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Code: Section:

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HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] (*Division 20 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 6.75. Petroleum Underground Storage Tank Cleanup [25299.10 - 25299.97] (*Chapter 6.75 added by Stats. 1989, Ch. 1442, Sec. 5.*)

ARTICLE 3. Financial Responsibility [25299.30 - 25299.34] (*Article 3 added by Stats. 1989, Ch. 1442, Sec. 5.*)

25299.30. Every owner and operator shall comply with Section 25299.31 at the time prescribed in the federal act for the establishment and maintaining of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage arising from operating an underground storage tank, or when the tank is first filled, for use, with petroleum.

(*Added by Stats. 1989, Ch. 1442, Sec. 5. Effective October 2, 1989. Inoperative January 1, 2036, pursuant to Section 25299.81.*)

25299.31. (a) Every owner and operator shall establish and maintain evidence of financial responsibility, as provided in this article, for taking corrective action and compensating third parties for bodily injury and property damage arising from operating an underground storage tank.

(b) If the owner and the operator are separate persons, either the owner or the operator shall demonstrate compliance with subdivision (a).

(c) An owner may comply with this article by entering into an agreement with the operator of the tank requiring the operator to demonstrate compliance with subdivision (a). However, both the owner and the operator are in violation of subdivision (a) if evidence of financial responsibility is not established and maintained in accordance with this article.

(*Added by Stats. 1989, Ch. 1442, Sec. 5. Effective October 2, 1989. Inoperative January 1, 2036, pursuant to Section 25299.81.*)

25299.32. (a) Except as provided in subdivision (f), a claimant who meets any of the following requirements may use the fund to establish and maintain evidence of financial responsibility:

(1) A claimant who meets the qualifications of paragraph (1) of subdivision (b) of Section 25299.52 shall be deemed in compliance with Section 25299.31 if the claimant is eligible for reimbursement from the fund pursuant to Section 25299.54, subdivision (d) of Section 25299.57, and subdivision (b) of Section 25299.58.

(2) If a claimant meets the qualifications of paragraph (2) or (3) of subdivision (b) of Section 25299.52, the level of financial responsibility required to be obtained pursuant to Section 25299.31 shall be at least five thousand dollars (\$5,000) for each occurrence and at least five thousand dollars (\$5,000) annual aggregate coverage for taking corrective action.

(3) If a claimant meets the qualifications of paragraph (4) of subdivision (b) of Section 25299.52, the level of financial responsibility required to be obtained pursuant to Section 25299.31 shall be at least ten thousand dollars (\$10,000) for each occurrence, and at least ten thousand dollars (\$10,000) annual aggregate coverage for taking corrective action.

(b) The level of financial responsibility required to be obtained pursuant to Section 25299.31 for each occurrence for bodily injury and property damage shall be in the amount specified by the board in the regulations adopted pursuant to Section 25299.77.

(c) The level of financial responsibility required to be obtained pursuant to Section 25299.31 shall be in the amount specified by the board for annual aggregate coverage for both corrective action and bodily injury and property damage.

(d) The board may periodically increase the minimum level of financial responsibility specified in subdivision (a) if the board determines that private insurance is available and affordable.

(e) The changes made to this section by Chapter 1191 of the Statutes of 1994 shall apply to all claimants with claims, or portions of claims, for corrective action at sites that have not been completed and for which reimbursement by the fund has not been fully paid

by the board.

(f) (1) On and after January 1, 2035, an owner or operator of a tank for which a permit that is issued pursuant to Section 25284 is in effect shall not use the fund as a mechanism to demonstrate compliance with the financial responsibility requirements of Sections 25292.2 and 25299.31 and with the federal act.

(2) On or before December 31, 2034, an owner or operator who previously used the fund as a mechanism to demonstrate compliance with financial responsibility requirements shall submit, to the local agency that issued the permit for the operation of the tank pursuant to Section 25284, evidence of the alternative financial responsibility mechanism that will be used on and after January 1, 2035, to comply with Sections 25292.2 and 25299.31 and with the federal act.

(Amended by Stats. 2023, Ch. 561, Sec. 1. (AB 1115) Effective January 1, 2024. Inoperative January 1, 2036, pursuant to Section 25299.81.)

25299.33. (a) An owner and operator subject to Section 25299.30 may establish evidence of financial responsibility pursuant to this article by any one or more of the means specified in the federal act.

(b) An owner or operator shall submit evidence of financial responsibility on a prepared form to the local agency which has issued a permit for the operation of the tank pursuant to Section 25284.

(Added by Stats. 1989, Ch. 1442, Sec. 5. Effective October 2, 1989. Inoperative January 1, 2036, pursuant to Section 25299.81.)

25299.34. (a) The total liability of any guarantor under this chapter is limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator pursuant to this article. This section does not limit any other state or federal statutory, contractual, or common-law liability of a guarantor to its owner or operator, including, but not limited to, the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim.

(b) For the purposes of this section, "guarantor" means any person, including the insurance fund or the fund, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator pursuant to Section 25299.31.

(Added by Stats. 1989, Ch. 1442, Sec. 5. Effective October 2, 1989. Inoperative January 1, 2036, pursuant to Section 25299.81.)