

103D CONGRESS
1ST SESSION

S. 389

To amend the Solid Waste Disposal Act to regulate above-ground storage tanks used to store regulated substances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 18 (legislative day, JANUARY 5), 1993

Mr. DASCHLE introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Solid Waste Disposal Act to regulate above-ground storage tanks used to store regulated substances, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Aboveground Storage
5 Tank Act of 1993”.

6 **SEC. 2. REGULATION OF ABOVEGROUND STORAGE TANKS.**

7 The Solid Waste Disposal Act (42 U.S.C. 6901 et
8 seq.) is amended—

9 (1) by redesignating subtitle J as subtitle K;

10 and

1 (2) by inserting the following new subtitle after
2 subtitle I:

3 **“Subtitle J—Regulation of**
4 **Aboveground Storage Tanks**

5 **“SEC. 10001. DEFINITIONS.**

6 “As used in this subtitle:

7 “(1) ABOVEGROUND STORAGE TANK.—

8 “(A) IN GENERAL.—The term ‘above-
9 ground storage tank’ means any one or com-
10 bination of tanks located aboveground (includ-
11 ing any aboveground pipe connected to the
12 tank) that used to contain an accumulation of
13 regulated substances and that is located at least
14 90 percent above the surface of the ground (as
15 measured by volume), including—

16 “(i) a field-erected tank;

17 “(ii) a rebuilt tank;

18 “(iii) a shop-fabricated tank; and

19 “(iv) a storage tank situated in an un-
20 derground area (including a basement, cel-
21 lar, mineworking, drift, shaft, or tunnel) if
22 the storage tank is situated on or above
23 the surface of the floor.

24 “(B) EXCLUSIONS.—The term shall not in-
25 clude any—

1 “(i) farm or residential tank of 1,100
2 gallons or less capacity used for storing
3 motor fuel for noncommercial purposes;

4 “(ii) tank used for storing heating oil
5 for consumptive use on the premises where
6 stored;

7 “(iii) storm water or waste water col-
8 lection system;

9 “(iv) flow-through process tank;

10 “(v) liquid trap or associated gather-
11 ing line directly related to oil or gas pro-
12 duction and gathering operations;

13 “(vi) pipe connected to a tank, sys-
14 tem, or line that is described in clauses (i)
15 through (v).

16 “(2) FIELD-ERECTED TANK.—The term ‘field-
17 erected tank’ means an aboveground storage tank
18 that is primarily assembled, erected, inspected, and
19 tested for releases on the site where the tank is in-
20 tended to be operated.

21 “(3) FLOW-THROUGH PROCESS TANK.—The
22 term ‘flow-through process tank’ means a tank that
23 fulfills a function essential to the continuous oper-
24 ation of an industrial commercial process and that
25 has a purpose other than storage, including a—

1 “(A) surge tank;

2 “(B) seal tank;

3 “(C) blend tank; and

4 “(D) tank in which mechanical, physical,
5 or chemical change of the contents is accom-
6 plished.

7 “(4) NONOPERATIONAL STORAGE TANK.—The
8 term ‘nonoperational storage tank’ means an above-
9 ground storage tank in which regulated substances
10 are not deposited, and from which regulated sub-
11 stances are not dispensed, after the date of enact-
12 ment of this subtitle.

13 “(5) OPERATOR.—The term ‘operator’ means a
14 person who is in control of, or has responsibility for,
15 the daily operation of an aboveground storage tank.

16 “(6) OWNER.—The term ‘owner’ means—

17 “(A) in the case of an aboveground storage
18 tank in use on the date of enactment of this
19 subtitle, or brought into use after that date, a
20 person who owns an aboveground storage tank
21 used for the storage, use, or dispensing of regu-
22 lated substances; and

23 “(B) in the case of an aboveground storage
24 tank in use before the date of enactment of this
25 subtitle, but no longer in use after that date, a

1 person who owned the tank immediately before
2 the discontinuation of use.

3 “(7) PERSON.—The term ‘person’ has the same
4 meaning as provided in section 1004(15), except
5 that the term also includes any consortium, joint
6 venture, or commercial entity not included in section
7 1004(15), and the United States Government.

8 “(8) PETROLEUM.—The term ‘petroleum’
9 means petroleum, including crude oil or a fraction of
10 crude oil, that is liquid at standard conditions of
11 temperature and pressure (60 degrees Fahrenheit
12 and 14.7 pounds per square inch absolute).

13 “(9) REBUILT TANK.—The term ‘rebuilt tank’
14 means an aboveground storage tank that was in use,
15 disassembled, and subsequently erected elsewhere.

16 “(10) REGULATED SUBSTANCE.—The term
17 ‘regulated substance’ means—

18 “(A) a substance defined in section
19 101(14) of the Comprehensive Environmental
20 Response, Compensation, and Liability Act of
21 1980 (42 U.S.C. 9601(14)) (but not including
22 a substance regulated as a hazardous waste
23 under subtitle C of this Act (42 U.S.C. 6921 et
24 seq.)); and

25 “(B) petroleum.

1 “(11) RELEASE.—The term ‘release’ means any
2 spilling, leaking, pumping, pouring, emptying, dump-
3 ing, emitting, discharging, escaping, leaching, or dis-
4 posing, from an aboveground storage tank into
5 ground water, surface water, or soil.

6 “(12) SECONDARY CONTAINMENT.—The term
7 ‘secondary containment’ means a system that is used
8 for release prevention (including release prevention
9 underneath the tank), including—

10 “(A) a system that is capable of catching
11 and holding 110 percent of the full capacity of
12 the tank;

13 “(B) a double-walled tank;

14 “(C) an external liner; or

15 “(D) a system or structure constructed
16 such that any release would be collected by a
17 drainage system or structure and routed to a
18 permitted wastewater treatment system, plant
19 recirculating process system, or approved alter-
20 nate containment system.

21 “(13) SHOP-FABRICATED TANK.—The term
22 ‘shop-fabricated tank’ means an aboveground stor-
23 age tank that is shipped to the job site primarily as-
24 sembled, inspected, and tested for releases, and set
25 in place at the job site.

1 **“SEC. 10002. NOTIFICATION.**

2 “(a) ABOVEGROUND STORAGE TANKS.—

3 “(1) IN GENERAL.—

4 “(A) EXISTING TANKS.—Not later than 18
5 months after the date of enactment of this sub-
6 title, each owner shall notify the State or local
7 agency or department designated pursuant to
8 subsection (b) of the existence of the above-
9 ground storage tank, and specify the age, size,
10 type, location, and uses of the tank.

11 “(B) TANKS NOT IN OPERATION.—

12 “(i) IN GENERAL.—For each above-
13 ground storage tank taken out of operation
14 after January 1, 1977, the owner shall, not
15 later than 1 year after the date of enact-
16 ment of this subtitle, notify the State or
17 local agency or department designated pur-
18 suant to subsection (b) of the existence of
19 the tank.

20 “(ii) CONTENTS OF NOTICE.—The no-
21 tice required under clause (i) shall specify,
22 to the extent known to the owner—

23 “(I) the date the tank was taken
24 out of operation;

1 “(II) the age of the tank on the
2 date the tank was taken out of oper-
3 ation;

4 “(III) the size, type, and location
5 of the tank;

6 “(IV) either—

7 “(aa) the type and quantity
8 of substances remaining in the
9 tank on the date the tank was
10 taken out of operation; or

11 “(bb) if the tank was
12 cleaned and purged of residue
13 after that date, confirmation of
14 the cleaning and purging;

15 “(V) the type and quantity of
16 substances remaining in the tank on
17 the date the notification is made;

18 “(VI) the type of release detec-
19 tion system, if any; and

20 “(VII) the materials out of which
21 the tank was constructed.

22 “(C) FUTURE TANKS.—An owner who
23 brings into use an aboveground storage tank
24 after the initial notification period specified
25 under subparagraph (A) shall, not later than 30

1 days after the bringing into use of the tank, no-
2 tify the State or local agency or department
3 designated pursuant to subsection (b) of the ex-
4 istence of the tank, and specify—

5 “(i) the age of the tank;

6 “(ii) the size, type, and location of the
7 tank;

8 “(iii) the uses of the tank;

9 “(iv) the type of release detection sys-
10 tem; and

11 “(v) the materials out of which the
12 tank was constructed.

13 “(2) EXCEPTION.—Paragraph (1) shall not
14 apply to a hazardous waste tank for which notice
15 was given pursuant to section 103(c) of the Com-
16 prehensive Environmental Response, Compensation,
17 and Liability Act of 1980 (42 U.S.C. 9603(c)).

18 “(3) NOTIFICATION BY DEPOSITORS.—During
19 the period beginning on the date that is 30 days
20 after the Administrator prescribes the form of notice
21 pursuant to subsection (c) and ending on the date
22 that is 18 months after that date, a person who de-
23 posits regulated substances in an aboveground stor-
24 age tank shall immediately notify the owner or oper-

1 ator of the notification requirements of the owner
2 under this subsection.

3 “(4) NOTIFICATION BY SELLERS.—Beginning
4 30 days after the Administrator issues new tank
5 performance standards pursuant to section
6 10003(e), a person who sells a tank intended to be
7 used as an aboveground storage tank shall notify the
8 purchaser of the tank of the notification require-
9 ments of the owner under this subsection.

10 “(b) AGENCY DESIGNATION.—Not later than 180
11 days after the date of enactment of this subtitle, the Gov-
12 ernor of each State shall designate an appropriate State
13 agency or department, or local agency or department, to
14 receive the notifications required under subsection (a)(1).

15 “(c) REGULATIONS.—Not later than 1 year after the
16 date of enactment of this subtitle, the Administrator, in
17 consultation with State and local officials designated pur-
18 suant to subsection (b), and after notice and opportunity
19 for public comment, shall issue regulations prescribing the
20 form of the notice and the information to be included in
21 the notifications required under subsection (a)(1). In pre-
22 scribing the form of the notice, the Administrator shall
23 take into account the effect on small business concerns
24 (as defined in section 3(a)(1) of the Small Business Act

1 (15 U.S.C. 632(a)(1))), and on other owners and opera-
2 tors.

3 “(d) STATE INVENTORIES.—

4 “(1) IN GENERAL.—Each State shall prepare
5 two separate inventories of all aboveground storage
6 tanks in the State containing regulated substances,
7 one inventory with respect to petroleum, and one
8 with respect to other regulated substances. In pre-
9 paring the inventories, the State shall utilize and ag-
10 gregate the data in the notification forms submitted
11 pursuant to subsection (a).

12 “(2) SUBMISSION OF DATA.—Each State shall
13 submit the aggregated data described in paragraph
14 (1) to the Administrator not later than 270 days
15 after the date of enactment of this subtitle.

16 **“SEC. 10003. RELEASE DETECTION, PREVENTION, AND COR-**
17 **RECTION REGULATIONS.**

18 “(a) REGULATIONS.—The Administrator, after pro-
19 viding notice and opportunity for public comment, includ-
20 ing convening a public meeting, and at least 6 months be-
21 fore the applicable effective date specified in subsection
22 (g), shall issue such release detection, prevention, and cor-
23 rection regulations applicable to all owners and operators
24 as are necessary to protect human health and the environ-
25 ment.

1 “(b) DISTINCTIONS IN REGULATIONS.—

2 “(1) IN GENERAL.—

3 “(A) DISTINGUISHING TANKS.—Subject to
4 subparagraph (B), in issuing regulations under
5 this section, the Administrator may distinguish
6 aboveground storage tanks by type, class, or
7 age.

8 “(B) PETROLEUM TANKS.—The regula-
9 tions for aboveground storage tanks containing
10 petroleum shall be no less stringent than those
11 for other regulated substances.

12 “(2) FACTORS.—In making the distinctions de-
13 scribed in paragraph (1), the Administrator may
14 take into consideration the following factors:

15 “(A) The location of tanks.

16 “(B) Soil and climate conditions.

17 “(C) The uses of tanks.

18 “(D) The history of maintenance.

19 “(E) The ages of tanks.

20 “(F) Industry standards at the time of is-
21 suance of the regulations.

22 “(G) National consensus codes.

23 “(H) National fire protection codes.

24 “(I) Hydrogeology.

25 “(J) Water table.

1 “(K) The sizes of tanks.

2 “(L) The quantity of regulated substances
3 periodically deposited in or dispensed from
4 tanks.

5 “(M) The technical capability of owners
6 and operators.

7 “(N) The compatibility of the regulated
8 substance and the materials of which the tanks
9 are fabricated.

10 “(O) Other factors that the Administrator
11 considers appropriate.

12 “(c) REQUIREMENTS.—The regulations issued pursu-
13 ant to this section shall include, with respect to all above-
14 ground storage tanks, requirements for—

15 “(1) maintaining a release detection system, an
16 inventory control system (together with tank test-
17 ing), or a comparable system or method designed to
18 identify releases in a manner consistent with the
19 protection of human health and the environment;

20 “(2) maintaining records of any monitoring or
21 release detection system or inventory control system
22 (and tank testing) or comparable system;

23 “(3) the prevention of releases, including—

24 “(A) certified inspection of field-erected
25 tanks, rebuilt tanks, and shop-fabricated tanks,

1 for which the Administrator shall establish a
2 timetable;

3 “(B) maintaining records of regular visual
4 inspection and of the certified inspection re-
5 quired pursuant to subparagraph (A);

6 “(C) inspection procedures, including—

7 “(i) periodic emptying of aboveground
8 storage tanks; and

9 “(ii) (I) internal inspection; or

10 “(II) standards for those tanks that
11 cannot be entered;

12 “(D) corrosion protection;

13 “(E) labeling of tanks; and

14 “(F) spill and overfill prevention devices
15 and procedures.

16 “(4) reporting of releases and corrective action
17 taken in response to a release (including reporting to
18 the National Response Center established pursuant
19 to section 311(j) of the Federal Water Pollution
20 Control Act (33 U.S.C. 1321(j))), except for those
21 releases required to be reported under other Federal
22 law;

23 “(5) taking corrective action in response to a
24 release;

1 “(6) the closure of tanks from which there have
2 been releases in order to prevent future releases;

3 “(7) the upgrading of existing tanks to new
4 tank standards not later than 10 years after the
5 date of enactment of this Act; and

6 “(8) maintaining evidence of financial respon-
7 sibility for taking corrective action and compensating
8 third parties for bodily injury and property damage
9 caused by sudden and nonsudden accidental releases,
10 in accordance with subsection (d).

11 “(d) FINANCIAL RESPONSIBILITY.—

12 “(1) IN GENERAL.—

13 “(A) IN GENERAL.—An owner or operator
14 shall be required to demonstrate financial re-
15 sponsibility in accordance with regulations is-
16 sued by the Administrator pursuant to sub-
17 section (c)(8).

18 “(B) METHODS.—Financial responsibility
19 may be demonstrated by any one, or any com-
20 bination, of the following: insurance, guarantee,
21 surety bond, letter of credit, qualification as a
22 self-insurer, or any other method satisfactory to
23 the Administrator.

24 “(C) CONTRACTUAL TERMS.—In issuing
25 regulations under this subsection, the Adminis-

1 trator may specify insurance policy or other
2 contractual terms, conditions, or defenses, that
3 are necessary or are unacceptable in establish-
4 ing evidence of financial responsibility in order
5 to carry out this subtitle.

6 “(2) BANKRUPTCY.—

7 “(A) IN GENERAL.—If the owner or opera-
8 tor is in bankruptcy, reorganization, or arrange-
9 ment pursuant to title II, United States Code,
10 or where with reasonable diligence jurisdiction
11 in a Federal or State court cannot be obtained
12 over an owner or operator likely to be solvent
13 at the time of judgment, a claim arising from
14 conduct for which evidence of financial respon-
15 sibility is required to be provided under this
16 subsection may be asserted directly against the
17 guarantor providing the evidence of financial re-
18 sponsibility.

19 “(B) RIGHTS AND DEFENSES.—In an ac-
20 tion brought pursuant to this paragraph, the
21 guarantor shall be entitled to invoke all rights
22 and defenses that would have been available
23 to—

1 “(i) the owner or operator, if an ac-
2 tion had been brought against the owner or
3 operator by the claimant; and

4 “(ii) the guarantor, if an action had
5 been brought against the guarantor by the
6 owner or operator.

7 “(3) LIABILITY OF GUARANTOR.—

8 “(A) LIMITATION OF AMOUNT.—The total
9 liability of a guarantor shall be limited to the
10 aggregate amount that the guarantor has pro-
11 vided as evidence of financial responsibility to
12 the owner or operator under this subsection.

13 “(B) EFFECT ON OTHER LIABILITY.—
14 Nothing in this subsection is intended to limit
15 any other Federal or State statutory, contrac-
16 tual, or common law liability of a guarantor to
17 an owner or operator, including the liability of
18 the guarantor for bad faith in negotiating or in
19 failing to negotiate the settlement of a claim.

20 “(C) EFFECT ON CERCLA LIABILITY.—
21 Nothing in this subsection is intended to dimin-
22 ish the liability of a person under section 107
23 or 111 of the Comprehensive Environmental
24 Response, Compensation, and Liability Act of

1 1980 (42 U.S.C. 9607 and 9611, respectively),
2 or other applicable law.

3 “(4) AMOUNT OF COVERAGE.—

4 “(A) IN GENERAL.—In issuing financial
5 responsibility regulations under this section, the
6 Administrator shall establish an amount of cov-
7 erage for particular classes and categories of
8 aboveground storage tanks that shall satisfy the
9 regulations.

10 “(B) PETROLEUM TANKS.—

11 “(i) IN GENERAL.—The amount of
12 coverage for aboveground storage tanks
13 containing petroleum shall be not less than
14 \$1,000,000 for each release with an appro-
15 priate aggregate requirement.

16 “(ii) REDUCTION.—The Adminis-
17 trator may set an amount lower than the
18 amount required by clause (i) for above-
19 ground storage tanks containing petroleum
20 that—

21 “(I) are located at facilities not
22 engaged in petroleum production, re-
23 fining, transportation, or marketing;
24 and

1 “(II) are not used to handle sub-
2 stantial quantities of petroleum.

3 “(C) FACTORS.—In establishing classes
4 and categories for the purpose of this para-
5 graph, the Administrator may consider—

6 “(i) the size, type, location, storage,
7 and handling capacity of aboveground stor-
8 age tanks in the class or category and the
9 volume stored by the tanks;

10 “(ii) the likelihood of release and the
11 potential extent of damage from a release
12 from tanks in the class or category;

13 “(iii) the economic impact of the
14 amount of coverage required under this
15 subsection on the owners and operators in
16 the class or category, particularly on small
17 business concerns (as defined in section
18 3(a)(1) of the Small Business Act (15
19 U.S.C. 632(a)(1))), in relation to the im-
20 pact of a potential release on any affected
21 community and affected natural resources;

22 “(iv) the availability of methods of fi-
23 nancial responsibility in amounts greater
24 than the amount established by this para-
25 graph; and

1 “(v) such other factors as the Admin-
2 istrator considers appropriate.

3 “(D) SUSPENSION OF ENFORCEMENT.—

4 “(i) IN GENERAL.—The Administrator
5 may suspend enforcement of the financial
6 responsibility requirements for a particular
7 class or category of aboveground storage
8 tanks or in a particular State, if—

9 “(I) the Administrator makes a
10 determination that methods of finan-
11 cial responsibility satisfying the re-
12 quirements of this subsection are not
13 generally available for aboveground
14 storage tanks in the class or category;
15 and

16 “(II) the State has taken meas-
17 ures—

18 “(aa) to form a risk reten-
19 tion group for the class of tanks;
20 or

21 “(bb) to establish a fund
22 pursuant to section 10004(c)(1)
23 to be submitted as evidence of fi-
24 nancial responsibility.

1 “(ii) LENGTH OF SUSPENSION.—A
2 suspension by the Administrator pursuant
3 to this paragraph shall extend for a period
4 not to exceed 180 days.

5 “(iii) EXTENSION.—A determination
6 to suspend may be made with respect to
7 the same class or category or for the same
8 State on the termination of the period of
9 suspension, if—

10 “(I) substantial progress has
11 been made by the State in establish-
12 ing a risk retention group; or

13 “(II) the owners or operators in
14 the class or category demonstrate, to
15 the satisfaction of the Administrator,
16 that the formation of such a group is
17 not possible and that the State is un-
18 able or unwilling to establish a fund
19 pursuant to clause (i)(II).

20 “(5) DEFINITION.—As used in this subsection,
21 the term ‘guarantor’ means a person, other than the
22 owner or operator, who provides evidence of financial
23 responsibility for an owner or operator under this
24 subsection.

25 “(e) NEW TANK PERFORMANCE STANDARDS.—

1 “(1) IN GENERAL.—Not later than 90 days be-
2 fore the applicable effective date specified in sub-
3 section (g), the Administrator shall issue perform-
4 ance standards for aboveground storage tanks
5 brought into use on or after the effective date.

6 “(2) CONTENTS.—The performance standards
7 for new aboveground storage tanks shall include de-
8 sign, construction, installation, maintenance, inspec-
9 tion, secondary containment, labeling, corrosion pro-
10 tection, integrity, and compatibility standards.

11 “(3) PLACE OF ASSEMBLY.—The Administrator
12 shall consider the differences between shop-fab-
13 ricated and field-erected tanks in the setting of the
14 standards.

15 “(f) REBUILT TANK PERFORMANCE STANDARDS.—

16 “(1) IN GENERAL.—Not later than 90 days be-
17 fore the applicable effective date specified in sub-
18 section (g), the Administrator shall issue perform-
19 ance standards for rebuilt tanks reintroduced for use
20 on or after the effective date.

21 “(2) CONTENTS.—The standards described in
22 paragraph (1) shall include design, construction, in-
23 stallation, maintenance, secondary containment, la-
24 beling, corrosion protection, integrity, and compat-
25 ibility standards.

1 “(g) EFFECTIVE DATES.—

2 “(1) PETROLEUM TANKS.—For aboveground
3 storage tanks containing regulated substances de-
4 fined in section 10001(11)(B), the regulations issued
5 pursuant to subsections (c) and (d), and the stand-
6 ards issued pursuant to subsections (e) and (f), shall
7 take effect not later than 30 months after the date
8 of enactment of this subtitle.

9 “(2) NONPETROLEUM TANKS.—For above-
10 ground storage tanks containing regulated sub-
11 stances defined in section 10001(11)(A)—

12 “(A) the standards issued pursuant to sub-
13 sections (e) and (f) shall take effect not later
14 than 3 years after the date of enactment of this
15 subtitle; and

16 “(B) the regulations issued pursuant to
17 subsections (c) and (d) shall take effect not
18 later than 4 years after the date of enactment
19 of this subtitle.

20 “(h) INTERIM PROHIBITION.—During the period be-
21 ginning on the date that is 180 days after the date of
22 enactment of this subtitle and ending on the day before
23 the effective date of the standards issued by the Adminis-
24 trator under subsection (e), no person may install any
25 aboveground storage tank (including a tank of single wall

1 or double wall construction) for the purpose of storing reg-
2 ulated substances unless the tank—

3 “(1) will prevent releases due to corrosion or
4 structural failure for the operational life of the tank;

5 “(2) is—

6 “(A) cathodically protected against corro-
7 sion;

8 “(B) constructed of noncorrosive material;

9 “(C) steel clad with a noncorrosive mate-
10 rial; or

11 “(D) designed in a manner to prevent any
12 release; and

13 “(3) is made of a material, used in the con-
14 struction or lining, that is compatible with the sub-
15 stance to be stored.

16 “(i) EPA RESPONSE PROGRAM.—

17 “(1) APPLICABILITY.—This subsection shall
18 apply to all regulated substances that are not sub-
19 ject to a cleanup response or similar plan under
20 other Federal law.

21 “(2) UNDERTAKING CORRECTIVE ACTIONS.—

22 “(A) BEFORE REGULATIONS.—

23 “(i) IN GENERAL.—Before the effec-
24 tive date of regulations issued pursuant to

1 subsection (c), the Administrator (or a
2 State pursuant to paragraph (7)) may—

3 “(I) require the owner or opera-
4 tor to undertake corrective action with
5 respect to a release if the Adminis-
6 trator (or the State pursuant to para-
7 graph (7)) determines that the correc-
8 tive action by the owner or operator
9 will be done properly and will follow
10 an expeditious timetable; or

11 “(II) undertake corrective action
12 with respect to a release if the action
13 is necessary, in the judgment of the
14 Administrator (or the State pursuant
15 to paragraph (7)), to protect human
16 health and the environment.

17 “(ii) EXTENT OF ACTION.—The cor-
18 rective action undertaken or required
19 under this paragraph shall be such action
20 as is necessary to protect human health
21 and the environment.

22 “(iii) PRIORITY.—Subject to the pri-
23 ority requirements of paragraph (3), the
24 Administrator (or the State pursuant to
25 paragraph (7)) shall give priority in under-

1 taking the actions under clause (i)(II) to
2 cases in which the Administrator (or the
3 State pursuant to paragraph (7)) cannot
4 identify an owner or operator who is—

5 “(I) financially solvent (as deter-
6 mined by the Administrator); and

7 “(II) capable of undertaking cor-
8 rective action in a manner that is sat-
9 isfactory to the Administrator (or the
10 State pursuant to paragraph (7)).

11 “(B) ON OR AFTER EFFECTIVE DATE OF
12 REGULATIONS.—

13 “(i) IN GENERAL.—On or after the ef-
14 fective date of regulations issued pursuant
15 to subsection (c)—

16 “(I) all actions or orders of the
17 Administrator (or a State pursuant to
18 paragraph (7)) described in subpara-
19 graph (A) shall conform to the regula-
20 tions; and

21 “(II) the Administrator (or the
22 State pursuant to paragraph (7)) may
23 undertake corrective action with re-
24 spect to a release only if the action is
25 necessary, in the judgment of the Ad-

1 administrator (or the State pursuant to
2 paragraph (7)), to protect human
3 health and the environment, and if—

4 “(aa) within 90 days after
5 the release (or within such short-
6 er period as is necessary to pro-
7 tect human health and the envi-
8 ronment), the Administrator (or
9 the State pursuant to paragraph
10 (7)) cannot identify an owner or
11 operator who is financially sol-
12 vent (as determined by the Ad-
13 ministrator), subject to the cor-
14 rective action regulations, and ca-
15 pable of undertaking corrective
16 action in a manner that is satis-
17 factory to the Administrator (or
18 the State pursuant to paragraph
19 (7));

20 “(bb) prompt action is re-
21 quired by the Administrator (or
22 the State pursuant to paragraph
23 (7)) under this paragraph to pro-
24 tect human health and the envi-
25 ronment; or

1 “(cc) the owner or operator
2 has failed or refused to comply
3 with an order of the Adminis-
4 trator under this subsection or
5 section 10006, or with the order
6 of a State under this subsection,
7 that requires compliance with the
8 corrective action regulations is-
9 sued pursuant to this section.

10 “(3) PRIORITY OF CORRECTIVE ACTIONS.—In
11 undertaking corrective actions under this subsection,
12 and in issuing orders requiring owners or operators
13 to undertake corrective actions, the Administrator
14 (or a State pursuant to paragraph (7)) shall give
15 priority to releases that pose the greatest threat to
16 human health and the environment.

17 “(4) CORRECTIVE ACTION ORDERS.—

18 “(A) ADMINISTRATOR.—The Adminis-
19 trator may issue orders to an owner or operator
20 to carry out paragraph (2)(A)(i)(I) or to carry
21 out regulations issued under subsection (c)(5).

22 “(B) STATE.—A State acting pursuant to
23 paragraph (7) may issue orders pursuant to
24 paragraph (2)(A)(i)(I) only until such time as

1 the Administrator approves the program of the
2 State pursuant to section 10004.

3 “(C) ISSUANCE AND ENFORCEMENT.—The
4 orders issued under this paragraph shall be is-
5 sued and enforced in the same manner and sub-
6 ject to the same requirements as orders issued
7 under section 10006.

8 “(5) ALLOWABLE CORRECTIVE ACTIONS.—

9 “(A) IN GENERAL.—The corrective actions
10 that may be undertaken by the Administrator
11 (or by a State pursuant to paragraph (7))
12 under paragraph (2) shall include—

13 “(i) the temporary or permanent relo-
14 cation of residents;

15 “(ii) the provision of alternative
16 household water supplies;

17 “(iii) the recovery of the regulated
18 substance that has been released; and

19 “(iv) the installation of any necessary
20 venting.

21 “(B) EXPOSURE ASSESSMENT.—

22 “(i) IN GENERAL.—In connection with
23 the performance of any corrective action
24 under paragraph (2), the Administrator
25 may undertake an exposure assessment (as

1 defined in paragraph (10)) or provide for
2 such an assessment in a cooperative agree-
3 ment with a State pursuant to paragraph
4 (7).

5 “(ii) COSTS.—The costs of the expo-
6 sure assessment may be treated as correc-
7 tive action for the purpose of paragraph
8 (6).

9 “(iii) DELAY.—The assessment may
10 not delay corrective action to abate imme-
11 diate hazards or reduce exposure.

12 “(6) RECOVERY OF COSTS.—

13 “(A) IN GENERAL.—

14 “(i) LIABILITY.—Whenever costs have
15 been incurred by the Administrator (or by
16 a State pursuant to paragraph (7)) for un-
17 dertaking any corrective action or enforce-
18 ment action with respect to a release, the
19 owner or operator shall be liable to the Ad-
20 ministrator or the State for the costs.

21 “(ii) STANDARD OF LIABILITY.—The
22 standard of liability under this paragraph
23 applicable to an owner or operator shall be
24 equivalent to the standard of liability de-
25 scribed in section 311 of the Federal

1 Water Pollution Control Act (33 U.S.C.
2 1321).

3 “(B) RECOVERY.—In determining the eq-
4 uities for seeking the recovery of costs under
5 subparagraph (A), the Administrator (or a
6 State pursuant to paragraph (7)) may con-
7 sider—

8 “(i) the amount of financial respon-
9 sibility required to be maintained under
10 subsections (c)(7) and (d)(4); and

11 “(ii) the factors considered in estab-
12 lishing the amount of financial responsibil-
13 ity under subsection (d)(4).

14 “(C) EFFECT ON LIABILITY.—

15 “(i) TRANSFERS OF LIABILITY.—No
16 indemnification, hold harmless, or similar
17 agreement or conveyance shall be effective
18 to transfer the liability imposed under this
19 subsection from an owner or operator, or
20 from a person who may be liable for a re-
21 lease or threat of release under this sub-
22 section, to another person. Nothing in this
23 subsection shall bar an agreement to in-
24 sure, hold harmless, or indemnify a party

1 to the agreement for any liability under
2 this section.

3 “(ii) BARS TO CAUSES OF ACTION.—
4 Nothing in this subsection (including
5 clause (i)) shall bar a cause of action that
6 an owner or operator or any other person
7 subject to liability under this section, or a
8 guarantor, has or would have, by reason of
9 subrogation, or by any other reason,
10 against a person.

11 “(D) DEFINITION.—As used in this para-
12 graph, the term ‘facility’ means, with respect to
13 an owner or operator, all aboveground storage
14 tanks used for the storage of regulated sub-
15 stances that are owned or operated by the
16 owner or operator and located on a single par-
17 cel of property (or on contiguous or adjacent
18 property).

19 “(7) STATE AUTHORITIES.—

20 “(A) IN GENERAL.—A State may exercise
21 the authorities described in paragraph (2), sub-
22 ject to the terms and conditions of paragraphs
23 (3), (5), (9), and (10), and including the au-
24 thorities described in paragraphs (4), (6), and
25 (8), if—

1 “(i) the Administrator determines
2 that the State is capable of carrying out
3 (including has the personnel necessary to
4 carry out) effective corrective actions and
5 enforcement activities; and

6 “(ii) the Administrator enters into a
7 cooperative agreement with the State that
8 establishes the actions to be undertaken by
9 the State.

10 “(B) COST SHARE.—

11 “(i) IN GENERAL.—After the effective
12 date of regulations issued pursuant to sub-
13 section (c), and subject to clause (ii), the
14 State shall pay 10 percent of the cost of
15 corrective actions undertaken either by the
16 Administrator or by the State under a co-
17 operative agreement described in subpara-
18 graph (A)(ii).

19 “(ii) EXCEPTION FOR EMER-
20 GENCIES.—The Administrator may take
21 corrective action at a facility where imme-
22 diate action is necessary to respond to an
23 imminent and substantial endangerment to
24 human health or the environment if the
25 State fails to pay the cost share.

1 “(8) EMERGENCY PROCUREMENT POWERS.—
2 The Administrator may authorize such use of emer-
3 gency procurement powers as the Administrator con-
4 siders necessary.

5 “(9) FACILITIES WITHOUT FINANCIAL RESPON-
6 SIBILITY.—

7 “(A) AUTHORITIES OF ADMINISTRATOR.—
8 At a facility where the owner or operator has
9 failed to maintain evidence of financial respon-
10 sibility in an amount at least equal to the
11 amount established by subparagraph (A) or (B)
12 of subsection (d)(4), the Administrator shall ex-
13 ercise the authorities provided in paragraph
14 (2)(A)(i), paragraph (4), and section 10006 to
15 order corrective action to clean up releases.

16 “(B) AUTHORITIES OF STATES.—A State
17 acting pursuant to paragraph (7) shall exercise
18 the authorities provided in paragraphs (2)(A)(i)
19 and (4) to order corrective action to clean up
20 releases.

21 “(C) PROTECTION OF HEALTH.—Notwith-
22 standing this paragraph, the Administrator—

23 “(i) may take any corrective action
24 authorized under paragraph (5) at a facil-

1 ity that is necessary to protect human
2 health and the environment; and

3 “(ii) shall seek full recovery of the
4 costs of any corrective action conducted
5 pursuant to paragraph (6)(A) and without
6 consideration of the factors described in
7 paragraph (6)(B).

8 “(D) INSOLVENCY AND EMERGENCY.—

9 Nothing in this paragraph shall prevent the Ad-
10 ministrators (or a State pursuant to paragraph
11 (7)) from taking corrective action at a facility
12 if—

13 “(i) no financially solvent owner or
14 operator exists; or

15 “(ii) immediate action is necessary to
16 respond to an imminent and substantial
17 endangerment of human health or the en-
18 vironment.

19 “(10) DEFINITIONS.—As used in this sub-
20 section:

21 “(A) OWNER.—The term ‘owner’ does not
22 include a person who, without participating in
23 the management of an aboveground storage
24 tank and otherwise not engaged in the produc-
25 tion, refining, transportation, and marketing of

1 a regulated substance, holds indicia of owner-
2 ship primarily to protect the owner's security
3 interest in the tank.

4 “(B) EXPOSURE ASSESSMENT.—The term
5 ‘exposure assessment’ means an assessment to
6 determine the extent of exposure of, or potential
7 for exposure of, individuals to regulated sub-
8 stances from a release, based on such factors
9 as—

10 “(i) the nature and extent of contami-
11 nation;

12 “(ii) the existence of or potential for
13 pathways of human exposure (including
14 ground or surface water contamination, air
15 emissions, and food chain contamination);

16 “(iii) the size of the community within
17 the likely pathways of exposure; and

18 “(iv) the comparison of expected
19 human exposure levels to the short-term
20 and long-term health effects associated
21 with identified contaminants and any avail-
22 able recommended exposure or tolerance
23 limits for the contaminants.

24 **“SEC. 10004. STATE PROGRAMS.**

25 “(a) ELEMENTS.—

1 “(1) IN GENERAL.—Beginning 30 months after
2 the date of enactment of this subtitle, a State may
3 submit an aboveground storage tank release detec-
4 tion, prevention, and correction program for review
5 and approval by the Administrator.

6 “(2) COVERAGE.—The program may cover
7 aboveground storage tanks used to store the regu-
8 lated substances defined in subparagraph (A) or (B)
9 of section 10001(11), or both.

10 “(3) COMPLIANCE WITH REQUIREMENTS.—

11 “(A) IN GENERAL.—A program may be
12 approved by the Administrator under this sec-
13 tion only if the State demonstrates that the
14 program—

15 “(i) includes the requirements and
16 standards listed in subparagraph (B) at a
17 level no less stringent than the correspond-
18 ing requirements and standards issued by
19 the Administrator pursuant to section
20 10003(a); and

21 “(ii) provides for adequate enforce-
22 ment of compliance with the requirements
23 and standards.

1 “(B) REQUIREMENTS.—The requirements
2 and standards referred to in subparagraph (A)
3 are—

4 “(i) the requirements listed in section
5 10003(c);

6 “(ii) the standards required under
7 subsections (e) and (f) of section 10003;
8 and

9 “(iii) requirements—

10 “(I) for notifying the appropriate
11 agency or department designated ac-
12 cording to section 10002(b) of the ex-
13 istence of an operational or non-
14 operational storage tank; and

15 “(II) for providing the informa-
16 tion required on the form issued pur-
17 suant to section 10002(c).

18 “(b) INTERIM STANDARDS.—

19 “(1) NO STATE LEGISLATIVE ACTION RE-
20 QUIRED.—If State regulatory action but no State
21 legislative action is required in order to adopt a
22 State program, a State program may be approved
23 without regard to whether the implementation by the
24 State of the requirements listed in paragraphs (1),
25 (2), (3), (4), and (6) of section 10003(c) is less

1 stringent than the corresponding standards issued
2 by the Administrator pursuant to section 10003(a)
3 during the 1-year period commencing on the date of
4 issuance of regulations under section 10003(a).

5 “(2) STATE LEGISLATIVE ACTION REQUIRED.—
6 If State legislative action is required, a State pro-
7 gram may be approved without regard to whether
8 the implementation by the State of the requirements
9 listed in paragraphs (1), (2), (3), (4), and (6) of sec-
10 tion 10003(c) is less stringent than the correspond-
11 ing standards issued by the Administrator pursuant
12 to section 10003(a)—

13 “(A) during the 2-year period commencing
14 on the date of issuance of regulations under
15 section 10003(a); and

16 “(B) during an additional 1-year period
17 after the legislative action if regulations are re-
18 quired to be issued by the State pursuant to the
19 legislative action.

20 “(c) FINANCIAL RESPONSIBILITY.—Corrective action
21 and compensation programs administered by State or local
22 agencies or departments may be submitted for approval
23 under subsection (a)(3) as evidence of financial respon-
24 sibility. A State program shall comply with paragraphs (1)
25 through (4) of section 10003(d).

1 “(d) TECHNICAL ASSISTANCE.—The Administrator
2 shall provide technical assistance to States, local govern-
3 ments, and owners and operators, to assist in compliance
4 with this section.

5 “(e) REVIEW AND APPROVAL OF PROGRAM.—

6 “(1) REVIEW.—Not later than 180 days after
7 the date of receipt of a proposed State program, the
8 Administrator shall, after notice and opportunity for
9 public comment, determine whether the State pro-
10 gram complies with this section and provides for
11 adequate enforcement of compliance with the re-
12 quirements and standards adopted pursuant to this
13 section.

14 “(2) APPROVAL.—If the Administrator deter-
15 mines that a State program complies with this sec-
16 tion and provides for adequate enforcement of com-
17 pliance with the requirements and standards adopted
18 pursuant to this section—

19 “(A) the Administrator shall approve the
20 State program in lieu of the Federal program;
21 and

22 “(B) the State shall have primary enforce-
23 ment responsibility with respect to the require-
24 ments of the program.

1 “(f) WITHDRAWAL OF APPROVAL.—If the Adminis-
2 trator determines after a public hearing that a State is
3 not administering and enforcing a program authorized
4 under this subtitle in accordance with this section, the Ad-
5 ministrator shall notify the State. If appropriate action is
6 not taken within a reasonable period of time, not to exceed
7 120 days after the date of notification, the Administrator
8 shall withdraw approval of the program and reestablish
9 the Federal program pursuant to this subtitle.

10 “(g) STATE AUTHORITY.—Nothing in this subtitle
11 shall preclude or deny a right of a State or political sub-
12 division of a State—

13 “(1) to adopt or enforce a regulation, require-
14 ment, or standard of performance with respect to
15 aboveground storage tanks that is more stringent
16 than a regulation, requirement, or standard of per-
17 formance in effect under this subtitle; or

18 “(2) to impose any additional liability with re-
19 spect to a release within the State or political sub-
20 division.

21 **“SEC. 10005. ACCESS TO INFORMATION.**

22 “(a) FURNISHING INFORMATION.—

23 “(1) IN GENERAL.—Subject to paragraph (2),
24 and for the purpose of developing or assisting in the
25 development of a regulation, conducting a study,

1 taking a corrective action, or enforcing this sub-
2 title—

3 “(A) an owner or operator of an above-
4 ground storage tank (or a tank subject to study
5 under section 10008) shall, on request of an of-
6 ficer, employee, or representative of the Envi-
7 ronmental Protection Agency, duly designated
8 by the Administrator, or on request of a duly
9 designated officer, employee, or representative
10 of a State acting pursuant to section
11 10003(i)(7) with an approved program—

12 “(i) furnish information relating to
13 the tank, associated equipment, and con-
14 tents;

15 “(ii) conduct monitoring or testing;
16 and

17 “(iii) permit the officer, employee, or
18 representative at all reasonable times to—

19 “(I) have access to, and to copy,
20 all records relating to the tanks; and

21 “(II) have access for corrective
22 action; and

23 “(B) an officer, employee, or representa-
24 tive may—

1 “(i) enter at reasonable times an es-
2 tablishment or other place where an above-
3 ground storage tank is located;

4 “(ii) inspect and obtain samples from
5 a person of a regulated substance con-
6 tained in the tank;

7 “(iii) conduct monitoring or testing of
8 a tank, associated equipment, contents, or
9 surrounding soils, air, surface water or
10 ground water; and

11 “(iv) take corrective action.

12 “(2) PROMPT INSPECTIONS.—Each inspection
13 required under paragraph (1)(B) shall be com-
14 menced and completed within a reasonable amount
15 of time.

16 “(b) CONFIDENTIALITY.—

17 “(1) IN GENERAL.—

18 “(A) AVAILABILITY TO PUBLIC.—Subject
19 to subparagraph (B), any record, report, or in-
20 formation obtained from a person under this
21 section shall be available to the public.

22 “(B) EXCEPTION FOR CONFIDENTIAL IN-
23 FORMATION.—

24 “(i) IN GENERAL.—Subject to clause
25 (ii), and on a showing satisfactory to the

1 Administrator or the State by a person
2 that a record, report, or piece of informa-
3 tion, or a particular portion of the record,
4 report or piece of information, to which the
5 Administrator or the State, or an officer,
6 employee, or representative of the Adminis-
7 trator or State, has access under this sec-
8 tion, would, if made public, contain infor-
9 mation entitled to protection under section
10 1905 of title 18, United States Code, the
11 record, report, or information shall be con-
12 sidered confidential in accordance with sec-
13 tion 1905 of such title.

14 “(ii) EXCEPTION.—The record, re-
15 port, document, or information may be dis-
16 closed to other officers, employees, or au-
17 thorized representatives of the United
18 States concerned with carrying out this
19 Act, or when relevant in a proceeding
20 under this Act.

21 “(2) DESIGNATION OF PROTECTED INFORMA-
22 TION.—

23 “(A) IN GENERAL.—In submitting data
24 under this subtitle, a person required to provide
25 the data may—

1 “(i) designate the data that the per-
2 son believes is entitled to protection under
3 this subsection; and

4 “(ii) submit the designated data sepa-
5 rately from other data submitted under
6 this subtitle.

7 “(B) METHOD OF DESIGNATION.—A des-
8 ignation under this paragraph shall be made in
9 writing and in such manner as the Adminis-
10 trator may prescribe.

11 “(3) PENALTY FOR DISCLOSURE.—A person
12 who is not subject to section 1905 of title 18, United
13 States Code, and who knowingly and willfully di-
14 vulges or discloses any information entitled to pro-
15 tection under this subsection shall, on conviction, be
16 subject to a fine of not more than \$5,000 or to im-
17 prisonment not to exceed 1 year, or both.

18 “(4) DISCLOSURE TO CONGRESSIONAL COMMIT-
19 TEES.—Notwithstanding any limitation contained in
20 this section or any other provision of law, any
21 record, report, or other information obtained by the
22 Administrator (or a representative of the Adminis-
23 trator) under this Act shall be made available to a
24 duly authorized committee of Congress, on written
25 request.

1 **“SEC. 10006. FEDERAL ENFORCEMENT.**

2 “(a) COMPLIANCE ORDERS.—

3 “(1) IN GENERAL.—

4 “(A) IN GENERAL.—Except as provided in
5 paragraph (2), whenever, on the basis of any
6 information, the Administrator determines that
7 a person is in violation of a requirement of this
8 subtitle, the Administrator may—

9 “(i) issue an order requiring compli-
10 ance within a reasonable specified time pe-
11 riod; or

12 “(ii) commence a civil action in the
13 United States district court in which the
14 violation occurred for appropriate relief, in-
15 cluding a temporary or permanent injunc-
16 tion.

17 “(B) ORDERS AFTER A RELEASE.—After a
18 release, the Administrator may issue an order
19 prohibiting the use or operation of all or any
20 portion of a facility in which the tank is located
21 until the Administrator (or the State if a State
22 program has been approved pursuant to section
23 10004) determines that—

24 “(i) the prohibition is not necessary to
25 protect human health and the environment;
26 or

1 “(ii) adequate corrective action has
2 been taken.

3 “(2) NOTICE TO STATE.—If a violation of a re-
4 quirement of this subtitle occurs in a State with a
5 program approved pursuant to section 10004, the
6 Administrator shall give notice to the State before
7 issuing an order or commencing a civil action under
8 this section.

9 “(3) PENALTY.—If a violator fails to comply
10 with an order under this subsection within the pe-
11 riod of time specified in the order, the violator shall
12 be liable for a civil penalty of not more than
13 \$25,000 for each day of continued noncompliance.

14 “(b) PROCEDURE.—

15 “(1) HEARING.—An order issued under this
16 section shall become final unless, not later than 30
17 days after the order is served, the person named in
18 the order requests a public hearing. On the request,
19 the Administrator shall promptly conduct a public
20 hearing.

21 “(2) SUBPOENAS AND DISCOVERY.—In connec-
22 tion with a proceeding under this section the Admin-
23 istrator may—

1 “(A) issue subpoenas for the attendance
2 and testimony of witnesses and the production
3 of relevant papers, books, and documents; and

4 “(B) issue rules for discovery procedures.

5 “(c) CONTENTS OF ORDER.—An order issued under
6 this section shall—

7 “(1) state with reasonable specificity the nature
8 of the violation;

9 “(2) specify a reasonable time for compliance;
10 and

11 “(3) assess a penalty, if any, that the Adminis-
12 trator determines is reasonable, taking into account
13 the seriousness of the violation and any good faith
14 efforts to comply with the applicable requirements.

15 “(d) CIVIL PENALTIES.—

16 “(1) FAILURE TO NOTIFY OR FALSE INFORMA-
17 TION.—An owner who knowingly fails to notify or
18 submits false information pursuant to section
19 10002(a) shall be subject to a civil penalty not to ex-
20 ceed \$10,000 for each tank for which notification is
21 not given or false information is submitted.

22 “(2) FAILURE TO COMPLY.—An owner or oper-
23 ator shall be subject to a civil penalty not to exceed
24 \$10,000 for each tank for each day of violation if
25 the owner or operator fails to comply with—

1 “(A) a requirement or standard issued by
2 the Administrator under section 10003;

3 “(B) a requirement or standard of a State
4 program approved pursuant to section 10004;
5 or

6 “(C) section 10003(h).

7 **“SEC. 10007. FEDERAL FACILITIES.**

8 “(a) APPLICABILITY OF STORAGE TANK REQUIRE-
9 MENTS.—

10 “(1) IN GENERAL.—Each department, agency,
11 and instrumentality of the executive, legislative, and
12 judicial branches of the Federal Government having
13 jurisdiction over an aboveground storage tank shall
14 be subject to and comply with all Federal, State,
15 interstate, and local requirements, applicable to the
16 tank, both substantive and procedural, in the same
17 manner, and to the same extent, as any other person
18 is subject to the requirements (including payment of
19 reasonable service charges).

20 “(2) INJUNCTIVE RELIEF.—Neither the United
21 States, nor an agent, employee, or officer of the
22 United States, shall be immune or exempt from a
23 process or sanction of any Federal or State court
24 with respect to the enforcement of any injunctive re-
25 lief.

1 “(b) PRESIDENTIAL EXEMPTION.—

2 “(1) IN GENERAL.—The President may exempt
3 an aboveground storage tank of a department, agen-
4 cy, or instrumentality in the Executive branch from
5 compliance with a requirement if the President de-
6 termines the exemption to be in the paramount in-
7 terest of the United States.

8 “(2) LACK OF APPROPRIATION.—No exemption
9 shall be granted because of lack of appropriation un-
10 less the President specifically requests the appro-
11 priation in the budget of the United States Govern-
12 ment as submitted by the President and Congress
13 fails to make available the requested appropriation.

14 “(3) LENGTH OF EXEMPTION.—An exemption
15 shall be for a period not to exceed 1 year, but addi-
16 tional exemptions may be granted for periods not to
17 exceed 1 year on a redetermination by the President.

18 “(4) REPORT TO CONGRESS.—The President
19 shall report each January to Congress all exemp-
20 tions from the requirements of this section granted
21 during the preceding calendar year, and the reason
22 for granting each exemption.

23 **“SEC. 10008. STUDIES OF ABOVEGROUND STORAGE TANKS.**

24 “(a) REGULATED SUBSTANCES TANKS.—

25 “(1) IN GENERAL.—

1 “(A) PETROLEUM TANKS.—Not later than
2 1 year after the date of enactment of this sub-
3 title, and in accordance with paragraph (2), the
4 Administrator shall complete a study of above-
5 ground storage tanks used for the storage of
6 petroleum.

7 “(B) OTHER TANKS.—Not later than 3
8 years after the date of enactment of this sub-
9 title, and in accordance with paragraph (2), the
10 Administrator shall complete a study of above-
11 ground storage tanks used for the storage of
12 regulated substances other than petroleum.

13 “(2) ELEMENTS OF STUDIES.—Each study
14 under paragraph (1) shall include an assessment
15 of—

16 “(A) the ages, types (including methods of
17 manufacture, coatings, protection systems, com-
18 patibility of the construction materials, and in-
19 stallation methods), and locations (including cli-
20 mate of the locations) of the tanks;

21 “(B) the soil conditions, water tables, and
22 hydrogeology of tank locations;

23 “(C) the relationship between the factors
24 listed in subparagraphs (A) and (B) and the
25 likelihood of releases;

1 “(D) the design and inspection of the
2 tanks;

3 “(E) the effectiveness and costs of inven-
4 tory systems, tank testing, and release detection
5 systems;

6 “(F) the percentage of facilities under-
7 going corrective action and the quantity of re-
8 covered regulated substances; and

9 “(G) such other factors as the Adminis-
10 trator considers appropriate.

11 “(b) FARM AND HEATING OIL TANKS.—

12 “(1) IN GENERAL.—Not later than 3 years
13 after the date of enactment of this subtitle, the Ad-
14 ministrator shall conduct a study of the tanks de-
15 scribed in clauses (i) and (ii) of section
16 10001(1)(B).

17 “(2) ELEMENTS OF STUDY.—The study shall
18 include—

19 “(A) estimates of the number and locations
20 of the tanks; and

21 “(B) an analysis of the extent to which
22 there may be releases or threatened releases
23 from the tanks.

1 “(c) REPORTS.—On completion of the studies re-
2 quired under this section, the Administrator shall submit
3 reports to the President and to Congress containing—

4 “(1) the results of the studies; and

5 “(2) recommendations as to whether the tanks
6 studied should be subject to the requirements of this
7 subtitle.

8 **“SEC. 10009. AUTHORIZATION OF APPROPRIATIONS.**

9 “For fiscal years 1992 through 1996, there are au-
10 thorized to be appropriated such sums as are necessary
11 to carry out this subtitle.”.

12 **SEC. 3. TABLE OF CONTENTS.**

13 The table of contents in section 1001 of the Solid
14 Waste Disposal Act (42 U.S.C. prec. 6901) is amended—

15 (1) by redesignating subtitle J as subtitle K;

16 and

17 (2) by inserting the following new items after
18 the items relating to subtitle I:

 “Subtitle J—Regulation of Aboveground Storage Tanks

 “Sec. 10001. Definitions.

 “Sec. 10002. Notification.

 “Sec. 10003. Release detection, prevention, and correction regulations.

 “Sec. 10004. State programs.

 “Sec. 10005. Access to information.

 “Sec. 10006. Federal enforcement.

 “Sec. 10007. Federal facilities.

 “Sec. 10008. Studies of aboveground storage tanks.

 “Sec. 10009. Authorization of appropriations.”.

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