

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.

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## 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

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## 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.”.

○

S 389 IS—3

S 389 IS—4