"STORAGE TANK & SPILL PREVENTION ACT"
Act of 1989, P.L. 169, No. 32

AN ACT

Providing for the regulation of storage tanks and tank facilities; imposing additional powers and duties on the Department of Environmental Protection and the Environmental Quality Board; and making an appropriation. (Title amended Jan. 30, 1998, P.L.46, No.13)

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

CHAPTER 1
GENERAL PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Storage Tank and Spill Prevention Act.

Section 102. Legislative findings.

(a) Findings enumerated.--The General Assembly of the Commonwealth finds and declares that:

(1) The lands and waters of this Commonwealth constitute a unique and irreplaceable resource from which the well-being of the public health and economic vitality of this Commonwealth is assured.

(2) These resources have been contaminated by releases and ruptures of regulated substances from both active and abandoned storage tanks.

(3) Once contaminated, the quality of the affected resources may not be completely restored to their original state.

(4) When remedial action is required or undertaken, the cost is extremely high.

(5) Contamination of groundwater supplies caused by releases from storage tanks constitutes a grave threat to the health of affected residents.

(6) Contamination of these resources must be prevented through improved safeguards on the installation and construction of storage tanks.

(b) Declaration.--The General Assembly declares these storage tank releases to be a threat to the public health and safety of this Commonwealth and hereby exercises the power of the Commonwealth to prevent the occurrence of these releases through the establishment of a regulatory scheme for the storage of regulated substances in new and existing storage tanks and to provide liability for damages sustained within this Commonwealth as a result of a release and to require prompt cleanup and removal of such pollution and released regulated substance.

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Aboveground storage tank." Any one or combination of stationary tanks with a capacity in excess of 250 gallons, including underground pipes and dispensing systems connected thereto within the emergency containment area, which is or was used to contain an accumulation of regulated substances, and the volume of which, including the volume of all piping within the storage tank facility, is greater than 90% above the surface of the ground. The term includes any tank which can be visually inspected, from the exterior, in an underground area. The term shall not include any of the following:

(1) A tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes or motor oil.

(2) A tank used for storing heating oil for consumptive use on the premises where stored.

(3) A pipeline facility, including gathering lines, regulated under:

(i) the Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481, 82 Stat. 720, 49 U.S.C. App. § 1671 et seq.);

(ii) the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989, 49 U.S.C. § 2001

et seq.); or

(iii) an interstate or intrastate pipeline facility regulated under State laws comparable to the provisions of law referred to in subparagraph (i) or (ii).

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

(5) A storm water or wastewater collection system.

(6) A flow-through process tank, including, but not limited to, a pressure vessel or process vessel and oil and water separators.

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

(8) Tanks which are used to store brines, crude oil, drilling or frac fluids and similar substances or materials and are directly related to the exploration, development or production of crude oil or natural gas regulated under the act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act.

(9) Tanks regulated under the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act.

(10) Tanks used for the storage of products which are regulated pursuant to the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.).

(11) Tanks regulated pursuant to the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, including, but not limited to, piping, tanks, collection and treatment systems used for leachate, methane gas and methane gas condensate management.

(12) A tank of 1,100 gallons or less in capacity located on a farm used solely to store or contain substances that are used to facilitate the production of crops, livestock and livestock products on such farm.

(13) Tanks which are used to store propane gas.

(14) Any other tank excluded by regulations promulgated pursuant to this act.

The term shall not include any pipes connected to any tank described in paragraphs (1) through (13).

(Def. amended May 10, 1996, P.L.171, No.34)

"Cathodic protection." A technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell.

"Certified inspector." A person certified by the department to conduct environmental audits and inspections of tanks or tank facilities. A certified inspector shall not be an employee of a tank owner.

"Certified installer." A person certified by the department to install, erect, construct, modify or remove storage tanks. A certified installer may be an employee of a tank owner.

"Commercial heating oil storage tank." (Def. deleted by amendment June 26, 1995, P.L.79, No.16)

"Comprehensive Environmental Response, Compensation, and Liability Act of 1980." Public Law 96-510, 94 Stat. 2767.

"Corrective action." The term shall include the following:

(1) Containing, assessing or investigating a release.

(2) Removing a release or any material affected by a release.

(3) Taking measures to prevent, mitigate, abate or remedy releases, pollution and potential for pollution, nuisances and damages to the public health, safety or welfare, including, but not limited to, waters of this Commonwealth, including surface water and groundwater, public and private property, shorelines, beaches, water columns and bottom sediments, soils and other affected property, including wildlife and other natural resources.

(4) Taking actions to prevent, abate, mitigate or respond to a violation of this act that threatens public health or the environment.

(5) Temporarily or permanently relocating residents, providing alternative water supplies or undertaking an exposure assessment.

(6) Does not include the cost of routine inspections, routine investigations and permit activities not associated with a release.

"Department." The Department of Environmental Resources of the Commonwealth.

"Environmental Hearing Board." The board established pursuant to the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act.

"Environmental media." Soil, sediment, surface water, groundwater, bedrock and air. (Def. added Dec. 17, 2001, P.L.912, No.104)

"Environmental Quality Board." The board established pursuant to section 1920-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, for the purposes set forth in that section.

"Exposure assessment." An assessment to determine the extent of exposure of, or potential for exposure of, individuals, the biological community and all other natural resources to releases from a storage tank based on, but not limited to, such factors as the nature and extent of contamination and the existence of or potential for pathways of human exposure (including groundwater or surface water contamination, air emissions, soil contamination and food chain contamination), the size of the community within the likely pathways of exposure and the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants.

"Farm." Land used for the production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than 50% of such processed or merchandised products are produced by the farm operator. "Crops, livestock and livestock products" include, but are not limited to:

(1) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.

(2) Fruits, including apples, peaches, grapes, cherries and berries.

(3) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms.

(4) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.

(5) Livestock and livestock products, including cattle,

sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.

(6) Aquatic plants and animals and their by-products.

"Hazardous Liquid Pipeline Safety Act of 1979." Public Law 96-129, 93 Stat. 989, 49 U.S.C. § 2001 et seq.

"Monitoring system." A system capable of detecting releases in connection with an aboveground or underground storage tank.

"Natural Gas Pipeline Safety Act of 1968." Public Law 90-481, 82 Stat. 720, 49 U.S.C. App. § 1671 et seq.

"Operator." Any person who manages, supervises, alters, controls or has responsibility for the operation of a storage tank.

"Owner."

(1) In the case of a storage tank in use on the effective date of this act, or brought into use after that date, any person who owns or has an ownership interest in a storage tank used for the storage, containment, use or dispensing of regulated substances.

(2) In the case of an aboveground storage tank in use before the effective date of this act, but no longer in use on the effective date of this act, any person who owned the aboveground tank immediately before the discontinuance of its use, as well as any person who meets the definition of "owner" in paragraph (1).

(3) In the case of an underground storage tank, the owner of an underground storage tank holding regulated substances on or after November 8, 1984, and the owner of an underground storage tank at the time all regulated substances were removed when removal occurred prior to November 8, 1984.

"Person." Any individual, partnership, corporation, association, joint venture, consortium, institution, trust, firm, joint-stock company, cooperative enterprise, municipality, municipal authority, Federal Government or agency, Commonwealth department, agency, board, commission or authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any provisions of this act prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

"Pressure vessel." A vessel used in industrial processes designed to withstand pressures above 15 psig.

"Process vessel." A vessel in industrial or commercial operation in which, during use, there is a mechanical, physical or chemical change of the contained substances taking place. The industrial or commercial process may include, but is not limited to, mixing, separating, chemically altering, dehydrating, extracting, refining or polishing of the substances in the tank. The term does not include tanks used only to store substances prior to sale or to store feedstock prior to additional processing.

"Regulated substance." An element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health, welfare or the environment which is:

(1) any substance defined as a hazardous substance in section 101(14) of the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 (Public Law 96-510, 94 Stat. 2767), but not including any substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. § 6901 et seq.);

(2) petroleum, including crude oil or any fraction thereof and hydrocarbons which are liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), including, but not limited to, oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other nonhazardous wastes and crude oils, gasoline and kerosene; or

(3) any other substance determined by the department by regulation whose containment, storage, use or dispensing may present a hazard to the public health and safety or the environment, but not including gaseous substances used exclusively for the administration of medical care.

The term does not include the storage or use of animal waste in normal agricultural practices.

"Release." Any spilling, leaking, emitting, discharging, escaping, leaching or disposing from a storage tank into surface waters and groundwaters of this Commonwealth or soils or subsurface soils in an amount equal to or greater than the reportable released quantity determined under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and regulations promulgated thereunder, or an amount equal to or greater than a discharge as defined in section 311 of the Federal Water Pollution Control Act (62 Stat. 1155, 33 U.S.C. § 1321) and regulations promulgated thereunder. The term shall also include spilling, leaking, emitting, discharging, escaping, leaching or disposing from a storage tank into a containment structure or facility that poses an immediate threat of contamination of the soils, subsurface soils, surface water or groundwater.

"Resource Conservation and Recovery Act of 1976." Public Law 94-580, 42 U.S.C. § 6901 et seq.

"Secondary containment." An additional layer of impervious material creating a space in which a release of a regulated substance from a storage tank may be detected before it enters the environment.

"Secretary." The Secretary of Environmental Resources of the Commonwealth.

"Small aboveground storage tank." Any aboveground storage tank having a capacity equal to or less than 21,000 gallons.

"Spill prevention response plan." Emergency plans and procedures developed by an aboveground storage tank or tank facility owner and/or operator for response to an accident or spill on the facility by facility personnel or contractors.

"Stationary tank." Any aboveground storage tank that is permanently affixed to the real property on which such tank is located.

"Storage tank." Any aboveground or underground storage tank which is used for the storage of any regulated substance.

"Storage tank facility." One or more stationary tanks, including any associated intrafacility pipelines, fixtures, monitoring devices and other equipment. A facility may include aboveground tanks, underground tanks or a combination of both.

For the purposes of this act, the associated intrafacility pipelines, fixtures, monitoring devices and other equipment for an aboveground storage tank shall be that which lies within the emergency containment area. (Def. amended May 10, 1996, P.L.171, No.34)

"Substantial modification." An activity to construct, refurbish, restore or remove from service an existing storage tank piping or storage tank facility which alters the physical construction or integrity of the tank or tank facility.

"Underground storage tank." Any one or combination of tanks (including underground pipes connected thereto) which are used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10% or more beneath the surface of the ground. The term shall not include:

(1) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

(2) Tanks used for storing heating oil for consumptive use on the premises where stored unless they are specifically required to be regulated by Federal law.

(3) A septic or other subsurface sewage treatment tank.

(4) A pipeline facility (including gathering lines) regulated under:

(i) The Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481, 82 Stat. 720, 49 U.S.C. App. § 1671 et seq.).

(ii) The Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989, 49 U.S.C. § 2001 et seq.).

(5) An interstate or intrastate pipeline facility regulated under State laws comparable to the provisions of law in paragraph (4).

(6) Surface impoundments, pits, ponds or lagoons.

(7) Storm water or wastewater collection systems.

(8) Flow-through process tanks.

(9) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

(10) Storage tanks situated in an underground area (such as a basement, cellar, mine working, drift, shaft or tunnel) if the tank is situated upon or above the surface of the floor.

(11) Except for tanks subject to the requirements of 40 CFR 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)), tanks regulated pursuant to the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, including, but not limited to, piping, tanks, collection and treatment systems used for leachate, methane gas and methane gas condensate management.

(12) Any underground storage tank system whose capacity is 110 gallons or less.

(13) Any other tank excluded by policy or regulations promulgated pursuant to this act.

(Def. amended May 10, 1996, P.L.171, No.34)

Compiler's Note: The Department of Environmental Resources,

referred to in the def. of "department," was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Compiler's Note: The Secretary of Environmental Resources, referred to in the def. of "secretary," was abolished by Act 18 of 1995. The functions of the secretary were transferred to the Secretary of Conservation and Natural Resources and the Secretary of Environmental Protection.

Section 104. API.

A reference in this act to a document published by API is a reference to the appropriate technical publication, including appendices, of the American Petroleum Institute.

Section 105. Advisory committee.

(a) Appointment, composition, etc.--A storage tank advisory committee shall be appointed by the secretary within 30 days after the effective date of this act. The committee shall consist of no more than 17 members. Four members shall be representatives of local government, six members shall be representatives of the regulated community, one member shall be a registered professional engineer with three years of experience in this Commonwealth, one member shall be a hydrogeologist, four members shall be representatives of the public and one member shall be an active commercial farm owner or operator nominated by Statewide general farm organizations. Members shall serve without compensation other than reimbursement for reasonable and necessary expenses in accordance with Commonwealth policy or regulations and shall serve for terms fixed by the secretary. The six representatives from the regulated community shall be appointed by the secretary, one each from a list of three nominees provided by the following:

(1) The Associated Petroleum Industries of Pennsylvania.

(2) The Pennsylvania Petroleum Association.

(3) The Service Station Dealers and Automotive Repair Association of Pennsylvania and Delaware and the Petroleum Retailers and Auto Repair Association, Inc.

(4) The Pennsylvania Chemical Industry Council.

(5) Tank Installers of Pennsylvania.

(6) The Middle Atlantic Truck Stop Operators.

((a) amended June 26, 1995, P.L.79, No.16)

(b) Review of regulations.--The department shall consult with the advisory committee in the formulation, drafting and presentation of all regulations promulgated under this act. The advisory committee shall be given a reasonable opportunity to review and comment on all regulations prior to their submission to the Environmental Quality Board for consideration. The written report of the committee shall be presented to the Environmental Quality Board with any regulatory proposal. The chairman of the committee shall be invited to participate in the presentation of all regulations before the Environmental Quality Board. Nothing herein shall preclude any member of the committee from filing a petition for rulemaking with the Environmental Quality Board in accordance with procedures established by the Environmental Quality Board.

Compiler's Note: Section 502(c) of Act 18 of 1995, which

created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 105.

Section 106. Powers and duties of Environmental Quality Board.

The Environmental Quality Board shall have the power and its duty shall be to adopt rules and regulations of the department governing aboveground and underground storage tanks to accomplish the purposes and carry out the provisions of this act.

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 105.

Section 107. Powers and duties of department.

(a) Cooperative agreements.--The department is authorized to enter into agreements, contracts or cooperative arrangements under such terms and conditions as may be deemed appropriate, with other State agencies, Federal agencies, and cities and counties of the first and second class to delegate any or all of its regulatory authority to permit, inspect, monitor and enforce this act and the underground and aboveground storage tank programs, provided that the counties and cities of the first and second class have a storage tank program in effect that is at least as stringent as this act.

(b) Compliance policy and procedure.--The department shall develop and implement policies, procedures and forms as may be necessary and appropriate in order to administer and obtain compliance with this act, or the rules and regulations promulgated pursuant to this act, and permits issued hereunder.

(c) Production of materials, recordkeeping requirements and rights of entry.--

(1) The department, its agents and employees are authorized to require any person regulated by this act to establish and maintain such records and make such reports and furnish such information as the department may prescribe regarding any matter regulated by this act.

(2) The department is authorized to make such inspections, conduct such tests or sampling, or examine or require production of books, papers and records, and physical evidence pertinent to any matter under investigation pursuant to this act as it deems necessary to determine compliance with this act and, for this purpose, the duly authorized agents and employees of the department are authorized to enter and examine any property, facility, operation or activity governed by this act, upon presentation of appropriate credentials, without prior notice at all

reasonable times, during regular business hours of the operation and times when activity is being conducted at the site.

(3) The owner, operator or other person in charge of such property, facility, operation or activity, upon presentation of proper identification and purpose for inspection by the agents or employees of the department, shall give such agents and employees free and unrestricted entry and access and, upon refusal to grant such entry or access, the agent or employee may obtain a search warrant or other suitable order for the purposes of inspecting, examining and seizing any property, building, premises, place, book, record or other physical evidence, and for the purposes of conducting tests and taking samples. Such warrants shall be issued upon probable cause. It shall be sufficient probable cause to show any one of the following:

(i) The inspection, examination, test or sampling is pursuant to a general administrative plan to determine compliance with this act.

(ii) The agent or employee has reason to believe that a violation of this act has occurred or is likely to occur.

(iii) The agent or employee has been refused access to the property, building, premises, place, book, record or other physical evidence on sites or pertaining to matters governed by this act or has been prevented from conducting tests or obtaining physical evidence which activities are necessary to determine compliance or to respond to a violation of this act.

(iv) The object of the investigation is subject to regulation under this act and access, examination, inspection or testing is necessary to enforce the provisions of this act.

(d) Certification program.--The department shall have the authority to establish, by regulation, a certification and licensing program for installers and inspectors of storage tanks and storage tank facilities, including procedures for the suspension and revocation of certifications.

(e) Revocation.--The department shall have the power to revoke any permit, certification or registration provided for in this act for any violation of this act or the regulations promulgated hereunder.

(f) Enforcement.--The department shall have the authority to issue orders, assess civil penalties, institute enforcement proceedings and prosecute violations of this act as deemed by the department to be necessary and appropriate.

(g) Corrective action.--The department shall have the authority to order corrective action to be undertaken, to take corrective action or to authorize a third party to take corrective action.

(h) Cost recovery.--The department shall have the authority to recover the costs of taking or authorizing third parties to take corrective action. Cost recovery shall not include the cost of routine inspection and permitting activities not associated with a release.

Section 108. Interim certification of installers and inspectors.

(a) Certification.--Until such time as the department adopts regulations for the certification of installers and inspectors of storage tanks, any person may be certified by the department on an interim basis by complying with all of the following:

(1) The person must file a complete application for an interim certification with the department, with the appropriate required information.

(2) The person must demonstrate that he or she has been successfully trained by the manufacturer in the installation of all the equipment, devices and other related products used in the installation of a storage tank facility and/or has equivalent expertise through education.

(3) The person has successfully completed a formalized training program conducted by the manufacturer for all installers and inspectors.

(4) The person demonstrates that all installations of storage tanks and related equipment are installed according to the manufacturer's technical specifications and manuals.

(5) The person maintains all applicable technical specifications and manuals which govern the installation and operation of tank facilities. The person shall make this information available to the department upon request.

(6) The person files completed documentation with the department for all certified installations and inspections of tank facilities attesting to compliance with requirements of the act.

(7) The person reports to the department the extent of visible contamination from regulated substances at the site of the tank installation, on a form provided by the department.

(b) Revocation, suspension, etc.--The department may revoke or suspend interim installer or inspector certification for good cause, which shall include, but not be limited to:

(1) The installation of a tank and related equipment is not in accordance with all applicable technical specifications and procedures of the manufacturer.

(2) The installation has presented or does present a fire safety hazard, pollution, threat of pollution, or hazard to the public health, safety and welfare.

(3) The certified installer or inspector has falsified information in subsection (a) or has failed to comply with the requirements of subsection (a).

(4) The certified inspector has failed to identify or report any condition or procedure:

(i) That is not in accordance with the manufacturer's technical and procedural specifications for the installation, construction or operation of a tank or tank facility.

(ii) That is not in accordance with the provisions of this act and any regulations adopted pursuant to this act.

(iii) That presents a pollution, threat of pollution, or harm to the public health, safety and welfare.

(c) Guidelines.--The department shall develop the interim certification program which shall expire 24 months after the effective date of this act.

Section 109. Construction.

This act and the regulations promulgated under this act shall be liberally construed in order to fully protect the public health, welfare and safety of the residents of this Commonwealth.

Section 110. Applicability of certain provisions to the Commonwealth.

A Commonwealth department, agency, board, commission or authority shall not be required to participate in the Underground Storage Tank Indemnification Fund or to pay registration or permit fees required under this act, until and unless regulations are promulgated that direct otherwise.

CHAPTER 3
ABOVEGROUND STORAGE TANKS

Section 301. Aboveground storage tank requirements.

(a) Minimum program requirements.--The department shall, by regulation, adopt and implement an aboveground storage tank program that, at a minimum, requires all of the following:

(1) The payment of an annual registration fee to the department by aboveground storage tank owners.

(2) Methods and procedures for the operation of aboveground storage tanks and the early detection, by owners, of releases or potential releases, including testing on new or substantially modified aboveground storage tanks and out-of-service inspection at least once every twenty years or more frequently in accordance with nationally recognized standards, provided that new or existing aboveground storage tanks have an in-service inspection in accordance with API or other nationally recognized standards by a Pennsylvania certified inspector at least every five years as well as monthly maintenance inspections by the owner/operator or his designated representative. Testing of aboveground storage tanks after initial installation may be by hydrostatic means or, in instances where wastewater would be generated or materials stored in the tank might be water reactive, other methods of testing such as the radioactive method, the magnetic particle method, the ultrasonic method or the liquid penetrant method, in accordance with API standards, may be used. A new aboveground storage tank not exceeding 21,000 gallon capacity may meet the initial testing requirements if the tank is fully assembled, inspected and tested at the plant where it is manufactured. ((2) amended May 10, 1996, P.L.171, No.34)

(3) Methods and procedures for inventory control measures by owners and operators, if appropriate.

(4) The periodic inspection of the leak detection systems, the structural integrity of the aboveground storage tank and associated equipment, and release prevention measures.

(5) Corrective actions, by owners, operators, landowners and occupiers, or other responsible parties, on an emergency basis if necessary, in response to a release from an aboveground storage tank.

(6) The reporting, by the owner or operator, of any release and corrective action taken in response to a release

from an aboveground storage tank.

(7) The maintenance of records, by owners and operators, of periodic inspections of the leak detection systems, inspections of structural integrity of the aboveground storage tank and associated equipment, and all release prevention measures.

(8) Minimum standards for the construction, testing, corrosion protection, operation, release prevention, and repair and reuse of aboveground storage tanks.

(9) A permit, by rule, for certain classifications of aboveground storage tanks, including small aboveground storage tanks.

(10) Methods and procedures for the removal of aboveground storage tanks from service by the owner and operator.

(11) Requirements for reporting, by the owner or operator, of the intended and completed closure of any aboveground storage tank.

(b) Tank classification.--The department shall have the authority to establish classes and categories of aboveground storage tanks by regulation, which classes may be regulated in consideration of, among other factors, size, intended use, contents and potential risk of harm to public health and the environment.

(c) Certified installer and inspector program.--

(1) The department shall establish, by regulation, a certification program for installers and inspectors of aboveground storage tanks, including qualification standards, procedures for training and testing, and procedures for revocation and suspension of such certificates. All department employees administering this program shall be deemed certified while in the employment of the department.

(2) Aboveground storage tanks shall only be installed by a certified installer as provided by regulations of the department.

(3) Aboveground storage tanks, as deemed necessary by the department, shall be inspected by a certified inspector prior to permitting and facility operation and at a frequency thereafter established by the department.

(d) Requirements for small aboveground storage tanks.--The department shall develop a simplified program to regulate small aboveground storage tanks. The program shall include, but not be limited to:

(1) Testing requirements for new and substantially modified small aboveground storage tanks, except as provided in subsection (a)(2).

(2) Performance and design standards consistent with the manufacturer's specifications for small aboveground storage tanks.

(3) Monitoring standards consistent with the manufacturer's specifications for a small aboveground storage tank.

(4) Requirements for closure.

(5) Recordkeeping requirements.

(6) Inspection requirements for existing small aboveground storage tanks.

Section 302. Interim requirements.

(a) Registration fees and requirements.--

(1) Until alternative fees are established by the department by regulation, annual registration fees to be paid by owners of aboveground storage tanks are hereby established as follows:

(i) Three hundred dollars for each aboveground storage tank with a capacity of more than 50,000 gallons.

(ii) One hundred twenty-five dollars for each aboveground storage tank with a capacity of more than 5,000 gallons and less than or equal to 50,000 gallons.

(iii) Fifty dollars for each aboveground storage tank with a capacity of up to or equal to 5,000 gallons.

(2) The owner of any aboveground storage tank with a capacity greater than 5,000 gallons shall, along with the registration fee, submit to the department all information required on the data plate required by section 8.1 of API 650 Large Welded Storage Tanks (Atmospheric) and such other information as is required by the department.

(b) Interim installation requirements.--

(1) Until such time as the department adopts installation requirements by regulation, no person shall install a new or reconstructed aboveground storage tank or make a substantial modification to an aboveground storage tank unless the tank meets the applicable technical standards for the specific type and class of tank as set forth in the applicable Underwriters Laboratory Standards No. 142 and by the American Petroleum Institute in each of the following (including any appendices):

(i) API-12B - Bolted Tanks for Storage of Production Liquids.

(ii) API-12D - Field Welded Tanks for Storage of Production Liquids.

(iii) API-12F - Shop Welded Tanks for Storage of Production Liquids.

(iv) API-12H - New Bottoms for Old Tanks.

(v) API-12P - Fiberglass Tanks for Storage of Production Liquids.

(vi) API-620 - Large Welded Low Pressure Storage Tanks.

(vii) API-650 - Large Welded Storage Tanks (Atmospheric).

(viii) API-RP 2000 - Guide for venting atmospheric and low pressure storage tanks.

(2) Unless modified by the rules and regulations of the department, the owner, subject to paragraph (1), shall, along with the registration form required by this act, submit a certification by a registered professional engineer qualified in tank construction that the requirements of paragraph (1) have been met.

Section 303. Registration.

(a) Registration requirements.--Every owner of an aboveground storage tank, except as specifically excluded by policy or regulation of the department, shall register each aboveground storage tank by completing and submitting the form provided by the department and by paying the yearly registration fee prescribed by the department for each aboveground storage tank. It shall be unlawful for any owner or operator to operate

or use, in any way, any aboveground storage tank that has not been currently registered as required by this section.

(b) Prohibitions.--After 12 months from the effective date of this act, it shall be unlawful to sell, distribute, deposit or fill an aboveground storage tank with any regulated substance unless the aboveground storage tank is registered as required by this section. Any person who, on or after the effective date of this subsection, knowingly sells, distributes, deposits or fills any aboveground storage tank in violation of this subsection prior to the discovery of a release shall be liable for any release from the aboveground storage tank, in addition to the remedies provided in section 1302. Within 12 months of the effective date of this act, the department shall have available for the general public an easily distinguishable visual system, such as a sticker, to identify tanks with a current registration as part of enforcement by the department.

(c) Use of registration fees.--Registration fees collected by the department shall be used to fund the development and operation of the storage tank programs established by this act.

(d) Initial registration.-- Within six months of the effective date of this act, all owners of aboveground storage tanks shall meet the registration requirements and pay the registration fee required by this act.

Section 304. Permits and plans.

(a) Permit requirements.--No person shall install, construct, erect, modify, operate or remove from service all or part of an aboveground storage tank facility unless such installation, construction, modification, operation or removal from service is authorized by rules and regulations of the department or the person has first obtained a permit from the department using the prescribed forms and procedures of the department.

(b) Application.--Applications for permits shall be submitted in writing to the department in such form and with such accompanying data as shall be prescribed by the department.

(c) Fee.--Each application for a newly installed, constructed or erected aboveground tank shall be accompanied by a fee of $20 per whole 10,000 gallon units of storage capacity. This fee may be modified by regulation. The department shall develop by regulation a schedule of fees for permit amendments and modifications and for those aboveground tanks being repermitted.

(d) Prior permits.--Any person who has obtained a permit for the aboveground storage tank facility prior to the effective date of this act, pursuant to the act of June 8, 1911 (P.L.705, No.281), entitled "An act creating the office of Fire Marshal, to be attached to the Department of Public Safety in cities of the first class; prescribing his duties and powers; and providing penalties for violations of the provisions of the act; and providing for the method of appointment, compensation, and for the maintenance of his office," the act of April 27, 1927 (P.L.450, No.291), referred to as the State Fire Marshal Law, or the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, shall be deemed to have an operating permit under this act so long as that person complies with subsection (e) and with the registration provisions and operational standards and requirements for removal from service established

through regulation promulgated by the department under this act and all other applicable laws and until the department makes a determination on the application for repermitting.

(e) Repermitting.--

(1) Within two years of the effective date of this act, every person considered to have a permit under subsection (d) for any aboveground storage tank which is certified by that person to be ten years of age or older shall apply to the department for a permit.

(2) Within three years of the effective date of this act, every person considered to have a permit under subsection (d) for any aboveground storage tank which is certified by that person to be less than ten years of age shall apply to the department for a new permit.

(3) The provisions of Chapter 11 shall not apply to the repermitting of aboveground storage tanks.

(f) Interim permit requirements.--Prior to the effective date of a regulation of the department concerning installation, construction, erection, modification, operation or removal from service of an aboveground storage tank facility, any owner or operator who meets the interim installation requirements of section 302(b) of this act and other applicable provisions shall be deemed to meet the permit requirements for installation and operation of an aboveground storage tank facility.

(g) Review of applications.--The department shall make a determination regarding whether an application is reasonably complete within 45 days of the filing of an application with the department and shall identify all areas in which an application is incomplete when issuing a notice of deficiency. The department shall review any amended application filed in response to a notice of deficiency within 45 days of the filing of the amended application with the department. Nothing in this section shall prohibit the department and the applicant from agreeing to extend any deadline for action provided by this section. Nothing in this section shall prohibit the department from requesting and accepting supplemental information, explanations and clarifications regarding the content of an application prior to the deadline for department action.

(h) Renewal of permit.-- In order to continue to operate an aboveground storage tank facility, the owner or operator must obtain a new permit or a renewed permit at least every ten years.

(i) Unlawful conduct.--It shall be unlawful to install, construct, erect, modify, operate or remove from service an aboveground storage tank facility unless authorized by the policies, rules or regulations of the department or unless the owner or operator has first obtained a permit from the department. However, any person who has installed, constructed or erected an aboveground storage tank prior to the effective date of this act who was not required to obtain a permit under one of the authorities listed in subsection (d) shall have 12 months from the effective date of this act to obtain an operating permit from the department.

Section 305. Fire protection requirements.

The State Fire Marshal shall establish fire protection requirements by regulation for aboveground storage and dispensing tanks of 12,000 gallons or less of Class I and Class

II motor fuels, naphthalene, kerosene, fuel oil and other substances of like character for nonretail distribution. Prior to the adoption of regulations under this section, protected aboveground storage tanks shall comply with the applicable provisions of Underwriters Laboratory Standards No. 142 and the National Fire Protection Association Standards. The State Fire Marshall and the Pennsylvania State Police shall enforce this section pursuant to the act of April 27, 1927 (P.L.450, No.291), referred to as the State Fire Marshal Law.

(305 added Dec. 18, 1992, P.L.1665, No.184)

Section 306. Dispensing of Class II motor fuels to certain customers.

(a) Use of certain tanks.--Nothing in this act or any other statute shall prohibit the use of an aboveground storage tank, not in excess of 12,000 gallons capacity, by a bulk plant operator for dispensing Class II motor fuels to members of a key or card club established by the bulk plant operator and located at this plant, provided the installation and its operation meet the requirements of this section and otherwise comply with State Fire Marshal regulations.

(b) Specifications.--The tank shall be located at least:

(1) 50 feet from the nearest important building on the same property;

(2) 50 feet from any fuel dispenser;

(3) 50 feet from the nearest side of any public way; and

(4) 100 feet from any property line that is or might be built upon, including the opposite side of any public way.

(c) Safety matters.--A clearly labeled emergency switch capable of shutting off power to all dispensers in case of an emergency shall be located no less than 20 feet nor more than 100 feet from the dispensers. Operating instructions shall be conspicuously posted in the dispensing area and shall include location of the emergency switch and a requirement that the user must stay in view of the dispensing nozzle during dispensing. Emergency instructions shall be posted and shall include the telephone number for reporting an emergency. A telephone or other approved, clearly identified means to notify the fire department shall be provided on the site.

(d) Definition.--As used in this section, the term "a key or card club membership" shall be construed to mean a nonretail sale consistent with section 305.

(306 added June 26, 1995, P.L.79, No.16)

CHAPTER 5
UNDERGROUND STORAGE TANKS

Section 501. Underground storage tank requirements.

(a) Program requirements.--The department shall adopt regulations and implement an underground storage tank program that, at a minimum, requires all of the following:

(1) The payment of an annual registration fee to the department by owners of underground storage tanks. ((1) amended June 26, 1995, P.L.79, No.16)

(2) Methods and procedures for the operation of underground storage tank facilities and for the operator's and owner's maintenance of a leak detection system, an inventory control system together with tank testing or a

comparable system or method designed to identify releases or potential releases in a manner consistent with the protection of human health and the environment.

(3) The maintenance of records by the owner or operator of any monitoring or leak detection system or inventory control system or tank testing system.

(4) The reporting by the owner or operator of any releases and corrective action taken in response to a release from an underground storage tank.

(5) Corrective actions by owners, operators, landowners and occupiers, or other responsible parties, on an emergency basis if necessary, in response to a release from an underground storage tank.

(6) Requirements for closure of tanks by owners and operators to prevent future releases of regulated substances into the environment.

(7) Standards for installation and performance for new and existing underground storage tanks, including minimum standards for the construction, testing, corrosion, protection, operation, release prevention and repair and reuse of underground storage tanks.

(8) Standards and procedures for permitting, installation, construction, modification, operation and removal of tanks and intended and completed closure of an underground storage tank.

(9) Methods and procedures for the removal of underground storage tanks from service by the owner or operator.

(10) Requirements for reporting by the owner or operator of intended and completed closure of any underground storage tank facilities.

(11) The periodic inspection of the leak detection systems, structural integrity of the underground storage tanks and associated equipment, and release prevention measures.

(12) A permit, by rule, for certain classifications of underground storage tanks.

(13) Minimization of the amount of soil and subsurface material affected by a release of a regulated substance by segregating the unaffected soil and subsurface material during removal of an underground storage tank from the material affected by a release of a regulated substance. ((13) added June 26, 1995, P.L.79, No.16)

(14) Development of alternative methods for the disposal and cleanup of soil and subsurface material affected by the release of a regulated substance, including, but not limited to, incineration, evaporation and landfill disposal. ((14) added June 26, 1995, P.L.79, No.16)

(15) The requirement that the person removing the material affected by a release of a regulated substance provide to the owner, operator, landowner or other responsible party a receipt documenting acceptance of the material at a permitted treatment or disposal facility. ((15) added June 26, 1995, P.L.79, No.16)

(b) Tank classification.--The department shall have the authority to establish classes and categories of underground storage tanks by regulation, which classes may be regulated in

consideration of, among other factors, size, composition, intended use, contents and potential risk of harm to public health and the environment.

(c) Certified installer and inspector program.--

(1) The department shall establish, by regulation, a certification program for installers and inspectors of underground storage tanks and facilities. This program shall include provisions for qualifications and standards, procedures for training and testing and for the revocation and suspension of certification. All department employees administering this program shall be deemed certified while in the employment of the department.

(2) Underground storage tanks shall only be installed, modified and removed by a certified installer as provided by policy or regulations of the department.

(3) Underground storage tanks shall be inspected by certified inspectors prior to permitting and at a frequency thereafter established by the department as provided by regulations of the department.

Section 502. Interim requirements and discontinued use.

(a) Registration fees and requirements.--Until alternative fees are established by the department by regulation, an annual fee of $50 for each underground storage tank to be paid by owners of the underground storage tank is hereby established. ((a) amended June 26, 1995, P.L.79, No.16)

(b) Interim installation and operation requirements.--Until such time as the department adopts installation and operational requirements by regulation, no person shall install or make a substantial modification to an underground storage tank or facility unless that tank or facility meets all of the following requirements:

(1) The tank prevents releases due to corrosion or structural failure for the operational life of the tank.

(2) The tank is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material or designed in a manner to prevent the release or threatened release of any stored substance.

(3) The material used in the construction or lining of the tank is compatible with the substance to be stored.

(4) The tank is equipped with spill and overfill prevention equipment.

(5) The tank is installed by a certified installer.

(c) Discontinued use.--Upon abandonment or discontinuance of the use or active operation of an underground storage tank, the owner and operator shall remove the tank and its contents or shall seal the tank, and restore the area in a manner that prevents any future release, and shall remedy any adverse impacts from any prior release in a manner deemed satisfactory to the department.

Section 503. Registration.

(a) Requirements.--Every owner of an underground storage tank, except as specifically excluded by policy or regulation of the department, shall register with the department each underground storage tank by completing and submitting the form provided by the department and by paying the registration fee prescribed by the department for each underground storage tank

within three months of the effective date of this act. Volunteer fire companies and volunteer emergency medical services organizations which own underground storage tanks shall register each underground storage tank with the department but shall not be required to pay the registration fee. It shall be unlawful for any owner or operator to operate or use, in any way, any underground storage tank that has not been registered as required by this section. ((a) amended Dec. 18, 1992, P.L.1665, No.184)

(b) Prohibitions.--After 12 months from the effective date of this act, it shall be unlawful to sell, distribute, deposit or fill an underground storage tank with any regulated substance unless the underground storage tank is registered as required by this section. Any person who, on or after the effective date of this subsection, knowingly sells, distributes, deposits or fills any underground storage tank in violation of this subsection prior to the discovery of a release shall be liable for any release from the underground storage tank, in addition to the remedies provided in section 1302. It shall be a defense to an enforcement action under this subsection regarding delivery to an unregistered tank that the tank in question had been registered in a prior year. Within 12 months of the effective date of this act, the department shall have available for the general public an easily distinguishable visual system, such as a sticker, to identify tanks with a current sticker as part of enforcement by the department. ((b) amended June 26, 1995, P.L.79, No.16)

(c) Use of registration fees.--Registration fees collected by the department shall be used to fund the development and operation of the storage tank programs established by this act.

Section 504. Permits and plans.

(a) Permit requirements.--No person shall install, construct, modify, operate or remove from service all or part of an underground storage tank facility unless such installation, construction, modification, operation or removal from service is authorized by the rules and regulations of the department or the person has first obtained a permit from the department.

(b) Application.--Applications for permits shall be submitted in writing to the department in such form and with such accompanying data as shall be prescribed by the department.

(c) Fee.--Each application shall be accompanied by a permit fee of $20 per tank. This fee may be modified by regulation.

(d) Prior permits.--Any person who has obtained a permit for the underground storage tank facility prior to the effective date of this act, pursuant to the act of June 8, 1911 (P.L.705, No.281), entitled "An act creating the office of Fire Marshal, to be attached to the Department of Public Safety in cities of the first class; prescribing his duties and powers; and providing penalties for violations of the provisions of the act; and providing for the method of appointment, compensation, and for the maintenance of his office," the act of April 27, 1927 (P.L.450, No.290), referred to as the State Fire Marshal Law, or the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, shall be deemed to have an operating permit under this act so long as that person complies with the operational standards and requirements for removal from service established through regulation promulgated by the department

under this act and all other applicable laws.

(e) Submission of applications.--The applicant shall provide a completed permit application with all requested information using the forms provided by the department. Application forms shall be accompanied by the necessary fees. Nothing in this section shall prohibit the department from requesting additional information or clarifications regarding the content of the application.

(f) Interim operating permit requirements.--Prior to the effective date of a regulation of the department concerning installation, substantial modification or operation of underground storage tanks at a tank facility, any owner or operator who submits an application demonstrating that he meets the interim installation and operation requirements of sections 502 and 503 shall meet the operating permit requirements of this section.

(g) Review of applications.--The department shall make a determination regarding whether an application is reasonably complete within 45 days of the filing of an application with the department and shall identify all areas in which an application is incomplete when issuing a notice of deficiency. The department shall review any amended application filed in response to a notice of deficiency within 45 days of the filing of the amended application with the department. Nothing in this section shall prohibit the department and the applicant from agreeing to extend any deadline for action provided by this section. Nothing in this section shall prohibit the department from requesting and accepting supplemental information, explanations and clarifications regarding the content of an application prior to the deadline for department action.

(h) Unlawful conduct.--It shall be unlawful to install, construct, modify, operate or remove from service an underground storage tank unless authorized by the rules or regulations of the department or unless the owner or operator has first obtained a permit from the department. However, any person who has installed, constructed or erected an underground storage tank prior to the effective date of this act who was not required to obtain a permit under one of the authorities listed in subsection (d) shall have 12 months from the effective date of this act to obtain a permit from the department.

Section 505. Commercial heating oil storage tanks.

The Environmental Quality Board shall adopt, by regulation, the specific requirements for commercial heating oil storage tanks when they are established by the United States Environmental Protection Agency, including, but not limited to, requirements regarding permitting, monitoring, leak detection, corrective action and release prevention, closure and restoration. If no Federal requirements are adopted by January 1, 1996, the board may establish, by regulation, requirements for commercial heating oil storage tanks until Federal requirements are adopted.

(505 amended Dec. 18, 1992, P.L.1665, No.184)

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection,

provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 505.

Section 506. Small operator assistance program for underground storage tanks.

The department shall establish, implement and administer a small operator assistance program within 180 days of the effective date of this act. The small operator assistance program shall provide information and assistance to small operators located in rural areas who pump, on a monthly basis, less than 3,000 gallons retail motor fuel sales.

Section 507. Reimbursement for testing.

(a) Federal requirements.--The department shall reimburse the owners of underground storage tanks for the cost of routine testing and monitoring requirements which exceed the minimum routine testing and monitoring requirements established by the United States Environmental Protection Agency.

(b) No-fault testing.--The department shall reimburse the owners of underground storage tanks for the cost of any testing, monitoring or hydrogeologic studies required by the department under section 1311 to determine if a tank owner is responsible for the release of a regulated substance or contamination by a regulated substance where the results of the testing, monitoring and hydrogeologic studies show the tank owner was not the source of the release or contamination and where the tank owner cooperated fully with the department in the investigation.

(c) Discovery of de minimis contamination.--Discovery of a de minimis amount of contamination on a site tested pursuant to subsection (b) shall not preclude reimbursement under subsection (b) unless it is more likely than not that the de minimis onsite contamination is contributing to the offsite contamination.

(d) Fund.--The department shall use funds from the Storage Tank Fund established in section 702 to provide the reimbursements required by this section.

(507 amended June 26, 1995, P.L.79, No.16)

CHAPTER 7
FINANCIAL PROVISIONS

Section 701. Financial responsibility.

(a) Regulations of the Environmental Quality Board.--The Environmental Quality Board is authorized to establish, by regulation, requirements for maintaining evidence of financial responsibility as deemed necessary and desirable, for taking corrective action and for compensating third parties for bodily injury and property damage caused by sudden and nonsudden releases arising from operation of a storage tank. Every owner or operator shall meet the financial responsibility requirements established by the department.

(b) Methods of obtaining financial responsibility.--Financial responsibility required by this section may be established in accordance with regulations promulgated by the Environmental Quality Board by any one or any combination of the following: insurance, guarantee, surety, bond, letter of credit, qualification as a self-insurer, indemnity contract, risk

retention coverage or any other method deemed satisfactory by the department. Owners of underground storage tanks must meet these requirements by complying with sections 703, 704, 705 and 706. In regulations under this section, the department is authorized to specify policy or other contractual terms, conditions or defenses which are necessary or acceptable in establishing such evidence of financial responsibility.

(c) Bankruptcy of owner or operator.--In any case where the owner or operator is in bankruptcy, reorganization or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court or the Federal courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(d) Guarantor liability.--The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator, including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or other applicable statutes.

(e) Definition.--As used in this subsection, the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 701.

Section 702. Storage Tank Fund.

(a) Establishment of fund.--There is hereby created a special nonlapsing fund in the State Treasury to be known as the Storage Tank Fund. All fees, fines, judgments, bond forfeitures, interest and recovered costs collected by the department under this act shall be paid into the Storage Tank Fund. All moneys placed in the Storage Tank Fund and the interest it accrues are

hereby appropriated, upon authorization by the Governor, to the department for the costs of operating the aboveground and underground storage tank programs, including activities necessary for the elimination of releases from storage tanks and any other activities necessary to meet the requirements of this act.

(b) Supplements to fund.--The Storage Tank Fund may be supplemented by appropriations from the General Assembly, the Federal, State or local government or from any private source.

(c) Liability for costs.--Whenever costs have been incurred by the Commonwealth for taking corrective action in response to a release from a storage tank regulated by this act, the owner or operator, as may be appropriate, of such tank shall be liable to the Commonwealth for such costs.

(d) Effect of liability on property.--Any costs incurred by the Commonwealth for taking corrective action in response to a release from a storage tank under this act shall constitute in each instance a debt of the owner or operator, as may be appropriate, to the Storage Tank Fund. The debt shall constitute a lien on all property owned by said owner or operator when a notice of lien incorporating a description of the property of the owner or operator subject to the action and an identification of the amount of expenditure from the fund is duly filed with the prothonotary of the court of common pleas where the property is located. The prothonotary shall promptly enter upon the civil judgment or order docket the name and address of the owner or operator, as may be appropriate, and the amount of the lien as set forth in the notice of lien. Upon entry by the prothonotary, the lien shall attach to the revenues and all real and personal property of the owner or operator, whether or not the owner or operator is solvent. The notice of lien, filed pursuant to this subsection, which affects the property of the owner or operator shall create a lien with priority over all subsequent claims or liens which are filed against the owner or operator.

(e) Status of fund.--The Storage Tank Fund shall not be subject to 42 Pa.C.S. Ch. 37 Subch. C (relating to judicial computer system).

Section 703. Underground Storage Tank Indemnification Board.

(a) Establishment of board, appointment and terms.--There is hereby created the Underground Storage Tank Indemnification Board which shall consist of ten members. The Insurance Commissioner and the Secretary of the Department of Environmental Protection shall be ex officio members. Eight members shall be appointed by the Governor, as follows:

(1) Six members who shall be persons with particular expertise in the management of underground storage tanks. Three of these members shall be appointed for terms of four years and three shall be appointed for a term of three years. The Governor shall appoint the members, one each from a list of nominees provided by each of the following:

(i) The Associated Petroleum Industries of Pennsylvania.

(ii) The Pennsylvania Petroleum Association.

(iii) The Service Station Dealers and Automotive Repair Association of Pennsylvania and Delaware and the Petroleum Retailers and Auto Repair Association, Inc.

(iv) The Middle Atlantic Truck Stop Operators.

(v) The Pennsylvania Farm Bureau, Pennsylvania State Grange and Pennsylvania Farmers Union.

(vi) The Tank Installers of Pennsylvania.

(2) One local government member who shall have knowledge and expertise in underground storage tanks. The local government member shall be appointed for a term of two years.

(3) One public member who shall not be an owner or operator of storage tanks nor affiliated in any way with any person regulated under this act. The public member shall be appointed for a term of three years.

(b) Chairman.--The board shall select a chairman from its members annually.

(c) Vacancies.--Vacancies in appointed positions shall be filled by the Governor in the same manner as the original appointment. Members shall serve until their successors are appointed and qualified.

(d) Compensation.--Members shall receive no compensation for their service other than reimbursement for necessary expenses in accordance with Commonwealth regulations.

(e) Conflicts.--No member shall participate in making any decision in a matter involving any payment from which he or his employer may benefit or which may benefit a member of his immediate family.

(f) Meetings; quorum.--The board shall meet at least quarterly. Additional meetings may be held upon reasonable notice at times and locations selected by the board. The board shall meet at the call of the chairman or upon written request of three members of the board. Six members shall constitute a quorum and a quorum may act for the board in all matters.

(703 amended Jan. 30, 1998, P.L.46, No.13)

Compiler's Note: Section 3 of Act 34 of 1996 provided that the Underground Storage Tank Indemnification Board shall conduct a study to determine the feasibility of a low-interest loan program from the Underground Storage Tank Indemnification Fund. Such study shall determine feasibility of using the Underground Storage Tank Indemnification Fund for underground storage tank (UST) owners to bring their underground storage tank (UST) facilities into compliance with 40 CFR Pt. 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)) and other uses that the board may determine appropriate. The study shall be completed and reported to the General Assembly no later than August 15, 1996.

Section 704. Underground Storage Tank Indemnification Fund.

(a) Establishment of fund.--

(1) There is hereby created a special fund in the State Treasury to be known as the Underground Storage Tank Indemnification Fund. This fund shall consist of the fees assessed by the board under section 705(d), amounts recovered by the board due to fraudulent or improper claims or as penalties for failure to pay fees when due, and funds earned by the investment and reinvestment of the moneys collected. Moneys in the fund are hereby appropriated to the board for the purpose of making payments to owners, operators and

certified tank installers of underground storage tanks who incur liability for taking corrective action or for bodily injury or property damage caused by a sudden or nonsudden release from underground storage tanks and for making loans to owners as authorized by this act. The fund shall be the sole source of payments under this act, and the Commonwealth shall have no liability beyond the amount of the fund. Every owner and certified tank installer of an underground storage tank shall demonstrate financial responsibility by participating in the Underground Storage Tank Indemnification Fund. The owner, operator or certified tank installer may obtain coverage for liability not insured by the fund through any of the methods approved in accordance with section 701(b).

(2) This fund is declared a restricted fund. The moneys in the fund shall be used only for the purposes set forth in this act and shall not be transferred or diverted to any other purpose by the use of any administrative procedure.

(3) Notwithstanding any general or specific powers granted to the board by this act, whether express or implied, the board shall have no power at any time or in any manner to pledge the credit or taxing power of the Commonwealth or any political subdivision. No obligations or liabilities of the board shall be deemed obligations or liabilities of the Commonwealth or of any of its political subdivisions. Nothing herein shall be deemed a waiver of sovereign immunity.

(b) Limit of payments to owners or operators.--

(1) Payments to eligible owners or operators shall be limited to the actual costs of corrective action and the amount of an award of damages by a court of competent jurisdiction for bodily injury, property damage or both, not to exceed a total of $1,500,000 per tank per occurrence.

(2) Payments of claims against the fund shall be subject to a deductible as provided in section 705. Payments shall be made only for releases resulting from storage tanks that are located within this Commonwealth.

(3) Payments shall not exceed:

(i) an annual aggregate of $1,500,000 for each owner and operator of 100 or less underground storage tanks; or

(ii) an annual aggregate of $3,000,000 for each owner and operator of 101 or more underground storage tanks, up to the total of $1,500,000 per tank per occurrence or the total eligible costs or damages.

(4) Any pending claim where eligibility has not been determined as of the effective date of this paragraph shall be eligible for the increased payment under this subsection.

((b) amended Dec. 13, 2001, P.L.900, No.99)

(b.1) Limit of payments to certified tank installers.--

(1) Payments to certified tank installers shall be limited to the actual costs of corrective action and the amount of an award of damages by a court of competent jurisdiction for bodily injury, property damage or both, not to exceed a total of $1,500,000 per occurrence. Corrective action under this subsection shall mean releases caused by improper or faulty installations, modifications and removal of underground storage tanks.

(2) Payments of claims against the program shall be

subject to a deductible as provided in section 705(c)(4). Payments shall be made only for releases resulting from underground storage tanks located in this Commonwealth.

(3) Payments shall not exceed:

(i) an annual aggregate of $1,500,000 for certified tank installers who perform 100 or fewer installations or major modifications; or

(ii) an annual aggregate of $3,000,000 for certified tank installers who perform more than 100 installations or major modifications.

(4) Any pending claim where eligibility has not been determined as of the effective date of this paragraph shall be eligible for the increased payment under this subsection.

((b.1) amended Dec. 13, 2001, P.L.900, No.99)

(c) Prohibited uses.--Moneys in the fund shall not be used for the repair, replacement or maintenance of underground storage tanks or improvement of property on which the tanks are located unless the moneys are loaned by the board as an investment of fund moneys pursuant to section 712.

(d) Expenses.--All costs and expenses of the board shall be paid from the fund, including, but not limited to, compensation of employees and any independent contractors or consultants hired by the board.

(e) Options.--

(1) Any owner of an underground storage tank of 3,000 gallons or more used for storing heating oil for consumptive use on the premises where stored may elect to participate in the fund.

(2) The owner or operator of an underground storage tank used to store heating oil who elects to participate in the fund shall comply with applicable provisions of this act and of regulations promulgated under this act.

(3) The owner or operator of an underground storage tank used to store heating oil who elects to participate in the fund shall pay the fee established under section 705(d)(2).

(4) The board shall by regulation establish procedures and criteria for allowing owners or operators of underground storage tanks to opt into the coverage provided by this section.

(704 amended Jan. 30, 1998, P.L.46, No.13)

Section 705. Powers and duties of Underground Storage Tank Indemnification Board.

(a) Support.--The board may employ or contract for the personnel necessary to process fee payments, to administer claims made against the Underground Storage Tank Indemnification Fund, to administer the Upgrade Loan Program and other programs authorized by this act and to carry out the purposes of the board. The board may also employ or contract for the services of attorneys, consultants and actuaries necessary to advise the board in establishing fees under subsection (d) and deductible amounts under subsection (c).

(b) Claims.--The board shall establish procedures by which owners, operators and certified tank installers may make claims for costs estimated or incurred in taking corrective action and for liability due to bodily injury and property damage caused by a sudden or nonsudden release from underground storage tanks. Claims determined to be eligible shall be paid upon receipt of

information clearly showing that reimbursable claim costs are reasonable, necessary and directly related to the release from the storage tank that is the subject of the claim. The board, by regulation, may establish a system for prioritizing claims.

(c) Deductible.--

(1) Claims shall be subject to a deductible amount which the board shall set annually. The board shall give at least 30 days' notice of a proposed change in deductible amounts by publication in the Pennsylvania Bulletin, and the change shall take effect on the date specified in the notice. Each owner or operator shall be responsible for the amount of the deductible as provided in this section.

(2) The board shall set the initial deductible for corrective action claims at $10,000 per tank per occurrence. Thereafter, the deductible shall be actuarially sound and shall be based on an estimate of the average cost of taking corrective action due to a sudden or nonsudden release from underground storage tanks in this Commonwealth. The board shall not set a deductible in an amount lower than $5,000 per tank per occurrence.

(3) The board shall set a deductible for claims due to bodily injury, property damage or both caused by a sudden or nonsudden release from underground storage tanks in this Commonwealth. The board shall not set a deductible in an amount lower than $5,000 per tank per occurrence.

(4) The board shall set a deductible for claims for bodily injury, property damage or both caused by a release from an underground storage tank in this Commonwealth resulting from an installation, modification or removal of regulated underground storage tanks. The board shall not set a deductible in an amount lower than $5,000 per occurrence.

(d) Fees.--

(1) The board, by regulation, shall establish fees to be paid by the owner, operator or certified tank installer, as appropriate, of underground storage tanks. Fees shall be set on an actuarial basis in order to provide an amount sufficient to pay outstanding and anticipated claims against the Underground Storage Tank Indemnification Fund in a timely manner. Fees shall also include an amount sufficient to meet all other financial requirements of the board. Fees shall be adjusted as deemed necessary by the board, but no more than once a year. The board shall annually evaluate the fee amount to determine if it is sufficient to meet the anticipated expenses of the fund and provide a copy of its evaluation to the Environmental Resources and Energy Committee of the Senate and the Conservation Committee of the House of Representatives. The board shall analyze the claims experience of storage tanks to determine which types of underground tanks or tank configurations result in less frequent leaks.

(2) The owner or operator of an underground storage tank used to store heating oil, diesel fuel or other regulated substance as determined by the board shall pay a per gallon of tank capacity fee. The capacity fee shall be set on the same actuarial basis as is provided in subsection (d)(1).

(3) In no case shall the owner or operator of an underground storage tank used for nonretail bulk storage or

wholesale distribution of gasoline pay fees totaling more than $5,000 per tank in any annual coverage period for which fees are charged.

(4) The owner or operator of an underground tank used to store diesel fuel on a farm for noncommercial purposes shall be required to pay the same fee as the owner or operator of an underground tank containing gasoline.

(e) Payment of fees.--Fees established for the owner of the tank under subsection (d)(1) through (4) shall be paid by the owner of the tank unless a written agreement between the owner and the operator provides otherwise. Fees established for certified tank installers under subsection (d)(1) shall be paid to the Underground Storage Tank Indemnification Fund or to the intermediaries so designated by the board. Intermediaries located outside the territorial boundaries of this Commonwealth may collect and remit fees upon proof that a performance bond has been secured and maintained in an amount of $1,000,000. A person who fails or refuses to pay the fee or a part of the fee by the date established by the board may be assessed a penalty of 5% of the amount due which shall accrue on the first day of delinquency and be added thereto. Thereafter, on the last day of each month during which any part of any fee or any prior accrued penalty remains unpaid, an additional 5% of the then unpaid balance shall accrue and be added thereto. A financial institution holding a mortgage or security interest on property containing an underground storage tank may with the owner or operator request the board to notify the financial institution in the event the owner or operator does not pay the fees required by this section by the date specified by the board. Notice of nonpayment to the financial institution or payment of an owner or operator's fee shall not constitute the assumption of any corrective action liability on the part of a financial institution.

(e.1) Upgrade Loan Program.--The board shall establish policies, procedures and forms as may be necessary and appropriate in order to administer the Upgrade Loan Program established in section 712.

(f) Additional powers.--The board shall have additional powers as may be necessary to carry out its duties under this act, including, but not limited to, the following:

(1) To make contracts and execute all instruments necessary or convenient for carrying on of its business.

(2) To make bylaws for the management and regulation of its affairs and to adopt, amend and repeal rules, regulations and guidelines governing the administrative procedures and business of the board and operation and administration of the fund. Regulations of the board shall be subject to review under the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(3) To sue or be sued concerning claims arising as the result of a release from an underground storage tank and to implead and be impleaded, complain and defend in all courts.

(4) To conduct examinations and investigations and take testimony under oath or affirmation on any matter necessary to the determination of approval or disapproval of any claim.

(705 amended Jan. 30, 1998, P.L.46, No.13)

Section 706. Eligibility of claimants.

In order to receive a payment from the Underground Storage Tank Indemnification Fund, a claimant shall meet the following eligibility requirements:

(1) The claimant is the owner, operator or certified tank installer of the tank which is the subject of the claim.

(2) The current fee required under section 705 has been paid.

(3) The tank has been registered in accordance with the requirements of section 503.

(4) The owner, operator or certified tank installer has obtained the appropriate permit or certification as required under sections 108, 501 and 504.

(5) The claimant demonstrates to the satisfaction of the board that the release that is the subject of the claim occurred after the date established by the board for payment of the fee required by section 705(d).

(6) Additional eligibility requirements which the board may adopt by regulation.

(706 amended Jan. 30, 1998, P.L.46, No.13)

Section 707. Audit.

The board shall contract for an annual independent financial audit of the Underground Storage Tank Indemnification Fund.

(707 amended Jan. 30, 1998, P.L.46, No.13)

Section 708. Performance review.

The board shall periodically review and evaluate the performance of the Underground Storage Tank Indemnification Fund, including all programs funded from it, and make recommendations to the General Assembly for its continuation or termination every five years commencing with the initial review date of December 31, 2000.

(708 amended Jan. 30, 1998, P.L.46, No.13)

Section 709. Loan fund (709 repealed June 28, 1996, P.L.434, No.67).

Section 710. Underground Storage Tank Environmental Cleanup Program.

(a) Establishment.--The board is authorized to establish the Underground Storage Tank Environmental Cleanup Program for the purpose of ensuring the taking of corrective actions at underground storage tank facilities under sections 107(g) and 1302(c).

(b) Allocation.--The board may allocate up to $5,500,000 annually from the Underground Storage Tank Indemnification Fund for the Underground Storage Tank Environmental Cleanup Program as long as the allocation does not impede the fund's ability to pay claims. Any amounts recovered by the board and/or the Department of Environmental Protection from the costs of corrective action incurred under the Underground Storage Tank Environmental Cleanup Program shall be added to this allocation for the purposes stated in this subsection and shall annually lapse with this allocation. ((b) amended Dec. 13, 2001, P.L.900, No.99)

(b.1) Special allocation.--No more than $2,000,000 of the annual allocation for the Underground Storage Tank Environmental Cleanup Program may be used for special environmental cleanup projects to assist owners of underground storage tanks who do not qualify for financial assistance under the provisions of this act, the act of May 19, 1995 (P.L.4, No.2), known as the

Land Recycling and Environmental Remediation Standards Act, or any other applicable environmental Federal or State assistance program. Funds for special environmental cleanup projects may not be used to reimburse owners of underground storage tanks for remediation costs already incurred. Special environmental cleanup projects are limited to eligible owners of underground storage tanks whose site has not been remediated for contamination, for remediation not completed due to financial hardship and for those owners whose retail gasoline facility or commercial distribution center is no longer in business. The department shall assign priorities to such special projects based upon their environmental impact.

(b.2) Additional allocation.--No more than $500,000 of the annual allocation for the Underground Storage Tank Environmental Cleanup Program may be used for costs of corrective action to assist owners of underground storage tanks with a capacity of 3,000 gallons or less used for storing heating oil for consumption on the premises where stored. Payments made for eligible releases shall be limited in amount to the actual costs of corrective action or to $5,000, whichever is less. The amount allowed shall be subject to a $1,000 deductible which shall be paid first by the claimant. This subsection shall expire June 30, 2005. On or before that date, the board shall make a report to the General Assembly with recommendations. The board may promulgate regulations to carry out the provisions of this subsection. ((b.2) reenacted and amended Dec. 20, 2000, P.L.726, No.100)

(b.3) Catastrophic release allocations.--

(1) The board may allocate up to $5,500,000 annually from the Underground Storage Tank Indemnification Fund for the Underground Storage Tank Environmental Cleanup Program to be used by the Department of Environmental Protection for corrective action caused by a catastrophic release providing the allocation does not impede the fund's actuarial soundness and ability to pay claims.

(2) For the purposes of this subsection, a catastrophic release is one that imposes a threat to public health and safety and the environment where the department determines that the costs of the corrective action may exceed two times the limits established under section 704.

((b.3) added Dec. 13, 2001, P.L.900, No.99)

(c) Implementation.--The Department of Environmental Protection shall assist the board with the implementation of this program and shall be reimbursed by the board from the fund for actual costs incurred for the corrective actions taken, but in no event shall the department be reimbursed from the fund for any administrative costs.

(d) Eligibility determinations.--Where funds are expended under this section for corrective action and the owner, operator or certified tank installer of the underground storage tank is later determined to be eligible for Underground Storage Tank Indemnification Fund coverage under section 706, the moneys expended by the board shall be considered payments to the owner, operator or certified tank installer under section 704.

(e) Annual report.--The board shall annually transmit to the General Assembly a report outlining corrective actions taken and expenditures made under this section for the preceding

Commonwealth fiscal year.

(f) Sunset.--The Underground Storage Tank Environmental Cleanup Program shall cease to exist on June 30, 2007, unless it is reestablished by action of the General Assembly.

(710 added Jan. 30, 1998, P.L.46, No.13)

Section 711. Underground Storage Tank Pollution Prevention Program.

(a) Establishment.--The board is hereby authorized to establish an Underground Storage Tank Pollution Prevention Program for the purpose of reimbursing eligible owners, as defined in subsection (d), for the costs of removing regulated substances from and sealing the fill pipes of underground storage tanks which have not been upgraded to comply with the technical requirements of Federal and State regulations. The board shall establish guidelines for eligible expenses and procedures for reimbursement from the Underground Storage Tank Indemnification Fund.

(b) Allocation.--The board may allocate up to $1,000,000 annually from the Underground Storage Tank Indemnification Fund for the Underground Storage Tank Pollution Prevention Program as long as the allocation does not impede the actuarial soundness of the fund's ability to pay claims.

(c) Implementation.--The Department of Environmental Protection shall assist the board with the implementation of this program and shall be reimbursed by the board from the fund for actual reimbursements made to eligible owners, but in no event shall the department be reimbursed from the fund for any administrative costs.

(d) Eligibility.--Owners of six or fewer underground storage tanks shall be eligible to participate in this program.

(e) Annual report.--The board shall annually transmit to the General Assembly a report outlining actions taken and expenditures made under this section for the preceding Commonwealth fiscal year.

(f) Sunset.--The Underground Storage Tank Pollution Prevention Program shall cease to exist on June 30, 2007, unless it is reestablished by action of the General Assembly.

(711 added Jan. 30, 1998, P.L.46, No.13)

Section 712. Upgrade Loan Program.

(a) Establishment.--The board is hereby authorized to establish a loan program for owners of regulated underground storage tanks as a method of investing fund moneys, provided that such a program does not interfere with the actuarial soundness of the fund required by section 705(d)(1). Aggregate outstanding loan balances shall not exceed 20% of the fund balance, hereby defined as the ending cash balance in any given fiscal year less any liability for claims incurred but not yet paid. Loans shall not be made when the fund balance falls below $50,000,000. Loans shall not be made if such loans impede the board's ability to pay claims.

(b) Eligibility.--Such loans shall be made available to owners of six or fewer regulated underground storage tanks for the purpose of upgrading or removing their storage tanks. Any portion of the annual availability of funds not committed to such owners within 90 days of the effective date of this section and thereafter within 120 days of July 1 in any fiscal year may be awarded to any owner of any number of regulated underground

storage tanks that meet the remaining requirements of this section. ((b) reenacted and amended Dec. 20, 2000, P.L.726, No.100)

(c) Loan terms.--Loans made under this section shall be governed by the following terms:

(1) The maximum loan amount for an individual project is $500,000 or 75% of the total eligible project costs, whichever is less. The maximum total amount that a single owner or operator may have outstanding is $500,000.

(2) Loans shall have a repayment period of up to ten years.

(3) Interest rates shall be fixed at the time the loan is made and shall be equal to the Five-Year United States Treasury Note on the date application is made.

(4) All loans must be adequately secured. The board shall determine the methods for securing loans.

(5) The board shall charge a loan origination fee not to exceed 5% of the approved loan amount.

(6) The board, by regulation, may create additional eligibility requirements for participation in the Upgrade Loan Program.

(d) Annual report.--The board shall prepare an annual report for submission to the General Assembly concerning activities and expenditures made pursuant to this section for the preceding year. Included in this report shall be information concerning all loans made to eligible applicants and applications denied.

(e) Assistance.--The Department of Community and Economic Development, in consultation with the Department of Environmental Protection, shall assist the board with the implementation of this program. The fund shall reimburse the Department of Community and Economic Development for actual costs incurred to administer this program. However, administrative costs shall not exceed 5% of the loan amounts approved annually. Final loan approval shall be made by the board.

(712 added Jan. 30, 1998, P.L.46, No.13)

CHAPTER 9
SPILL PREVENTION RESPONSE PLAN

Section 901. Submission of spill prevention response plan.

(a) Schedule.--Each owner of an aboveground storage tank or tank facility shall submit to the department, within one year of the effective date of this act, a plan for each aboveground storage tank or tank facility. Each plan shall be site-specific and be consistent with the requirements of this act and shall be developed in consultation with county and municipal emergency management agencies. This chapter shall not apply to aboveground storage tank facilities with a capacity equal to or less than 21,000 gallons.

(b) Plan revisions.--Each owner of an aboveground storage tank or tank facility with an approved spill prevention response plan shall submit a revised plan or addendum to the plan to the department in accordance with the requirements of this act if any of the following occur:

(1) There is a substantial modification in design, construction, operation, maintenance of the storage tank or

tank facility or associated equipment or other circumstances that increase the potential for fires, explosions or releases of regulated substances.

(2) There is a substantial modification in emergency equipment at the facility.

(3) There are substantial changes in tank facility emergency organization.

(4) Applicable department regulations are revised.

(5) The plan fails in an emergency.

(6) The removal or the addition of any storage tank or storage tanks.

(7) Other circumstances occur of which the department requests an update.

(c) Existing plans.--All existing plans regarding storage tank facilities required by the department pursuant to the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, and known as preparedness, prevention and contingency plans must be revised within one year of the effective date of this act. Thereafter, all plans submitted in accordance with this chapter shall be deemed to have satisfied the requirements of The Clean Streams Law, relating to preparedness, prevention and contingency plans.

Section 902. Content of spill prevention response plan.

(a) Description of facility.--The plan shall identify and describe the industrial or commercial activity which occurs at the site, including a specific listing and inventory of all types of products stored, amount of products stored and wastes generated which are stored at the aboveground storage tank or tank facility. The plan shall include drawings of the aboveground storage tank facility, including location of all drainage pipes and water outlets.

(b) Description of the organization structure for plan implementation.--The plan shall identify all facility related individuals and their duties and responsibilities for developing, implementing and maintaining the facilities' plan. The plan shall describe in detail the chain of command at the aboveground storage tank or storage tank facility and list all facility emergency coordinators and emergency response contractors.

(c) Spill leak prevention and response.--The plan shall provide a preventive maintenance program that includes monitoring and inspection procedures, including identification of stress points, employee training program and security system. The plan shall include a description of potential sources and areas where spills and leaks may occur by drawings and plot plans and shall identify specific spill prevention measures for those identified areas.

(d) Countermeasure.--The plan shall explain in detail the specific response that storage tank facility and contract emergency personnel shall take upon the occurrence of any release at the facility.

(e) Emergency spill control network.--The plan shall include information obtained by the owner of the aboveground storage tank facility from the county and municipal emergency management agencies. The plan shall also contain information relating to persons to be notified in the event of a spill.

(f) Other information.--The owner shall provide the

department with all other information required by the department to carry out its duties under this act.

Section 903. Review of spill prevention response plan.

(a) Written notice.--The owner of the aboveground storage tank facility located adjacent to surface waters shall annually provide public notice to all downstream municipalities, downstream water companies and downstream industrial users within 20 miles of the aboveground storage tank facility site and the local municipality and county in which the facility is located. The notice shall provide a detailed inventory of the type and quantity of material in storage at the facility. The facility operator shall annually provide a copy of the spill prevention response plan or updates to that plan after its initial preparation to the county and municipal emergency management agency and the department.

(b) Department action.--The department shall approve the spill prevention response plan or disapprove the plan and provide the owner of the storage tank or tank facility with specific reasons for the disapproval. If disapproved, the owner of the storage tank or tank facility shall submit a revised plan to the department.

Section 904. Notification.

(a) Procedure for spill notification.--Upon the occurrence of a release at the aboveground storage tank, the owner or operator of a storage tank shall immediately notify the county emergency management agency, the Pennsylvania Emergency Management Agency and the department. All downstream water companies, downstream municipalities and downstream industrial users within 20 miles of the aboveground storage tank located adjacent to surface waters shall be notified on a priority basis based on the proximity of the release by the owner or operator of the agent of the owner or operator of the aboveground storage tank within two hours of any release which enters a water supply or which threatens the water supply of downstream users. Where the owner or operator or his agent failed to notify or is incapable of notifying downstream water users, the county emergency management agency shall make the required notifications.

(b) Notification list.--The owner of the aboveground storage tank or tank facility located adjacent to surface waters shall annually obtain and annually update a list from the local emergency management agency of all downstream municipal water users, water companies and industrial users within 20 miles of the tank facility.

(c) State agency.--Notwithstanding any Federal law to the contrary, the department is hereby designated as the State agency empowered to direct emergency cleanup efforts onsite at a release site upon the occurrence of a release.

(d) Other emergency response plans.--Notwithstanding this chapter to the contrary, the aboveground storage tank spill prevention response plan shall be developed by the owner of the aboveground storage tank in consultation with the local and county emergency management agency, consistent with the emergency management procedures developed by local emergency management agencies under Title III of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499, 100 Stat. 1613).

(e) Releases from storage tanks.--Upon the occurrence of a release from a storage tank, the owner or operator of the storage tank shall immediately notify the appropriate regional office of the department. The owner or operator shall notify the department as soon as practicable but no later than 24 hours after the confirmation of a reportable release. Within 15 days of the notice required under this subsection, the owner or operator shall provide written notification to the department and to each municipality in which the reportable release has occurred and each municipality where that release has impacted environmental media or water supplies, buildings or sewer or other utility lines. The written notification shall describe, to the extent the information is available, the regulated substance involved in the release, the quantity of the substance released, when the release occurred, where the release occurred, the affected environmental media and relevant information concerning the effect of the release on public health, impacts to water supplies, buildings or to sewer or other utility lines. The notice shall also include information on remedial actions that are planned, initiated or completed. The owner or operator shall also provide written notification to the department and each impacted municipality of new impacts to environmental media or water supplies, buildings or sewer or other utility lines discovered after the initial written notification required under this subsection. This written notification shall be made within 15 days of the discovery of the new impact. If the department determines at any time that the release poses an immediate threat to public health and safety, the department and any impacted municipalities may evaluate and implement reasonable procedures to provide the public with appropriate information about the situation, which may, at a minimum, include a summary of the details surrounding the release and its impacts in a newspaper of general circulation serving the area in which the impacts are occurring. ((e) added Dec. 17, 2001, P.L.912, No.104)

CHAPTER 11
SITING OF NEW ABOVEGROUND STORAGE TANK FACILITY AND REGULATIONS

Section 1101. Notification.

(a) Procedure.--The owner or operator of an existing or proposed aboveground tank facility shall provide written notification to the local municipality and county in which the aboveground tank facility is situated or to be located prior to submitting an application for an aboveground storage permit to construct or reconstruct an additional aboveground storage tank at the aboveground storage tank facility or construct a new aboveground storage tank facility. This chapter shall not apply to aboveground storage tanks with a capacity equal to or less than 21,000 gallons.

(b) Public hearings.--Upon submission to the department of the permit application to construct any new aboveground tank facility, the department may hold a public hearing in the municipality or county in which the aboveground tank facility is proposed to be located. The department shall publish the permit application in the Pennsylvania Bulletin upon receipt of the

permit application and provide not more than a 60-day comment period.

(c) Public comment on aboveground storage tank permit.--The department shall publish the aboveground storage tank facility permit application in the Pennsylvania Bulletin upon receipt of the permit application and provide a 30-day comment period for new aboveground storage tank facilities.

Section 1102. Siting regulations.

The Environmental Quality Board shall develop siting regulations for new aboveground storage tank facilities which shall contain detailed provisions which an applicant shall use to evaluate a potential site. The regulations shall include, but not be limited to, consideration for public health and safety, protection of water supply sources, water quality, air quality, flooding, topography, soil conditions and hydrogeology. The board shall hold at least one public hearing on the siting regulations and shall solicit and take into consideration written public comments, prior to final adoption.

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 1102.

CHAPTER 13
ENFORCEMENT

Section 1301. Withholding permit.

The department shall not issue any permit pursuant to this act or amend any permit issued under this act, and may revoke any permit previously issued under this act, if it finds, after investigation and an opportunity for informal hearing, that:

(1) the applicant has failed and continues to fail to comply with any provisions of Federal or State law which are in any way connected with or related to the regulation of storage tanks or of any relevant rule, regulation, permit or order of the department or related to the regulation of storage tanks.

(2) the applicant has shown a lack of ability or intention to comply with any law, rule, regulation, permit or order of the department issued pursuant to this act as indicated by past or continuing violations. Any person, partnership, association or corporation which has violated this act, rule, regulation, order of the department, or any condition of any permit issued pursuant to this act, or which has a partner, associate, officer, parent corporation, subsidiary corporation, contractor or subcontractor which has engaged in such violation shall be denied any permit required by this act unless the permit application demonstrates that the violation is being corrected to the satisfaction of the department.

Section 1302. Responsibilities of owners and operators.

(a) Order to correct condition.--Whenever the department finds that a release or danger of a release is or may be resulting from a storage tank in this Commonwealth, the department may order the owner, operator, landowner or occupier to take corrective action in a manner satisfactory to the department, or it may order such owner, operator, landowner or occupier to allow access to the land by the department or a third party to take such action.

(b) Assessment of expenses.--For purposes of collecting or recovering the expense involved in taking corrective and cost recovery action pursuant to an order or recovering the cost of corrective action, litigation, oversight, monitoring, sampling, testing and investigation related to a corrective action, the department may collect the amount in the same manner as civil penalties are collected under the provisions of section 1307(b).

(c) Contracts.--The department is authorized to enter into contracts and to develop streamlined contract procedures, policies, rules and regulations that provide for:

(1) The identification, investigation, containment, remediation, disposal, monitoring and maintenance of leaking underground storage tanks.

(2) Conducting and funding programs for research into innovative and alternative methods for site remediation.

(3) The purchase, lease or rental of equipment, and other necessary expenses.

(4) Emergency housing, replacement water supplies and water sources.

Section 1303. Protection of water supplies.

(a) Regulations.--In addition to the powers and authority hereinbefore granted, power and authority is hereby conferred upon the department to make, adopt, promulgate and enforce orders and regulations for the protection of any source of water for present or future supply to the public or other legitimate use, prohibiting the pollution of any such source of water which would render the same inimical or injurious to the public health or objectionable for the purposes served by the water supply and for the replacement of any water supply affected, polluted, diminished or threatened by a release from a storage tank. For purposes of this section, water supply to the public shall include a water supply serving one or more persons.

(b) Affected or diminished supply.--Any owner or operator of a storage tank who affects or diminishes a water supply as a result of a release shall restore or replace the affected supply with an alternate source of water adequate in quantity and quality for the purposes served by the supply, at no cost to the owner of the affected water supply.

Section 1304. Public nuisances.

A violation of this act or of any order or regulation adopted by the department or of permits issued by the department shall constitute a public nuisance. The department shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, the department or any Commonwealth agency which undertakes to abate a public nuisance may recover the costs of abatement in an action in equity brought before any court of competent jurisdiction. Whenever such nuisance shall be maintained or continued contrary to this act or such orders, regulations or permits the same may be

abatable in the manner provided by this act. Any person who causes such public nuisance shall be liable for the cost of abatement.

Section 1305. Suits to abate nuisances and restrain violations.

(a) Suits to abate nuisances.--Any activity or condition declared by this act to be a nuisance, or which is otherwise in violation of this act, shall be abatable in the manner provided by law or equity for the abatement of public nuisances. In addition, in order to restrain or prevent any violation of this act and of the rules, regulations or orders issued thereunder, or to restrain the maintenance and threat of public nuisance, suits may be instituted in equity or at law in the name of the Commonwealth upon relation of the Attorney General, the General Counsel or upon relation of any district attorney of any county, or upon relation of the solicitor of any municipality affected, after notice has first been served upon the Attorney General of the intention of the General Counsel, district attorney or solicitor to so proceed. Such proceedings may be prosecuted in the Commonwealth Court, or in the court of common pleas of the county where the activity has taken place, the condition exists or the public is affected, and to that end jurisdiction is hereby conferred in law and equity upon such courts. Except in cases of emergency where, in the opinion of the court, the exigencies of the case require immediate abatement of the nuisance, the court may, in its decree, fix a reasonable time during which the person responsible for the nuisance may make provision for the abatement of the same.

(b) Mandatory and special injunctions.--In cases where the circumstances require it or the public health is endangered, a mandatory preliminary injunction, special injunction or temporary restraining order may be issued upon the terms prescribed by the court, notice of the application therefor having been given to the defendant in accordance with the rules of equity practice, and in any such case the Attorney General, the General Counsel, the district attorney or the solicitor of any municipality shall not be required to give bond. In any such proceeding the court shall, upon motion of the Commonwealth, issue a prohibitory or mandatory preliminary injunction if it finds that the defendant is engaging in unlawful conduct as defined by this act or is engaged in conduct which is causing immediate and irreparable harm to the public. In addition to an injunction, the court in such equity proceedings may levy civil penalties in the same manner as the department in accordance with section 1307.

(c) Private actions.--Except as provided in subsection (d), any person having an interest which is or may be affected may commence a civil action on his behalf to compel compliance with this act or any rule, regulation, order or permit issued pursuant to this act by any owner, operator, landowner or occupier alleged to be in violation of any provision of this act or any rule, regulation, order or permit issued pursuant to this act. Except where 42 Pa.C.S. (relating to judiciary and judicial procedure) requires otherwise, the courts of common pleas shall have jurisdiction of such actions, and venue in such actions shall be as set forth in the Rules of Civil Procedure concerning civil actions in assumpsit. No such action may be commenced if the department has commenced and is diligently prosecuting a

civil action in a court of the United States or of the Commonwealth or is in litigation before the Environmental Hearing Board to require the alleged violator to comply with this act or any rule, regulation, order or permit issued pursuant to this act, but, in any such action in a court of the United States or of the Commonwealth, any person having or representing an interest which is or may be adversely affected may intervene as a matter of right without posting bond.

(d) Notice of private action.--No action pursuant to subsection (c) may be commenced prior to 60 days after the plaintiff has given notice, in writing, of the violation to the department and to any alleged violator.

(e) Notice not required.--The 60-day notice provisions of subsection (d) to the contrary notwithstanding, any action pursuant to subsection (c) may be initiated immediately upon written notification to the department in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(f) Fees and costs.--The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. Except as provided in subsection (b), the court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accord with the Rules of Civil Procedure.

Section 1306. Criminal penalties.

(a) Summary offense.--Any person who violates any provision of this act, any rule or regulation of the department, any order of the department, or any condition or term of any permit or certification issued pursuant to this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than $100 nor more than $1,000 for each separate offense, and, in default of the payment of such fine, may be sentenced to imprisonment for 90 days. Employees of the department are hereby declared to be law enforcement officers for purposes of issuing citations for summary violations under this act.

(b) Misdemeanor.--

(1) Any person who willfully or negligently violates any provision of this act, any rule or regulation of the department, any order of the department, or any condition or term of any permit issued pursuant to this act commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not less than $2,500 nor more than $25,000 per day for each separate offense or to imprisonment for a period of not more than one year, or both.

(2) Any person who, after a conviction of a misdemeanor for any violation as provided in paragraph (1), willfully or negligently violates any provision of this act, any rule or regulation of the department, any order of the department, or any condition or term of any permit issued pursuant to this act commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not less than $5,000 nor more than $50,000 for each separate offense or to imprisonment for a period of not more than two years, or

both.

(c) Continuing violations.--Each day of continued violation and each violation of any provision of this act, any rule or regulation of the department, any order of the department, or any condition or term of any permit issued pursuant to this act shall constitute a separate offense.

Section 1307. Civil penalties.

(a) Assessment.--In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this act, rule, regulation, order of the department, or a condition or term of any permit issued pursuant to this act, the department may assess a civil penalty for the violation. This penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not exceed $10,000 per day for each violation. In determining the amount of the penalty, the department shall consider the willfulness of the violation; damage to air, water, land or other natural resources of this Commonwealth or their uses; cost of restoration and abatement; savings resulting to the person in consequence of the violation; deterrence of future violations; and other relevant factors. Each violation of any provision of this act, rule, regulation, order of the department or condition of a permit, and each day of violation shall constitute a separate violation.

(b) Collection.--When the department or any State agency, Federal agency, county, joint county authority or multimunicipal authority delegated authority to assess civil penalties under section 107(a) proposes to assess a civil penalty, it shall inform the person of the proposed amount of the penalty. The person charged with the penalty shall then have 30 days to pay the proposed penalty in full or, if the person wishes to contest the amount of the penalty or the fact of the violation, forward the proposed amount of the penalty to the department within the 30-day period for placement in an escrow account with the State Treasurer or any Pennsylvania bank, or post an appeal bond to the department within 30 days in the amount of the proposed penalty, provided that such bond is executed by a surety licensed to do business in this Commonwealth and is satisfactory to the department. If, through administrative or final judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the department shall within 30 days remit the appropriate amount to the person with any interest accumulated by the escrow deposit. Failure to forward the money or the appeal bond shall result in a waiver of all legal rights to contest the violation or the amount of the penalty. The amount assessed after administrative hearing or after waiver of administrative hearing shall be payable to the Commonwealth of Pennsylvania and shall be collectible in any manner provided by law for the collection of debts. If any person liable to pay any such penalty neglects or refuses to pay the same after demand, the amount, together with interest and any costs that may accrue, shall constitute a judgment in favor of the Commonwealth upon the property of such person from the date it has been entered and docketed on record by the prothonotary of the county where such is situated. The department may, at any time, transmit to the prothonotaries of the respective counties

certified copies of all such judgments, and it shall be the duty of each prothonotary to enter and docket them of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

Section 1308. Proceedings where waters are polluted from many sources.

Nothing contained in the laws of this Commonwealth shall estop the department from proceeding under the provisions of this act against any person releasing any regulated substance into the waters of this Commonwealth even though said waters are, at the time, polluted from other sources.

Section 1309. Enforcement orders.

The department may issue such orders as are necessary to aid in the enforcement of the provisions of this act. Such orders shall include, but shall not be limited to, orders modifying, suspending or revoking permits or certifications, orders requiring persons to cease unlawful activities or cease operation of an establishment which, in the course of its operation, is in violation of any provision of this act, rule or regulation promulgated hereunder, permit, order to take corrective action or to abate a public nuisance, or an order requiring the testing, sampling or monitoring of any tank. Such an order may be issued if the department finds that any condition existing in or on the facility or operation involved is causing or is creating a danger of pollution of the waters of this Commonwealth, including any public or private water supply, surface water or groundwater or if it finds that the permittee or any person is in violation of any provision of this act, or of any rule, regulation or order of the Environmental Hearing Board or regulation, order, permit or certification of the department, provided, however, that an order addressed to an operation not directly related to the condition or violation in question may be issued only if the department finds that the other enforcement procedures, penalties and remedies available under this act would not be adequate to effectuate prompt or effective correction of the condition or violation. The department may, in its order, require compliance with such conditions as are necessary to prevent or abate pollution or effect the purposes of this act. An order issued under this section shall take effect upon notice, unless the order specifies otherwise. An appeal to the Environmental Hearing Board of the department's order shall not act as a supersedeas, provided, however, that, upon application and for cause shown, the Environmental Hearing Board may issue such a supersedeas. The right of the department to issue an order under this section is in addition to any remedy or penalty which may be imposed pursuant to this act. The failure to comply with any such order is hereby declared to be a nuisance.

Section 1310. Unlawful conduct.

It shall be unlawful to fail to comply with, or to cause or assist in the violation of, any of the provisions of this act or rules and regulations adopted hereunder; or to fail to comply with any order, permit, registration or certification requirement of the department; or to cause a public nuisance; or to cause air, soil or water pollution; or to hinder, obstruct, prevent or interfere with the department or its personnel in the

performance of any duty hereunder; or to violate the provisions of 18 Pa.C.S. § 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities) in regard to papers required to be submitted under this act. The owner or operator of a storage tank and the landowner or occupier on whose land a storage tank is or was located shall not allow pollution resulting from, or a release to occur from, a storage tank.

Section 1311. Presumption.

(a) General rule.--Except as provided in subsection (b), it shall be presumed as a rebuttable presumption of law in civil and administrative proceedings that a person who owns or operates an aboveground or underground storage tank shall be liable, without proof of fault, negligence or causation, for all damages, contamination or pollution within 2,500 feet of the perimeter of the site of a storage tank containing or which contained a regulated substance of the type which caused the damage, contamination or pollution. Such presumption may be overcome by clear and convincing evidence that the person so charged did not contribute to the damage, contamination or pollution.

(b) Defenses.--In order to overcome the presumption of liability established in subsection (a), the owner or operator must affirmatively prove, by clear and convincing evidence, one of the following:

(1) The damages, contamination or pollution existed prior to the use of any storage tank at the facility to contain an accumulation of regulated substances, as determined by surveys of the site and within 2,500 feet of the perimeter of the storage tank or facility.

(2) An adjacent landowner refused to allow the owner or operator of a storage tank at a new facility access to property within 2,500 feet of the perimeter of a storage tank facility to conduct a survey.

(3) The damage, contamination or pollution was not within 2,500 feet of the perimeter of a storage tank.

(4) The owner or operator did not contribute to the damages, contamination or pollution.

Section 1312. Existing rights and remedies preserved.

The collection of any penalty imposed under the provisions of this act shall not be construed as estopping the Commonwealth, or any district attorney or solicitor of a municipality, from proceeding in courts of law or equity to abate pollutions forbidden under this act or abate nuisances under existing law. It is hereby declared to be the purpose of this act to provide additional and cumulative remedies to prevent and abate the pollution caused by storage tanks, and nothing contained in this act shall in any way abridge or alter rights of action or remedies now or hereafter existing in equity, or under the common law or statutory law, criminal or civil, nor shall any provision in this act, or the granting of any permit under this act, or any act done by virtue of this act, be construed as estopping the Commonwealth, persons or municipalities, in the exercise of their rights under the common law or decisional law or in equity, from proceeding in courts of law or equity to suppress nuisances, or to abate any pollution now or hereafter existing, or enforce common law or statutory rights.

Section 1313. Appealable actions.

Any person aggrieved by an order or other administrative action of the department issued pursuant to this act shall have the right, within 30 days, to appeal the action to the Environmental Hearing Board in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act.

Section 1314. Limitation on action.

The provisions of any other statute to the contrary notwithstanding, actions for civil or criminal penalties under this act may be commenced at any time within a period of 20 years from the date the offense is discovered.

Section 1315. Collection of fines and penalties.

All fines and penalties shall be collectible in any manner provided by law for the collection of debts. If any person liable to pay any such penalty neglects or refuses to pay the same after demand, the amount, together with interest and any costs that may accrue, shall be a judgment in favor of the Commonwealth upon the property of such person, but only after same has been entered and docketed of record by the prothonotary of the county where such property is situated. The department may at any time transmit to the prothonotaries of the respective counties certified copies of all such judgments, and it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

CHAPTER 21
MISCELLANEOUS PROVISIONS

Section 2101. Start-up costs.

The Governor is hereby authorized to transfer $2,500,000, or as much thereof as may be necessary, from the Hazardous Sites Cleanup Fund created by section 602.3 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, to the Storage Tank Fund to begin development and operation of the Aboveground and Underground Storage Tank Programs and to the Underground Storage Tank Indemnification Fund to be used for the initial administrative expenses of the Underground Storage Tank Indemnification Board. All transferred funds from the Hazardous Sites Cleanup Fund shall be repaid to that fund from funds in the Storage Tank Fund or the Underground Storage Tank Indemnification Fund within two years of the transfer. Such transfers shall be made hereunder upon warrant of the State Treasurer upon requisition by the Governor.

Section 2102. Saved from repeal.

The following acts which are repealed in section 2104 are saved from repeal to the extent that such acts provide authority for the regulation and prevention of fire or explosive hazards at aboveground or underground storage tanks:

Act of June 8, 1911 (P.L.705, No.281), entitled "An act creating the office of Fire Marshal, to be attached to the Department of Public Safety in cities of the first class; prescribing his duties and powers; and providing penalties for violations of the provisions of the act; and providing for the

method of appointment, compensation, and for the maintenance of his office."

Act of April 27, 1927 (P.L.450, No.291), referred to as the State Fire Marshal Law.

Act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code.

Section 2103. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 2104. Repeals.

The following acts and parts of acts are repealed to the extent specified:

Act of June 8, 1911 (P.L.705, No.281), entitled "An act creating the office of Fire Marshal, to be attached to the Department of Public Safety in cities of the first class; prescribing his duties and powers; and providing penalties for violations of the provisions of the act; and providing for the method of appointment, compensation, and for the maintenance of his office," insofar as it is inconsistent with this act.

Act of April 27, 1927 (P.L.450, No.291), referred to as the State Fire Marshal Law, insofar as the State Fire Marshal and the Pennsylvania State Police are authorized to adopt and enforce rules and regulations governing the use, storage and sale and retention of gasoline, naphthalene, kerosene, fuel oil or other substances of like character, only to the extent that said act, rules and regulations are inconsistent with the provisions of this act.

Act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, insofar as it is inconsistent with this act.

Act of November 26, 1978 (P.L.1300, No. 314), known as the Underground Storage Act, insofar as it is inconsistent with this act.

Section 2105. Effective date.

This act shall take effect in 30 days.