendation of the Indiana petroleum marketers and
- 5 convenience store association.
- 6 (7) One (1) member representing environmental interests.
- 7 (8) One (1) member representing an environmental consulting
- 8 firm that performs work involving underground storage tank **or**
- 9 **aboveground storage tank** corrective actions.
- 10 (9) One (1) member representing the property and casualty
- 11 insurance industry.

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

14 SECTION 4~~4~~[9]. IC 13-23-11-7, AS AMENDED BY
 15 P.L.96-2016, SECTION 40, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) The board shall do the
 17 following:

- 18 (1) Adopt rules under IC 4-22-2 and IC 13-14-9 necessary to do
- 19 the following:
 - 20 (A) Carry out the duties of the board under this article.
 - 21 (B) Establish standards and procedures under which:
 - 22 (i) eligible parties may submit ELTF claims; and
 - 23 (ii) the administrator of the ELTF may pay ELTF
 - 24 claims.
 - 25 (C) Establish standards for determining the reasonableness
 - 26 and cost effectiveness of corrective action for purposes of
 - 27 reimbursement from the ELTF under IC 13-23-9-1.5(a)(1).
 - 28 (D) Establish standards for priorities in the payment of
 - 29 ELTF claims, including a priority for claims associated with
 - 30 releases from USTs **and** ASTs that pose an immediate and
 - 31 significant threat to the environment.
 - 32 **(E) Provide reimbursement from the petroleum storage**
 - 33 **tank excess liability trust fund for fifty percent (50%) of**
 - 34 **costs of decommissioning or replacing underground**
 - 35 **petroleum storage tanks that meet the criteria under**
 - 36 **IC 13-23-9-1.7.**
 - 37 **(F) Establish procedures to reopen ELTF eligibility and**
 - 38 **funding for a release previously granted "no further**
 - 39 **action" (NFA) status by the department should either**
 - 40 **the department or the owner of the underground**
 - 41 **petroleum storage tank or aboveground petroleum**
 - 42 **storage tank subsequently decide to permanently**

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

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~~ **administrator** or the ~~commissioner's~~ **administrator'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 ~~48~~ [50]. 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.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



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

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

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

8 (c) If an underground storage tank **or aboveground storage tank**
9 consists of a single tank in which there are separate compartments, a
10 separate fee shall be paid under subsection (b) for each compartment
11 within the single tank.

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

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

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

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

24 SECTION ~~49~~ [51]. IC 13-23-12-4, AS AMENDED BY
25 P.L.220-2014, SECTION 28, IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. The department shall
27 collect the fees paid under this chapter and deposit the fees as follows:

28 (1) Fees paid in connection with underground petroleum storage
29 tanks **or aboveground petroleum storage tanks under section**
30 **1(b)(1) of this chapter** shall be deposited in the petroleum trust
31 fund.

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

37 SECTION 5 ~~2~~ [2]. IC 13-23-13-1 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) **Subject to**
39 **subsections (b)(1) and (d)**, the commissioner may, under rules adopted
40 under IC 13-23-1-2:

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

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

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

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

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

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

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

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

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

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

21 **unless the commissioner has received and reviewed the initial site**
 22 **characterization of the site of the release or an alternative**
 23 **evaluation is prepared for submittal to the commissioner in**
 24 **accordance with subsection (c).**

25 **(c) When necessary and feasible as determined by a qualified**
 26 **environmental professional, an initial site characterization shall**
 27 **include:**

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

30 **(2) hydrogeologic information, including depth to ground**
 31 **water and ground water flow directions and gradients,**
 32 **obtained from a minimum of three (3) monitoring wells**
 33 **screened across the water table.**

34 **A qualified environmental professional, on behalf of the owner or**
 35 **operator of an underground storage tank or an aboveground**
 36 **storage tank from which there has been a release of petroleum,**
 37 **may submit for approval by the commissioner an alternative**
 38 **procedure for initial site characterization and request a waiver of**
 39 **the requirements in this subsection. The commissioner may**
 40 **approve the request for a waiver and alternative procedure only if**
 41 **the alternative procedure provides substantially equal protection**
 42 **for human health and the environment. If an initial site**

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

1 characterization does not define the nature and extent of the
 2 contaminant plume, additional investigation shall be performed
 3 when necessary and feasible as determined by a qualified
 4 environmental professional.

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

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

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

14 (2) determines that the corrective action will be done properly
 15 and promptly by the owner or operator of the underground
 16 storage tank or aboveground storage tank from which the
 17 release occurs;

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

20 SECTION 5 ~~<=>~~ [3]. IC 13-23-13-2 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. The commissioner,
 22 under rules adopted under IC 13-23-1-2, may undertake corrective
 23 action with respect to any release of a regulated substance into the
 24 environment from an underground storage tank or aboveground
 25 storage tank if:

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

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

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

33 (i) an owner or operator of the underground storage
 34 tank or aboveground storage tank;

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

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

39 (B) An existing situation requires prompt action by the
 40 commissioner under this section to protect human health
 41 and the environment.

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

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

8 (D) The owner or operator of the underground storage tank
9 **or aboveground storage tank** has failed or refused to
10 comply with an order of the commissioner or a judgment of
11 a court of competent jurisdiction under section 1 of this
12 chapter to take corrective action with respect to the release.

13 SECTION 5 ~~4~~ [4]. IC 13-23-13-4 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. In:

15 (1) issuing orders requiring corrective action under section 1 of
16 this chapter; or

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

21 SECTION 5 ~~4~~ [5]. IC 13-23-13-5 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. In issuing orders
23 requiring corrective action under section 1 of this chapter or
24 undertaking corrective action under section 2 of this chapter the
25 commissioner may:

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

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

32 SECTION 5 ~~4~~ [6]. IC 13-23-13-5.5 IS AMENDED TO READ
33 AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5.5. (a)
34 Notwithstanding any other provision of this chapter, a person who is
35 not an owner or operator of an underground storage tank **or an**
36 **aboveground storage tank** is liable to the state only for corrective
37 action to address a surface spill or overflow of a regulated substance
38 from the underground storage tank **or aboveground storage tank** that
39 is intentionally caused by the person during the delivery of the
40 regulated substance into the underground storage tank **or aboveground**
41 **storage tank.**

M
a
r
k
u
p



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

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

- 11 (1) the department; and
- 12 (2) each person allegedly responsible for the surface spill or
13 overfill that occurred during the delivery of a regulated
14 substance into the underground storage tank **or aboveground**
15 **storage tank.**

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

- 18 (1) the department commences an administrative proceeding or
19 a civil action concerning the alleged surface spill or overfill not
20 later than ninety (90) days after receiving notice under
21 subsection (c)(1); or
- 22 (2) the person who receives the notice under subsection (c)(2)
23 agrees in writing, within ninety (90) days after receipt of the
24 notice, to remediate the surface spill or overfill in accordance
25 with the state's rules governing spills and overfills.

26 SECTION 5 ~~↔~~ [7]. IC 13-23-13-6, AS AMENDED BY
27 P.L.220-2014, SECTION 31, IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) Except as
29 provided in subsection (b), the commissioner, under rules adopted
30 under IC 13-23-1-2, may use money in the petroleum trust fund to pay
31 the following costs and expenses associated with underground
32 petroleum storage tanks **or aboveground petroleum storage tanks:**

- 33 (1) Costs incurred for corrective action conducted under
34 cooperative agreements entered into between the state and the
35 Administrator of the United States Environmental Protection
36 Agency under Section 9003(h)(7) of the federal Solid Waste
37 Disposal Act (42 U.S.C. 6991b(h)(7)), in accordance with the
38 provisions of the cooperative agreements.
- 39 (2) Expenses incurred by the state for the following:
 - 40 (A) Corrective actions that are ordered or undertaken under
41 this chapter.
 - 42 (B) Enforcement of this article.

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

- 1 (3) Expenses incurred by the state under section 8 of this chapter
- 2 in recovering the costs of corrective actions undertaken under
- 3 section 2 of this chapter.
- 4 (4) Administrative expenses and personnel expenses incurred by
- 5 the state in carrying out this article.
- 6 (b) Notwithstanding subsection (a), fifty percent (50%) of the fees
- 7 deposited in the petroleum trust fund under IC 13-23-12-4(1) shall be
- 8 used by the commissioner to pay for corrective actions:
- 9 (1) **that are** taken under this chapter ~~that and~~ involve releases
- 10 of regulated substances from underground storage tanks **or**
- 11 **aboveground storage tanks;** and
- 12 (2) that are not eligible to receive funds from the ~~underground~~
- 13 petroleum storage tank excess liability trust fund under
- 14 IC 13-23-7.

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

18 SECTION 5 ~~6~~ [8]. IC 13-23-13-8 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) Except where an
 20 owner or operator can prove that a release from an underground storage
 21 tank **or aboveground storage tank** was caused solely by:

- 22 (1) an act of God;
- 23 (2) an act of war;
- 24 (3) negligence on the part of the state or the United States
- 25 government; or
- 26 (4) any combination of the causes set forth in subdivisions (1)
- 27 through (3);

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

- 37 (b) A person who:
- 38 (1) pays to the state the costs described under subsection (a); or
- 39 (2) undertakes corrective action resulting from a release from an
- 40 underground storage tank **or aboveground storage tank**,
- 41 regardless of whether the corrective action is undertaken
- 42 voluntarily or under an order issued under this chapter,

M
a
r
k
u
p



1 IC 13-23-14-1, IC 13-7-20-19 (before its repeal), or
 2 IC 13-7-20-26 (before its repeal);
 3 is entitled to receive a contribution from a person who owned or
 4 operated the underground storage tank **or aboveground storage tank**
 5 at the time the release occurred. A person who brings a successful
 6 action to receive a contribution from an owner or operator is also
 7 entitled to receive reasonable attorney's fees and court costs from the
 8 owner or operator. An action brought under this subsection may be
 9 brought in a circuit or superior court. In resolving a contribution claim,
 10 a court may allocate the cost of a corrective action among the parties
 11 to the action using equitable factors that the court determines are
 12 appropriate.

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

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

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

27 SECTION 5 ~~9~~ [9]. IC 13-23-13-10 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) An
 29 indemnification agreement, a hold harmless agreement, or other similar
 30 agreement or conveyance is not effective to transfer the liability
 31 imposed under section 8 of this chapter from:

32 (1) the owner or operator of an:
 33 (A) underground storage tank; or
 34 (B) **aboveground storage tank; or**
 35 (2) any person who may be liable for a release or threat of
 36 release under this article;
 37 to any other person.

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

39 (1) insure;
 40 (2) hold harmless; or
 41 (3) indemnify;
 42 a party to an agreement for any liability under this article.

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

1 SECTION ~~58~~ [60]. IC 13-23-13-12 IS AMENDED TO READ
2 AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 12. (a) For the
3 purpose of enabling the commissioner to take or to assess the need for
4 corrective action under this chapter or to enforce this article, an owner
5 or operator of an underground storage tank **or aboveground storage**
6 **tank**, upon the request of an officer, an employee, or a designated
7 representative of the department, shall do the following:

- 8 (1) Furnish information relating to the:
 - 9 (A) underground storage tank; ~~or~~
 - 10 (B) **aboveground storage tank; or**
 - 11 (C) associated equipment or contents.
- 12 (2) Conduct monitoring or testing of the underground storage
13 tank **or aboveground storage tank**, including associated
14 equipment or contents.
- 15 (3) Conduct monitoring or testing of soils, air, surface water, or
16 ground water surrounding the underground storage tank **or**
17 **aboveground storage tank** if:
 - 18 (A) tank testing, using methods that are applicable to but
19 not in excess of federal standards, confirms a release of
20 regulated substance; or
 - 21 (B) other evidence exists that gives cause for reasonable
22 suspicion that a release has occurred.
- 23 (4) Permit, at all reasonable times, the officer, employee, or
24 designated representative to have access to and to copy all
25 records relating to the underground storage tank **or**
26 **aboveground storage tank**.
- 27 (5) Permit the officer, employee, or designated representative to
28 have access for corrective action.

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

- 36 (1) Inspect and obtain samples from any person of any regulated
37 substances contained in the underground storage tank **or**
38 **aboveground storage tank**.
- 39 (2) Conduct monitoring or testing of:
 - 40 (A) the underground storage tank;
 - 41 (B) **the aboveground storage tank;**
 - 42 (B) (C) associated equipment or contents; or

M
a
r
k
u
p

ES 246—LS 7314/DI 150



1 ~~(C)~~ **(D)** surrounding:

- 2 **(i)** soils;
 3 **(ii)** air;
 4 **(iii)** surface water; or
 5 **(iv)** ground water.

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

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

9 SECTION ~~59~~[61]. IC 13-23-13-14, AS AMENDED BY
 10 P.L.159-2011, SECTION 38, IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 14. For purposes of
 12 IC 13-11-2-148(e), IC 13-11-2-150(b), and IC 13-11-2-150(c), a person
 13 that is a lender and that holds evidence of ownership primarily to
 14 protect a security interest in an underground storage tank **or**
 15 **aboveground storage tank** shall be considered to participate in
 16 management (as defined in IC 13-11-2-151.2) of the underground
 17 storage tank **or aboveground storage tank** only if, while the borrower
 18 is still in possession of the underground storage tank **or aboveground**
 19 **storage tank** encumbered by the security interest, the person:

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

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

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

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

37 SECTION 6~~0~~[2]. IC 13-23-13-15 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15. (a) The liability of
 39 a fiduciary under this title for the release or threatened release of a
 40 hazardous substance at, from, or in connection with an underground
 41 storage tank **or aboveground storage tank** held in a fiduciary capacity
 42 shall not exceed the assets held in the fiduciary capacity.

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

- 1 (b) Subsection (a) does not apply to the extent that a person is
- 2 liable under this title independently of the person's ownership of an
- 3 underground storage tank **or aboveground storage tank** as a fiduciary
- 4 or actions taken in a fiduciary capacity.
- 5 (c) Subsections (a) and (d) do not limit the liability pertaining to
- 6 a release or threatened release of a hazardous substance if negligence
- 7 of a fiduciary causes or contributes to the release or threatened release.
- 8 (d) A fiduciary is not liable in its personal capacity under this title
- 9 for any of the following:
- 10 (1) Undertaking or directing another person to undertake a
- 11 response action under 42 U.S.C. 9607(d)(1) or under the
- 12 direction of an on-scene coordinator designated under the
- 13 National Contingency Plan.
- 14 (2) Undertaking or directing another person to undertake other
- 15 lawful means of addressing a hazardous substance in connection
- 16 with the underground storage tank **or aboveground storage**
- 17 **tank.**
- 18 (3) Terminating the fiduciary relationship.
- 19 (4) Including in the terms of the fiduciary agreement a covenant,
- 20 warranty, or other term or condition that relates to compliance
- 21 with an environmental law, or monitoring, modifying, or
- 22 enforcing the term or condition.
- 23 (5) Monitoring or undertaking at least one (1) inspection of the
- 24 underground storage tank **or aboveground storage tank.**
- 25 (6) Providing financial advice or other advice or counseling to
- 26 other parties to the fiduciary relationship, including the settlor or
- 27 beneficiary.
- 28 (7) Restructuring, renegotiating, or otherwise altering the terms
- 29 and conditions of the fiduciary relationship.
- 30 (8) Administering, as a fiduciary, an underground storage tank
- 31 **or aboveground storage tank** that was contaminated before the
- 32 fiduciary relationship began.
- 33 (9) Declining to take any of the actions referred to in
- 34 subdivisions (2) through (8).
- 35 (e) This section does not apply to a person if the person:
- 36 (1) acts in a capacity other than:
- 37 (A) a fiduciary capacity; or
- 38 (B) a beneficiary capacity;
- 39 and, in that capacity, directly or indirectly benefits from a trust
- 40 or fiduciary relationship; or
- 41 (2) is a beneficiary and a fiduciary with respect to the same
- 42 fiduciary estate and, as a fiduciary, receives benefits that exceed

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 customary or reasonable compensation and incidental benefits
- 2 permitted under other applicable law.
- 3 (f) This section does not preclude a claim against the assets of the
- 4 estate or trust administered by:
 - 5 (1) the fiduciary; or
 - 6 (2) a nonemployee agent or independent contractor retained by
 - 7 a fiduciary.
- 8 (g) This section does not:
 - 9 (1) affect the rights, immunities, or other defenses that are
 - 10 available under:
 - 11 (A) this title; or
 - 12 (B) other law that is applicable to a person subject to this
 - 13 chapter; or
 - 14 (2) create:
 - 15 (A) any liability for a person; or
 - 16 (B) a private right of action against a fiduciary or any other
 - 17 person.

18 SECTION 6 ~~↔~~ [3]. IC 13-23-13-16, AS ADDED BY
 19 P.L.221-2007, SECTION 15, IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 16. (a) A political
 21 subdivision or unit of federal or state government that acquired
 22 ownership or control of an underground storage tank **or aboveground**
 23 **storage tank** on a brownfield by any of the means listed in
 24 IC 13-11-2-150(c) and IC 13-11-2-151(b) may undertake any activity
 25 in conjunction with:

- 26 (1) investigation or remediation of hazardous substances,
- 27 petroleum, and other pollutants associated with a brownfield,
- 28 including complying with land use restrictions and institutional
- 29 controls; or
- 30 (2) monitoring or closure of an:
 - 31 (A) underground storage tank; **or**
 - 32 (B) **aboveground storage tank;**

33 without being considered as contributing to the existing release or
 34 threatened release of a regulated substance on, in, or at the brownfield
 35 unless existing contamination on the brownfield is exacerbated due to
 36 gross negligence or intentional misconduct by the political subdivision
 37 or unit of federal or state government.

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

40 SECTION 6 ~~↔~~ [4]. IC 13-23-14-2 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. A person who
 42 violates a rule adopted under IC 13-23-1-2 by:

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1 (1) knowingly failing to give a required notification; or
 2 (2) submitting false information;
 3 is subject to a civil penalty of not more than ten thousand dollars
 4 (\$10,000) for each underground storage tank **or aboveground storage**
 5 **tank** for which a required notification is not given or for which false
 6 information is submitted.
 7 SECTION 6 ~~6~~ 5. IC 13-23-14-3 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) Except as
 9 provided in subsection (b), a person who violates:
 10 (1) a requirement or standard set forth in this article; or
 11 (2) a rule adopted under IC 13-23-1-2 other than a violation
 12 described in section 2 of this chapter;
 13 is subject to a civil penalty of not more than ten thousand dollars
 14 (\$10,000) per underground storage tank **or aboveground storage tank**
 15 for each day of violation.
 16 (b) A person is not subject to the civil penalty described in
 17 subsection (a) if:
 18 (1) the violation arose from an underground storage tank **or**
 19 **aboveground storage tank** that is on a brownfield;
 20 (2) the person was not the owner or operator of the underground
 21 storage tank **or aboveground storage tank** when the violation
 22 first occurred;
 23 (3) the person does not dispense a regulated substance into or
 24 from the underground **storage tank or aboveground storage**
 25 **tank**:
 26 (A) for any purpose other than temporary or permanent
 27 closure; or
 28 (B) in violation of any federal, state, or local regulations;
 29 and
 30 (4) the underground storage tank **or aboveground storage tank**
 31 is brought into compliance with this article not later than one (1)
 32 year after the person acquired ownership of the property.
 33 SECTION 6 ~~6~~ 6. IC 13-23-14-4, AS AMENDED BY
 34 P.L.38-2012, SECTION 7, IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) A person who fails to comply
 36 with an order issued by the commissioner under this article or
 37 IC 13-7-20 (before its repeal) after the order becomes effective is
 38 subject to a civil penalty of not more than twenty-five thousand dollars
 39 (\$25,000) for each day of continued noncompliance.
 40 (b) It is a defense to a violation of this section due to
 41 noncompliance with an order issued under IC 13-23-1-4 that the person
 42 has not been notified that an underground storage tank **or**

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1 **aboveground storage tank** that is the subject of the order is ineligible
2 for delivery, deposit, or acceptance of a regulated substance as
3 determined by the commissioner.

4 SECTION 6~~6~~[7]. IC 13-23-16-2, AS ADDED BY
5 P.L.221-2007, SECTION 16, IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. If the department
7 receives a report concerning:

8 (1) the discovery of released regulated substances at an
9 underground storage tank **or aboveground storage tank** site or
10 in the surrounding area under 329 IAC 9-4-1(1); or

11 (2) a spill or overfill under 329 IAC 9-4-4(a);
12 the department shall, not more than seven (7) days after receiving the
13 report, provide notice of the release, spill, or overfill to the county
14 health officer of each county in which the release, spill, or overfill
15 occurred.

16 SECTION 6~~6~~[8]. IC 13-27-8-3, AS AMENDED BY
17 P.L.133-2012, SECTION 155, IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) The following
19 boards may adopt rules to implement this chapter to the extent
20 consistent with federal law:

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

24 (b) The rules adopted under subsection (a) may establish the
25 following:

26 (1) Eligibility requirements for participation in environmental
27 performance based programs.

28 (2) Compliance methods and schedules that:

29 (A) differ from compliance methods and schedules that
30 apply to nonparticipants in environmental performance
31 based programs under rules adopted by the boards;

32 (B) apply only to participants in environmental performance
33 based programs; and

34 (C) include any of the following:

35 (i) Changes to monitoring and reporting requirements
36 and schedules.

37 (ii) Streamlined submission requirements for permit
38 renewals.

39 (iii) Prioritized applications.

40 (iv) Authorization to make without prior governmental
41 approval certain operational changes that do not result
42 in additional environmental impact.

M
a
r
k
u
p



- 1 (3) Recognition incentives to encourage participation in
- 2 environmental performance based programs.
- 3 (4) Other incentives consistent with the policies of this title and
- 4 federal law to encourage participation in environmental
- 5 performance based programs.
- 6 (5) Requirements for participants in environmental performance
- 7 based programs to implement any of the following:
- 8 (A) Continuous improvement environmental systems.
- 9 (B) Pollution prevention and waste minimization programs
- 10 developed under IC 13-27-7.

11 SECTION ~~6<7>~~[9]. IC 13-30-3-11, AS AMENDED BY
 12 P.L.133-2012, SECTION 159, IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. An order of the
 14 commissioner under this chapter may do any of the following:

- 15 (1) Include a direction to cease and desist from violations of the
- 16 following:
- 17 (A) Environmental management laws.
- 18 (B) Air pollution control laws.
- 19 (C) Water pollution control laws.
- 20 (D) A rule adopted by the board.
- 21 (E) A rule adopted by the ~~underground petroleum~~ storage
- 22 tank financial assurance board ~~created~~ **established** by
- 23 IC 13-23-11-1.
- 24 (2) Impose monetary penalties in accordance with the following:
- 25 (A) Environmental management laws.
- 26 (B) Air pollution control laws.
- 27 (C) Water pollution control laws.
- 28 (3) Mandate corrective action, including corrective action to be
- 29 taken beyond the boundaries of the area owned or controlled by
- 30 the person to whom the order is directed, to alleviate the
- 31 violation.
- 32 (4) Revoke a permit or condition or modify the terms of a permit.

33 SECTION ~~68~~[70]. IC 13-30-4-1, AS AMENDED BY
 34 P.L.133-2012, SECTION 160, IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) Subject to
 36 IC 13-14-6 and except as provided in IC 13-23-14-2 and
 37 IC 13-23-14-3, a person who violates:

- 38 (1) any provision of:
- 39 (A) environmental management laws;
- 40 (B) air pollution control laws;
- 41 (C) water pollution control laws;
- 42 (D) IC 13-18-14-1;

M
a
r
k
u
p

ES 246—LS 7314/DI 150



- 1 (E) a rule or standard adopted by the board; or
- 2 (F) a rule or standard adopted by the ~~underground~~
- 3 **petroleum** storage tank financial assurance board ~~created~~
- 4 **established** by IC 13-23-11-1; or
- 5 (2) any determination, permit, or order made or issued by the
- 6 commissioner under:
- 7 (A) environmental management laws or IC 13-7 (before its
- 8 repeal);
- 9 (B) air pollution control laws or IC 13-1-1 (before its
- 10 repeal); or
- 11 (C) water pollution control laws or IC 13-1-3 (before its
- 12 repeal);

13 is liable for a civil penalty not to exceed twenty-five thousand dollars
14 (\$25,000) per day of any violation.

15 (b) The department may:

- 16 (1) recover the civil penalty described in subsection (a) in a civil
- 17 action commenced in any court with jurisdiction; and
- 18 (2) request in the action that the person be enjoined from
- 19 continuing the violation.

20 SECTION ~~69~~[71]. IC 13-30-7-7, AS AMENDED BY
21 P.L.133-2012, SECTION 161, IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. The following shall
23 adopt rules under IC 4-22-2 and IC 13-14-9 to administer this chapter:

24 (1) The board.

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

27 SECTION 7~~0~~[2]. IC 16-44-2-0.5 IS ADDED TO THE
28 INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2023]: **Sec. 0.5. As used in this chapter,**
30 **"avgas" means aviation fuel used in piston engine powered aircraft**
31 **within the general aviation community.**

32 SECTION 7~~1~~[3]. IC 16-44-2-1.5 IS ADDED TO THE
33 INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2023]: **Sec. 1.5. As used in this chapter, "jet**
35 **fuel" means aviation fuel designed for use in aircraft powered by**
36 **gas-turbine engines.**

37 SECTION 7~~2~~[4]. IC 16-44-2-18, AS AMENDED BY
38 P.L.234-2019, SECTION 39, IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 18. (a) **The fee**
40 **imposed by subsection (b):**

- 41 (1) **applies to avgas to the same extent and in the same**
- 42 **manner as it applies to gasoline; and**

M
a
r
k
u
p

ES 246—LS 7314/DI 150



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(2) applies to jet fuel to the same extent and in the same manner as it applies to kerosene; except as provided in subsection (g).

(b) Except as provided in subsection ~~(b)~~; **(c)**, fees for the inspection of gasoline or kerosene shall be at the rate of fifty cents (\$0.50) per barrel (fifty (50) gallons) on all gasoline or kerosene received in Indiana less deductions provided in this section.

~~(b)~~ **(c)** A fee for inspection of gasoline or kerosene may not be charged for the following:

(1) On transport or tank car shipments direct to the federal government.

(2) On gasoline or kerosene received and subsequently exported from Indiana or returned to refineries or marine or pipeline terminals in Indiana.

~~(c)~~ **(d)** Fees shall be paid to the state department by the person receiving gasoline or kerosene in Indiana at the time gasoline or kerosene products are received, unless the person receiving the gasoline or kerosene is licensed as a distributor under the gasoline tax law (IC 6-6-1.1). In that case, the person in receipt of the gasoline or kerosene shall do the following:

(1) Include in the person's monthly gasoline tax report a statement of all gasoline and kerosene received during the preceding calendar month on which inspection fees are due.

(2) Remit the amount of the inspection fees at the same time the monthly motor fuel tax report is due.

~~(d)~~ **(e)** A refiner or other person supplying gasoline or kerosene to the first receiver in Indiana may elect to pay the fees monthly on all gasoline or kerosene supplied to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1). If the supplier is not licensed as a distributor under the gasoline tax law of Indiana (IC 6-6-1.1), the supplier shall, as a condition precedent to such election, file with the state department a corporate surety bond that meets the following conditions:

(1) Is in the form and amount that the state department determines, not to exceed two thousand dollars (\$2,000).

(2) Is conditioned that the supplier does the following:

(A) Reports all gasoline and kerosene supplied by the supplier to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1).

(B) Pays inspection fees monthly on or before the twenty-fifth day of each calendar month for the preceding calendar month.

M
a
r
k
u
p



1 (e) (f) A person taking credit for gasoline or kerosene exported or
 2 returned to a refinery or terminal shall substantiate that credit in the
 3 manner that the state department reasonably requires by rule.

4 (g) Fees collected under this section for the inspection of:

5 (1) avgas; and

6 (2) jet fuel;

7 shall be deposited in the aviation fuel account of the ELTF under
 8 IC 13-23-7-1.2.

9 SECTION 7 ~~↔~~ [5]. IC 16-44-2-18.5, AS AMENDED BY
 10 P.L.1-2006, SECTION 307, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2023]: Sec. 18.5. (a) As used in this section,
 12 "special fuel" has the meaning set forth in IC 6-6-2.5-22, except that
 13 the term does not include kerosene.

14 (b) Except as provided in subsection (c), fees for the inspection of
 15 special fuel shall be at the rate of fifty cents (\$0.50) per barrel (fifty
 16 (50) gallons) on all special fuel sold or used in producing or generating
 17 power for propelling motor vehicles in Indiana less deductions
 18 provided in this section.

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

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

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

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

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

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

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

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

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

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M
a
r
k
u
p

1 (B) Any other information reasonably requested by the
 2 department of state revenue.
 3 The department of state revenue may make any investigation it
 4 considers necessary before refunding fees to a person.
 5 SECTION 7~~4~~[6]. IC 16-44-2-19 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 19. All money collected
 7 for inspections under this chapter shall be deposited in the ~~underground~~
 8 petroleum storage tank excess liability trust fund established by
 9 IC 13-23-7-1.
 10 SECTION 7~~4~~[7]. IC 22-12-2-2, AS AMENDED BY
 11 P.L.249-2019, SECTION 14, IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) The commission
 13 consists of eleven (11) members, nine (9) of whom shall be appointed
 14 by the governor.
 15 (b) The term of a commission member is four (4) years.
 16 (c) The state health commissioner or the commissioner's designee
 17 shall serve as a member of the commission, and the commissioner of
 18 labor or the commissioner's designee shall serve as a member of the
 19 commission.
 20 (d) Each appointed member of the commission must have a
 21 recognized interest, knowledge, and experience in the field of fire
 22 prevention, fire protection, building safety, or other related matters.
 23 The governor shall consider appointing individuals to the commission
 24 with experience in the following:
 25 (1) A paid fire department.
 26 (2) A volunteer fire department.
 27 (3) The field of fire insurance.
 28 (4) The fire service industry.
 29 (5) The manufactured housing industry.
 30 (6) The field of fire protection engineering.
 31 (7) As a professionally licensed engineer.
 32 (8) Building contracting.
 33 (9) The field of building one (1) and two (2) family dwellings.
 34 (10) As a professionally licensed architect.
 35 (11) The design or construction of heating, ventilating, air
 36 conditioning, or plumbing systems.
 37 (12) The design or construction of regulated lifting devices.
 38 (13) City, town, or county building inspection.
 39 (14) Regulated amusement devices.
 40 (15) Accessibility requirements and personal experience with a
 41 disability.

M
a
r
k
u
p

ES 246—LS 7314/DI 150



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 ~~(16)~~ **Underground and aboveground motor fuel storage tanks and**
- 2 **dispensing systems.**
- 3 ~~(17)~~ **(16) The masonry trades.**
- 4 ~~(18)~~ **(17) Energy conservation codes and standards, including the**
- 5 **manner in which energy conservation codes and standards apply**
- 6 **to:**
- 7 (A) residential;
- 8 (B) single and multiple family dwelling; or
- 9 (C) commercial;
- 10 building codes.
- 11 ~~(19)~~ **(18) The boiler and pressure vessel industry.**
- 12 (e) Not more than five (5) of the appointed members of the
- 13 commission may be affiliated with the same political party.
- 14 SECTION 7 ~~6~~ **[8]. [EFFECTIVE JULY 1, 2023] (a) As used in**
- 15 **this SECTION, "board" refers to the environmental rules board**
- 16 **established by IC 13-13-8-3.**
- 17 **(b) As used in this SECTION, "department" means the**
- 18 **department of environmental management established by**
- 19 **IC 13-13-1-1.**
- 20 **(c) On July 1, 2023, all powers, duties, agreements, and**
- 21 **liabilities of the:**
- 22 **(1) state fire marshal to regulate the certification of**
- 23 **underground storage tank workers under IC 13-23-3, before**
- 24 **its amendment by this act, are transferred to the**
- 25 **department; and**
- 26 **(2) fire prevention and building safety commission to**
- 27 **regulate the certification of underground storage tank**
- 28 **workers under IC 13-23-3, before its amendment by this act,**
- 29 **are transferred to the board.**
- 30 **(d) On July 1, 2023, all records, property, and funds used by**
- 31 **the:**
- 32 **(1) state fire marshal to regulate the certification of**
- 33 **underground storage tank workers under IC 13-23-3, before**
- 34 **its amendment by this act, are transferred to the**
- 35 **department; and**
- 36 **(2) fire prevention and building safety commission to**
- 37 **regulate the certification of underground storage tank**
- 38 **workers under IC 13-23-3, before its amendment by this act,**
- 39 **are transferred to the board.**
- 40 **(e) After June 30, 2023, any amounts owed to the:**
- 41 **(1) state fire marshal in connection with the regulation of the**
- 42 **certification of underground storage tank workers before**

M
a
r
k
u
p



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

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 the 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 79. [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 aboveground 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, including the age, level of deterioration, and obsolescence of the tank.

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

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

[SECTION 80. [EFFECTIVE JULY 1, 2023] (a) 105 IAC 3-1-2 is void. The publisher of the Indiana Administrative Code shall remove 105 IAC 3-1-2 from the Indiana Administrative Code.

(b) This SECTION expires July 1, 2024.

1

M
a
r
k
u
p

