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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 280**      Session of  
1989

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INTRODUCED BY FISHER, MUSTO, REIBMAN, GREENWOOD, SHUMAKER,  
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SHAFFER, PETERSON, AFFLERBACH AND DAWIDA, JANUARY 24, 1989

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AS REPORTED FROM COMMITTEE ON CONSERVATION, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 21, 1989

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AN ACT

1 ~~Providing for the regulation of storage tanks and tank~~      <—  
2 ~~facilities; imposing additional powers and duties on the~~  
3 ~~Department of Environmental Resources and the Environmental~~  
4 ~~Quality Board; and making appropriations.~~

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

3 CHAPTER 1 ←

4 GENERAL PROVISIONS

5 ~~Section 101. Short title.~~

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

8 ~~Section 102. Legislative findings.~~

9 ~~(a) General. The General Assembly of the Commonwealth finds  
10 and declares that:~~

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

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

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

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

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

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

29 ~~(b) Declaration. The General Assembly declares these leaks  
30 to be a threat to the public health and safety of this~~

1 ~~Commonwealth and hereby exercises the power of the Commonwealth~~  
2 ~~to prevent the occurrence of these leaks through the~~  
3 ~~establishment of a regulatory scheme for the storage of~~  
4 ~~regulated substances in new and existing storage tanks and to~~  
5 ~~provide liability for damages sustained within this Commonwealth~~  
6 ~~as a result of a discharge by requiring prompt cleanup and~~  
7 ~~removal of such pollution and discharged regulated substance.~~  
8 ~~Section 103.— Definitions.~~

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

12 ~~"Abandoned tank."— A storage tank, other than nonoperational,~~  
13 ~~which was no longer in use for storage of regulated substances~~  
14 ~~on the effective date of this act.~~

15 ~~"Aboveground tank."— Any stationary storage tank constructed~~  
16 ~~primarily of nonearthen materials which provides structured~~  
17 ~~support and whereby more than 90% of the tank volume is not~~  
18 ~~buried below the ground surface. This definition and regulations~~  
19 ~~promulgated under this act shall not include:~~

20 ~~(1) A farm or residential tank of 1,100 gallons or less~~  
21 ~~capacity used for storing motor fuel for noncommercial~~  
22 ~~purposes.~~

23 ~~(2) Aboveground tanks regulated under the act of May 31,~~  
24 ~~1945 (P.L.1198, No.418), known as the Surface Mining~~  
25 ~~Conservation and Reclamation Act.~~

26 ~~(3) Aboveground storage tanks which are used to store~~  
27 ~~brines, crude oil, drilling or frac fluids and similar~~  
28 ~~substances or materials and directly related to the~~  
29 ~~exploration, development or production of crude oil or~~  
30 ~~natural gas regulated under the act of December 19, 1984~~

1 ~~(P.L.1140, No.223), known as the Oil and Gas Act.~~

2 ~~(4) Septic tanks.~~

3 ~~(5) Piping, surface impoundments, pits, ponds and~~  
4 ~~lagoons.~~

5 ~~(6) Storm water or wastewater collection or treatment~~  
6 ~~systems.~~

7 ~~(7) Process vessels and pressure vessels including oil~~  
8 ~~and water separators.~~

9 ~~(8) A pipeline facility (including gathering lines)~~  
10 ~~regulated under:~~

11 ~~(i) the Natural Gas Safety Act of 1968 (Public Law~~  
12 ~~90 481, 82 Stat. 720, 49 U.S.C. App. § 1671 et seq.); or~~

13 ~~(ii) the Hazardous Liquid Pipeline Safety Act of~~  
14 ~~1979 (Public Law 96 129, 93 Stat. 1003, 49 U.S.C. § 2001~~  
15 ~~et seq.).~~

16 ~~(9) An interstate or intrastate pipeline facility~~  
17 ~~regulated under the State laws comparable to provisions of~~  
18 ~~law in paragraph (8).~~

19 ~~(10) Tanks used for storage and storing heating oil for~~  
20 ~~consumptive use on the premises where stored.~~

21 ~~(11) Nonstationary tanks, liquid traps or associated~~  
22 ~~gathering lines directly related to oil or gas production and~~  
23 ~~gathering operations.~~

24 ~~(12) Sumps, drip pots and other vessels designed to~~  
25 ~~catch drips, spills, leaks or other releases before such~~  
26 ~~releases enter the environment.~~

27 ~~(13) Tanks located indoors above the surface of the~~  
28 ~~floor.~~

29 ~~(14) Tanks used for storage of products meeting the~~  
30 ~~United States Food and Drug Administration regulations under~~



1 ~~the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21~~  
2 ~~U.S.C. § 301 et seq.).~~

3 ~~(15) Tanks used in the operation of facilities permitted~~  
4 ~~pursuant to the act of July 7, 1980 (P.L.380, No.97), known~~  
5 ~~as the Solid Waste Management Act, including, but not limited~~  
6 ~~to, piping, tanks, collection and treatment systems used for~~  
7 ~~leachate, methane gas and methane gas condensate management.~~

8 ~~(16) Any other tank excluded by regulations or policy~~  
9 ~~promulgated pursuant to this act.~~

10 ~~Unless specifically excluded, the term includes small~~  
11 ~~aboveground storage tanks.~~

12 ~~"Cathodic protection." A technique to prevent corrosion of a~~  
13 ~~metal surface by making that surface the cathode of an~~  
14 ~~electrochemical cell, including, but not limited to, the~~  
15 ~~application of either galvanic anodes or impressed current.~~

16 ~~"Certified tank installer." A person certified by the~~  
17 ~~Department of Environmental Resources to install, erect,~~  
18 ~~construct, modify or remove storage tanks. The term includes an~~  
19 ~~employee of a tank owner or operator.~~

20 ~~"Corrective action." The:~~

21 ~~(1) Containment or attempted containment of a release.~~

22 ~~(2) Removal or attempted removal of a release.~~

23 ~~(3) Taking of reasonable measures to prevent or mitigate~~  
24 ~~damages to the public health, safety or welfare, including,~~  
25 ~~but not limited to, public and private property, shorelines,~~  
26 ~~beaches, surface waters, water columns and bottom sediments,~~  
27 ~~soils and other affected property, including wildlife and~~  
28 ~~other natural resources.~~

29 ~~"Corrective action costs." All costs associated with the~~  
30 ~~cleanup and removal of a release incurred by this Commonwealth~~

1 ~~or its political subdivisions or their agents with approval of~~  
2 ~~the Department of Environmental Resources.~~

3 ~~"Department." The Department of Environmental Resources of~~  
4 ~~the Commonwealth.~~

5 ~~"Monitoring system." A system capable of detecting leaks or~~  
6 ~~releases in connection with an underground storage tank.~~

7 ~~"Nonoperated tank." Any storage tank that is empty and~~  
8 ~~represents excess storage capacity that may be brought up to~~  
9 ~~standards consistent with the regulatory requirements at the~~  
10 ~~time the tank is brought into service.~~

11 ~~"Operator." Any person in control of, or having~~  
12 ~~responsibility for, the daily operation of the storage tank.~~

13 ~~"Owner." Any person owning a storage tank. The term shall~~  
14 ~~include the current owner of any underground storage tank~~  
15 ~~holding regulated substances on or after November 8, 1984, and~~  
16 ~~the owner of an underground storage tank at the time all~~  
17 ~~regulated substances were removed when removal occurred prior to~~  
18 ~~November 8, 1984.~~

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

30 ~~"Pressure vessel." A vessel used in industrial processes~~

1 ~~designated to withstand pressures above 15 psig.~~

2 ~~"Private tank inspector." A person certified by the~~  
3 ~~Department of Environmental Resources to conduct environmental~~  
4 ~~audits and inspections of storage tanks. A private tank~~  
5 ~~inspector shall not be an employee of a tank owner.~~

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

14 ~~"Regulated substance." Any element, compound, mixture,~~  
15 ~~solution or substance which is:~~

16 ~~(1) Any substance defined in section 101(14) of the~~  
17 ~~Comprehensive Environmental Response, Compensation, and~~  
18 ~~Liability Act of 1980 (Public Law 96 510, 94 Stat. 2767), not~~  
19 ~~including any substance regulated as a hazardous waste under~~  
20 ~~Subtitle C of the Resource Conservation and Recovery Act of~~  
21 ~~1976 (Public Law 94 580, 42 U.S.C. § 6901 et seq.).~~

22 ~~(2) Petroleum, including crude oil or any fraction~~  
23 ~~thereof, which is liquid at standard conditions of~~  
24 ~~temperature and pressure (60 degrees Fahrenheit and 14.7~~  
25 ~~pounds per square inch absolute), including, but not limited~~  
26 ~~to, oil, petroleum, fuel oil, oil sludge, oil refuse, oil~~  
27 ~~mixed with other wastes and crude oils, gasoline and~~  
28 ~~kerosene.~~

29 ~~(3) Any other substance determined by the department by~~  
30 ~~regulation whose containment, storage, use or dispensing may~~

1 ~~present a hazard to the public health and safety or the~~  
2 ~~environment when released.~~

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

5 ~~"Release."—Any spilling, leaking, emitting, discharging,~~  
6 ~~escaping, leaching or disposing from a storage tank into waters~~  
7 ~~of this Commonwealth or subsurface soils.~~

8 ~~"Secondary containment."—An additional layer of impervious~~  
9 ~~material creating a space in which a leak of a regulated~~  
10 ~~substance from a storage tank may be detected before it enters~~  
11 ~~the environment.~~

12 ~~"Secretary."—The Secretary of Environmental Resources of the~~  
13 ~~Commonwealth.~~

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

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

18 ~~"Substantially modify."—The construction, refurbishment or~~  
19 ~~restoration of an existing storage tank which alters the~~  
20 ~~physical integrity of the tank.~~

21 ~~"Tank facility."—An area in which one or more aboveground~~  
22 ~~storage tanks are located, excluding small aboveground storage~~  
23 ~~tanks.~~

24 ~~"Underground storage tank."—Any one or combination of~~  
25 ~~underground tanks (including underground pipes connected~~  
26 ~~thereto) which are used to contain an accumulation of regulated~~  
27 ~~substances, and the volume of which (including the volume of the~~  
28 ~~underground pipes connected thereto) is 10% or more beneath the~~  
29 ~~surface of the ground. This definition and regulations~~  
30 ~~promulgated under this act shall not include:~~

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

4           ~~(2) Tanks used for storing heating oil for consumptive~~  
5           ~~use on the premises where stored.~~

6           ~~(3) Septic tanks.~~

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

9                     ~~(i) The Natural Gas Pipeline Safety Act of 1968~~  
10                    ~~(Public Law 90 481, 82 Stat. 720).~~

11                   ~~(ii) The Hazardous Liquid Pipeline Safety Act of~~  
12                    ~~1979 (Public Law 96 129, 93 Stat. 1003).~~

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

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

17           ~~(7) Storm water or wastewater collection systems.~~

18           ~~(8) Flow through process tanks.~~

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

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

25           ~~(11) Any underground storage tank system whose capacity~~  
26           ~~is 110 gallons or less.~~

27           ~~(12) Tanks used in the operation of facilities permitted~~  
28           ~~pursuant to the act of July 7, 1980 (P.L.380, No.97), known~~  
29           ~~as the Solid Waste Management Act, including, but not limited~~  
30           ~~to, piping, tanks, collection and treatment systems used for~~

1 ~~leachate, methane gas and methane gas condensate management.~~

2 ~~Section 104.—Construction.~~

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

7 ~~Section 105.—API.~~

8 ~~A reference in this act to "API" in relation to publications~~  
9 ~~shall be deemed to be a reference to the appropriate technical~~  
10 ~~publication, including appendices, of the American Petroleum~~  
11 ~~Institute.~~

12 ~~CHAPTER 3~~

13 ~~STORAGE TANK PROTECTION PROGRAM~~

14 ~~Section 301.—Establishment of program.~~

15 ~~(a) Authority.—The department shall establish, implement~~  
16 ~~and administer a comprehensive program for storage tank~~  
17 ~~protection by providing for regulation of the installation,~~  
18 ~~location, removal and closure of storage tanks and establishing~~  
19 ~~an inventory review procedure and inspection program to insure~~  
20 ~~the structural integrity of existing and new storage tanks.~~

21 ~~(b) Rules and regulations for aboveground and underground~~  
22 ~~storage tanks.—The department shall develop separate regulatory~~  
23 ~~programs pursuant to provisions of sections 310 and 311~~  
24 ~~governing underground storage tanks and aboveground storage~~  
25 ~~tanks. Regulations governing underground storage tanks as~~  
26 ~~proposed by the department and adopted by the Environmental~~  
27 ~~Quality Board, shall be no more stringent than rules and~~  
28 ~~regulations adopted by the Federal Environmental Protection~~  
29 ~~Agency. The department shall develop regulations which are based~~  
30 ~~on industry practices and standards as embodied in the existing~~

1 ~~regulations governing aboveground and underground storage tanks.~~

2 ~~Section 302. Aboveground storage tank permits.~~

3 ~~(a) General rule. Except as provided in section 305, no~~  
4 ~~person shall own, construct, operate, renovate, install, replace~~  
5 ~~or substantially modify an aboveground storage tank unless~~  
6 ~~authorized by the department through policies, rules or~~  
7 ~~regulations or by obtaining a permit from the department and~~  
8 ~~such person has paid the necessary fees required by this act.~~

9 ~~(b) Amended permits. The owner or operator of an~~  
10 ~~aboveground storage tank shall apply to the department for an~~  
11 ~~amended permit whenever any one of the following factors occurs:~~

12 ~~(1) A significant change in the location, construction,~~  
13 ~~reconstruction or operation of a permitted aboveground~~  
14 ~~storage tank. For the purpose of this subsection, significant~~  
15 ~~change shall be defined as the disassembly and relocation of~~  
16 ~~the aboveground storage tank from one site to another site.~~

17 ~~(2) The removal of a permitted aboveground storage tank.~~

18 ~~(c) Application content. Applications for aboveground~~  
19 ~~storage tank permits shall be submitted, in writing, by a~~  
20 ~~certified tank installer, to the department in such form and~~  
21 ~~with such accompanying data as shall be prescribed by~~  
22 ~~regulations, and shall include, to the extent that a good faith~~  
23 ~~effort has been made by the applicant, but not be limited to, a~~  
24 ~~map identifying the exact location of the tank; a description of~~  
25 ~~the construction of the tank, including the material out of~~  
26 ~~which the tank is constructed; the age and manufacturer of the~~  
27 ~~tank; the design of the storage tank facilities, including any~~  
28 ~~pumping, venting, secondary containment system and safety~~  
29 ~~equipment; the products to be stored in the tank; and the~~  
30 ~~location of the facility relative to surface water. The~~

1 ~~department shall have the authority to deny permits, or include~~  
2 ~~in each permit general and specific conditions to insure the~~  
3 ~~proper operation of the aboveground storage tank.~~

4 ~~(d) Review of applications. The department shall make a~~  
5 ~~determination regarding whether an application is reasonably~~  
6 ~~complete within 45 days of the filing of an application with the~~  
7 ~~department and shall identify all areas in which an application~~  
8 ~~is incomplete when issuing a notice of deficiency. The~~  
9 ~~department shall review any amended application filed in~~  
10 ~~response to a notice of deficiency within 30 days of the filing~~  
11 ~~of the amended application with the department. Nothing in this~~  
12 ~~section shall prohibit the department and the applicant from~~  
13 ~~agreeing to extend any deadline for action provided by this~~  
14 ~~section. Nothing in this section shall prohibit the department~~  
15 ~~from requesting and accepting supplemental information,~~  
16 ~~explanations and clarifications regarding the content of an~~  
17 ~~application prior to the deadline for department action.~~

18 ~~(e) Permit fee. Each application shall be accompanied by a~~  
19 ~~permit fee as established by regulations under section 311 of~~  
20 ~~this act.~~

21 ~~(f) Transfer of permit. Written approval by the department~~  
22 ~~is required for the transfer of permits.~~

23 ~~(g) Renewal of permit. A permit to operate an aboveground~~  
24 ~~storage tank shall be renewed every ten years.~~

25 ~~(h) Inspections. The department shall require tanks to be~~  
26 ~~inspected prior to operation and periodically thereafter.~~  
27 ~~Section 303. Small aboveground storage tanks.~~

28 ~~(a) General rule. Except as provided in section 305, no~~  
29 ~~person shall own, construct, operate, renovate, install, replace~~  
30 ~~or substantially modify any small aboveground storage tank~~



1 ~~unless authorized by the department through policies, rules or~~  
2 ~~regulations or by obtaining a permit and such person has paid~~  
3 ~~the necessary fees required under this act.~~

4 ~~(b) Application submittal. The permit application or other~~  
5 ~~department approved application for the installation of a small~~  
6 ~~aboveground storage tank after the effective date of this act~~  
7 ~~shall be submitted by a certified tank installer prior to~~  
8 ~~installation of the tank.~~

9 ~~(c) Application content. Applications for a small~~  
10 ~~aboveground storage tank shall be submitted, in writing, to the~~  
11 ~~department in such a form and with such accompanying data as~~  
12 ~~shall be prescribed by regulation, and shall include, to the~~  
13 ~~extent a good faith effort has been made by the applicant, but~~  
14 ~~not be limited to, a description of the construction of the~~  
15 ~~tank, including the material out of which the tank is~~  
16 ~~constructed; the age and manufacturer of the tank; the design of~~  
17 ~~the storage tank facilities, including any pumping, venting,~~  
18 ~~secondary containment and safety equipment; and the products to~~  
19 ~~be stored in the tank.~~

20 ~~(d) Review of applications. An application submitted by a~~  
21 ~~certified tank installer is deemed approved by the department~~  
22 ~~unless the department disapproves the application within ten~~  
23 ~~days of submittal. The department shall review any amended~~  
24 ~~application filed in response to a notice of deficiency within~~  
25 ~~ten days of the filing of the amended application with the~~  
26 ~~department. Nothing in this section shall prohibit the~~  
27 ~~department and the applicant from agreeing to extend any~~  
28 ~~deadline for action provided by this section. Nothing in this~~  
29 ~~section shall prohibit the department from requesting and~~  
30 ~~accepting supplemental information, explanations and~~

1 ~~clarifications regarding the content of an application prior to~~  
2 ~~the deadline for department action.~~

3 ~~(c) Permit fee. Each application shall be accompanied by a~~  
4 ~~permit fee as established under section 311 of this act.~~

5 ~~(f) Transfer of permit. Written approval by the department~~  
6 ~~is required for the transfer of permits.~~

7 ~~(g) Inspections. The department shall require tanks to be~~  
8 ~~inspected prior to operation and periodically thereafter.~~

9 ~~Section 304. Underground storage tank permits.~~

10 ~~(a) General rule. Except as provided for in section 305, no~~  
11 ~~person shall own, construct, operate, renovate, install, replace~~  
12 ~~or substantially modify any underground storage tank unless~~  
13 ~~authorized by the department through department policies, rules~~  
14 ~~or regulations or by obtaining a permit and such person has paid~~  
15 ~~the necessary fees required under this act.~~

16 ~~(b) Application submitted. The permit application or other~~  
17 ~~department approved application for the installation of any~~  
18 ~~underground storage tank after the effective date of this act~~  
19 ~~shall be submitted by a certified tank installer prior to~~  
20 ~~installation of the tank.~~

21 ~~(c) Application content. Applications for underground~~  
22 ~~storage tank shall be submitted, in writing, to the department~~  
23 ~~in such form and with such accompanying data as shall be~~  
24 ~~prescribed by regulation, and shall include, to the extent that~~  
25 ~~a good faith effort has been made by the applicant, but not be~~  
26 ~~limited to, a description of the construction of the tank,~~  
27 ~~including the material out of which the tank is constructed; the~~  
28 ~~age and manufacturer of the tank; installation procedures; and~~  
29 ~~safety equipment and leak detection system. The department shall~~  
30 ~~have the authority to deny applications or include in each~~

1 ~~application general and specific conditions based on promulgated~~  
2 ~~regulations to insure that any new underground storage tank and~~  
3 ~~existing underground storage tank meet the Federal requirements~~  
4 ~~and deadlines for tank construction.~~

5 ~~(d) Review of applications. An application submitted by a~~  
6 ~~certified tank installer is deemed approved by the department~~  
7 ~~unless the department disapproves the application within ten~~  
8 ~~days of submission. The department shall review any amended~~  
9 ~~application filed in response to a notice of deficiency within~~  
10 ~~ten days of the filing of the amended application with the~~  
11 ~~department. Nothing in this section shall prohibit the~~  
12 ~~department and the applicant from the agreeing to extend any~~  
13 ~~deadline for action provided by this section. Nothing in this~~  
14 ~~section shall prohibit the department from requesting and~~  
15 ~~accepting supplemental information, explanations and~~  
16 ~~clarifications regarding the content of an application prior to~~  
17 ~~the deadline for department action.~~

18 ~~(e) Permit fee. Each application shall be accompanied by a~~  
19 ~~permit fee as established under section 311 of this act.~~

20 ~~(f) Transfer of permit. Written approval by the department~~  
21 ~~is required for the transfer of permits.~~

22 ~~(g) Inspections. The department shall require tanks to be~~  
23 ~~inspected prior to operation and periodically thereafter.~~

24 ~~Section 305. Operation under existing permits.~~

25 ~~(a) General rule. The provisions of sections 302(a), 303(a)~~  
26 ~~and 304(a) shall not apply to any person who was issued a valid~~  
27 ~~aboveground storage tank permit or a valid underground storage~~  
28 ~~tank permit by the State Fire Marshal under 37 Pa. Code Ch. 11~~  
29 ~~(relating to preliminary provisions) or 13 (relating to storage~~  
30 ~~and use) or by a local fire marshal in a city of the first class~~

1 ~~under the act of June 8, 1911 (P.L.705, No.281), entitled "An~~  
2 ~~act creating the office of Fire Marshal, to be attached to the~~  
3 ~~Department of Public Safety in cities of the first class;~~  
4 ~~prescribing his duties and powers; and providing penalties for~~  
5 ~~violations of the provisions of the act; and providing for the~~  
6 ~~method of appointment, compensation, and for the maintenance of~~  
7 ~~his office," or a fire marshal in a county of the second class~~  
8 ~~under the act of July 28, 1953 (P.L.723, No.230), known as the~~  
9 ~~Second Class County Code, if the person holding that permit~~  
10 ~~fully complies with subsection (b).~~

11 ~~(b) Repermitting.—~~

12 ~~(1) Within two years of the effective date of this act,~~  
13 ~~every person issued a permit under subsection (a) for any~~  
14 ~~aboveground storage tank, including a small aboveground~~  
15 ~~storage tank, which is certified by that person to be ten~~  
16 ~~years of age or older shall apply to the department for a new~~  
17 ~~permit.~~

18 ~~(2) Within three years of the effective date of this~~  
19 ~~act, every person issued a permit under subsection (a) for~~  
20 ~~any aboveground storage tank, including a small aboveground~~  
21 ~~storage tank, which is certified by that person to be less~~  
22 ~~than ten years of age shall apply to the department for a new~~  
23 ~~permit.~~

24 ~~Section 306.—Registration of aboveground and underground~~  
25 ~~storage tanks.~~

26 ~~(a) Existing aboveground storage tanks.—The owner of an~~  
27 ~~existing aboveground storage tank shall, within one year of the~~  
28 ~~effective date of this act, register each aboveground storage~~  
29 ~~tank with the department.~~

30 ~~(b) New aboveground storage tanks.—The owner of any~~

1 ~~aboveground storage tanks constructed after the effective date~~  
2 ~~of this act shall register the aboveground storage tank with the~~  
3 ~~department in addition to obtaining a permit under section 302.~~

4 ~~(c) New underground storage tanks. The owner of any new~~  
5 ~~underground storage tank shall register said tank with the~~  
6 ~~department upon applying for a permit under section 304.~~

7 ~~(d) Existing underground storage tanks. The owner of any~~  
8 ~~existing underground storage tank that has not registered that~~  
9 ~~tank with the department pursuant to Subtitle I of the Resource~~  
10 ~~Conservation and Recovery Act of 1976 (Public Law 94-580, 42~~  
11 ~~U.S.C. § 6901 et seq.) shall register said tank with the~~  
12 ~~department within 60 days of the effective date of this act. The~~  
13 ~~owner of any underground storage tank already registered with~~  
14 ~~the department pursuant to Federal law shall renew the~~  
15 ~~registration within one year of the effective date of this act~~  
16 ~~and comply with subsection (g) with regard to subsequent~~  
17 ~~registration renewals.~~

18 ~~(e) Registration forms. The department shall continue to~~  
19 ~~use the existing underground storage tank registration as~~  
20 ~~required by Federal law. The registration form for aboveground~~  
21 ~~storage tanks, including small aboveground storage tanks, shall~~  
22 ~~be substantially similar to the underground storage tank~~  
23 ~~registration form.~~

24 ~~(f) Initial registration fees. Until such time that~~  
25 ~~regulations on registration fees are promulgated under section~~  
26 ~~311, each registration application shall be accompanied with a~~  
27 ~~registration fee that shall be \$600 for each aboveground storage~~  
28 ~~tank, \$300 for each small aboveground storage tank and \$50 for~~  
29 ~~each underground storage tank.~~

30 ~~(g) Renewal. Each registration issued under this section~~

1 shall be renewed every three years as determined from the date  
2 of the last registration, except underground tanks which shall  
3 be renewed annually. Renewals shall continue until the time that  
4 the department receives written notification from the owner that  
5 the storage tank has been permanently closed.

6 Section 307.— Inspection of aboveground storage tanks.

7 (a) General rule.— The department shall have the authority  
8 to inspect all aboveground storage tanks in accordance with  
9 procedures and standards promulgated by the department.

10 (b) Inspection report.— As a condition to operate any  
11 permitted storage tank, including aboveground storage tanks, the  
12 permittee shall maintain records and complete an annual report  
13 form as prescribed by the Environmental Quality Board which will  
14 include, but not be limited to, the following information:

15 (1) The results of the most recent hydrostatic test.

16 (2) Any changes outside the permitted usage of the  
17 system.

18 (3) Any changes in the monitoring program.

19 (4) Any unaccounted inventory occurrences.

20 (c) Aboveground storage tank testing requirements.— Any  
21 owner of an aboveground storage tank, excluding a small  
22 aboveground storage tank, shall conduct a hydrostatic test on  
23 new aboveground storage tanks or substantially modified  
24 aboveground storage tanks. Each existing aboveground storage  
25 tank, excluding a small aboveground storage tank, shall undergo  
26 an out of service inspection at least once every ten years.

27 Section 308.— Inspection and inventory records of underground  
28 storage tanks.

29 (a) General rule.— The department shall have the authority  
30 to inspect all underground tanks in accordance with procedures

1 ~~and standards set forth in department regulations.~~

2 ~~(b) Inventory records. The owner or operator of any~~  
3 ~~underground storage tanks shall maintain inventory records for~~  
4 ~~each underground storage tank which shall be maintained at the~~  
5 ~~site of the facility for at least one year.~~

6 ~~(c) Monitoring systems. The owner or operator of an~~  
7 ~~underground storage tank shall install, maintain and operate~~  
8 ~~monitoring systems in accordance with manufacturer's~~  
9 ~~requirements and department regulations.~~

10 ~~Section 309. Certification of storage tank installers and~~  
11 ~~private tank inspectors.~~

12 ~~The department shall have the authority to establish a~~  
13 ~~certification system for tank installers and private tank~~  
14 ~~inspectors by regulation. The department is authorized to~~  
15 ~~certify through training and testing programs and shall also be~~  
16 ~~empowered to revoke or suspend the certification of a tank~~  
17 ~~installer or private tank inspector pursuant to regulations~~  
18 ~~promulgated under section 311. Any certification issued by the~~  
19 ~~department under this section shall be valid for a period of~~  
20 ~~five years. The department may develop an interim certification~~  
21 ~~program by publishing guidelines which shall expire 18 months~~  
22 ~~after the effective date of this act.~~

23 ~~Section 310. Small operator assistance program for underground~~  
24 ~~storage tanks.~~

25 ~~The department shall establish, implement and administer a~~  
26 ~~small operator assistance program within 180 days of the~~  
27 ~~effective date of this act. The small operator assistance~~  
28 ~~program shall provide information on compliance with this act~~  
29 ~~and other technical assistance to small operators located in~~  
30 ~~rural areas who pump, on a monthly basis, less than 3,000~~

1 ~~gallons retail motor fuel sales.~~

2 ~~Section 311. Environmental Quality Board.~~

3 ~~(a) Rules and regulations. The Environmental Quality Board~~  
4 ~~shall have the power and its duty shall be to review the~~  
5 ~~existing regulations governing storage tanks and adopt rules and~~  
6 ~~regulations governing the location, siting, installation,~~  
7 ~~operation, monitoring, classification and permitting of storage~~  
8 ~~tanks as it deems necessary for the implementation of this act.~~  
9 ~~The Environmental Quality Board shall, in developing~~  
10 ~~regulations, use the recommendations and standard procedures~~  
11 ~~developed by the American Petroleum Institute, American Society~~  
12 ~~of Testing and Materials, National Association of Corrosion~~  
13 ~~Engineers, National Fire Protection Association, and~~  
14 ~~Underwriters Laboratories. Until the Environmental Quality Board~~  
15 ~~adopts rules and regulations:~~

16 ~~(1) The existing regulations governing the location,~~  
17 ~~siting, installation and operation, monitoring and permitting~~  
18 ~~of storage tanks set forth at 37 Pa. Code Chs. 11 (relating~~  
19 ~~to preliminary provisions) and 13 (relating to storage and~~  
20 ~~use) shall remain in effect.~~

21 ~~(2) No person shall install a new or reconstructed~~  
22 ~~aboveground storage tank or modify an aboveground storage~~  
23 ~~tank unless the tank meets all applicable technical~~  
24 ~~requirements set forth by the American Petroleum Institute in~~  
25 ~~the following (including any appendices):~~

26 ~~(i) API 12B Bolted Tanks for Storage of Production~~  
27 ~~Liquids.~~

28 ~~(ii) API 12D Field Welded Tanks for Storage of~~  
29 ~~Production Liquids.~~

30 ~~(iii) API 12F Shop Welded Tanks for Storage of~~



1           ~~Production Liquids.~~

2                   ~~(iv) API 12H — New Bottoms for Old Tanks.~~

3                   ~~(v) API 12P — Fiberglass Tanks for Storage of~~  
4           ~~Production Liquids.~~

5                   ~~(vi) API 620 — Large Welded Low Pressure Storage~~  
6           ~~Tanks.~~

7                   ~~(vii) API 650 — Large Welded Storage Tanks~~  
8           ~~(Atmospheric).~~

9           ~~(3) Unless modified by the rules and regulations of the~~  
10           ~~department, the owner shall, along with the registration form~~  
11           ~~required by this act, submit a certification by a registered~~  
12           ~~professional engineer that the requirements of paragraph (2)~~  
13           ~~have been met.~~

14           ~~(4) For underground tanks, no person shall install an~~  
15           ~~underground storage tank unless the underground storage tank~~  
16           ~~meets the standards promulgated by the Administrator of the~~  
17           ~~Environmental Protection Agency under section 9003(c) of the~~  
18           ~~Solid Waste Disposal Act (Public Law 89-272, 42 U.S.C. §~~  
19           ~~6991b(c)), including the following requirements:~~

20                   ~~(i) The tank is designed to prevent releases due to~~  
21           ~~corrosion or structural failure for the operational life~~  
22           ~~of the tank.~~

23                   ~~(ii) The tank is cathodically protected against~~  
24           ~~corrosion, constructed of noncorrosive material, steel~~  
25           ~~clad with a noncorrosive material, or designed in a~~  
26           ~~manner to prevent the release or threatened release of~~  
27           ~~any stored substance.~~

28                   ~~(iii) The material used in the construction or~~  
29           ~~lining of the tank is compatible with the substance to be~~  
30           ~~stored.~~

1           ~~(iv) Notwithstanding subparagraphs (i), (ii) and~~  
2           ~~(iii), if soil tests conducted in accordance with ASTM~~  
3           ~~Standard G57-78, or another standard approved by the~~  
4           ~~Administrator of the Environmental Protection Agency,~~  
5           ~~show that soil resistivity in an installation location is~~  
6           ~~12,000 ohm/cm or more (unless a more stringent standard~~  
7           ~~is prescribed by the Administrator of the Environmental~~  
8           ~~Protection Agency by rule), a storage tank without~~  
9           ~~corrosion protection may be installed in that location~~  
10           ~~during the period referred to above.~~

11           ~~(b) Requirements for aboveground storage tanks.—The~~  
12           ~~Environmental Quality Board shall, by regulation, adopt~~  
13           ~~aboveground storage tank standards, excluding a small~~  
14           ~~aboveground storage tank, which shall include, but shall not be~~  
15           ~~limited to:~~

- 16           ~~(1) Dike integrity.~~
- 17           ~~(2) Liner requirements.~~
- 18           ~~(3) Steel thickness based on storage capacity.~~
- 19           ~~(4) Testing requirements for new and substantially~~  
20           ~~modified aboveground storage tanks.~~
- 21           ~~(5) Closure requirements.~~
- 22           ~~(6) Corrosion control features.~~
- 23           ~~(7) Monitoring standards.~~
- 24           ~~(8) Recordkeeping requirements.~~
- 25           ~~(9) Performance and design standards for new and~~  
26           ~~substantially modified aboveground storage tanks.~~
- 27           ~~(10) Inspection requirements for existing aboveground~~  
28           ~~storage tanks.~~
- 29           ~~(11) Standards to protect against fire and explosion~~  
30           ~~hazards.~~

1       ~~(c) Requirements for small aboveground storage tanks. The~~  
2 ~~board shall, by regulation, adopt small aboveground storage tank~~  
3 ~~standards which shall include, but not be limited to:~~

4           ~~(1) Testing requirements for new and substantially~~  
5 ~~modified small aboveground storage tanks.~~

6           ~~(2) Performance and design standards consistent with the~~  
7 ~~manufacturer's specifications for the small aboveground~~  
8 ~~storage tank model.~~

9           ~~(3) Monitoring standards consistent with the~~  
10 ~~manufacturer's specifications for the small aboveground~~  
11 ~~storage tank model.~~

12           ~~(4) Requirements for closure.~~

13           ~~(5) Recordkeeping requirements.~~

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

16           ~~(7) Standards to protect against fire and explosion~~  
17 ~~hazards.~~

18       ~~(d) Fees. The board shall establish separate fees for~~  
19 ~~aboveground storage tanks, small aboveground storage tanks and~~  
20 ~~underground storage tanks for:~~

21           ~~(1) Permit applications and amendments.~~

22           ~~(2) Registration applications and transfers.~~

23           ~~(3) Inspections.~~

24           ~~(4) Certification fees for tank installers and private~~  
25 ~~tank inspectors.~~

26       ~~(e) Regulations governing underground storage tanks. The~~  
27 ~~board shall, by regulation, adopt underground storage tank~~  
28 ~~design and safety standards which shall be consistent with, and~~  
29 ~~not more stringent than, the Federal regulations governing~~  
30 ~~underground storage tanks. The regulations shall include:~~

1           ~~(1) Corrosion control features, including cathodic~~  
2           ~~protection.~~

3           ~~(2) Monitoring standards and monitoring systems~~  
4           ~~including electric or mechanical devices, monitoring wells,~~  
5           ~~tank testing or other methods of monitoring approved by the~~  
6           ~~department.~~

7           ~~(3) Recordkeeping requirements of any monitoring or leak~~  
8           ~~detection systems, inventory control system or underground~~  
9           ~~storage tank testing system.~~

10          ~~(4) Tank testing requirements pursuant to paragraph (2)~~  
11          ~~for underground storage tanks which considers such factors as~~  
12          ~~the regulated substance stored, proximity of the underground~~  
13          ~~storage tank to potable water supplies and soil conditions.~~

14          ~~(5) Testing schedule requirements for the periodic~~  
15          ~~testing of structural integrity of the underground storage~~  
16          ~~tank without a monitoring system.~~

17          ~~(6) Procedures for reporting of any release and the~~  
18          ~~corrective action taken in response to a discharge from an~~  
19          ~~underground storage tank.~~

20          ~~(7) Requirements for corrective action in response to a~~  
21          ~~release from an underground storage tank by the owner or~~  
22          ~~operator of the underground storage tank.~~

23          ~~(8) Performance standards for new and substantially~~  
24          ~~modified existing underground storage tanks including design~~  
25          ~~construction, installation and release detection standards.~~

26          ~~(9) Standards to protect against fire and explosion~~  
27          ~~hazards.~~

28   ~~Section 312. Industry Technical Advisory Board.~~

29          ~~(a) Establishment. There shall be created as an~~  
30          ~~administrative board within the department the Industry~~

1 ~~Technical Advisory Board. The board shall consist of nine~~  
2 ~~members, all of whom shall be chosen by the Governor and shall~~  
3 ~~be residents of this Commonwealth. Three members shall be~~  
4 ~~qualified persons experienced in storage tank design and~~  
5 ~~installation with three years of experience in this~~  
6 ~~Commonwealth. One member shall be an owner or operator of an~~  
7 ~~aboveground storage tank. One member shall be an owner or~~  
8 ~~operator of an underground storage tank. One member shall be a~~  
9 ~~registered professional engineer with three years of experience~~  
10 ~~in this Commonwealth. One member shall be an engineer with three~~  
11 ~~years of experience in design and installation of aboveground~~  
12 ~~storage tanks in this Commonwealth, who shall be chosen from a~~  
13 ~~list of three names submitted by the Citizens Advisory Council~~  
14 ~~to the Governor and who shall sit as a representative of the~~  
15 ~~public interest. One member shall be a representative of local~~  
16 ~~government. One member shall be a representative of county~~  
17 ~~government.~~

18 ~~(b) Expenses. Advisory board members shall not receive a~~  
19 ~~salary but shall be reimbursed for all necessary expenses~~  
20 ~~incurred in the performance of their duties.~~

21 ~~(c) Procedure. All actions of the advisory board shall be~~  
22 ~~by majority vote. The advisory board shall meet upon the call of~~  
23 ~~the secretary, but not less than semiannually, to carry out its~~  
24 ~~duties under this act. The board shall select a chairman and~~  
25 ~~such other officers as it deems appropriate.~~

26 ~~(d) Consultation. The department shall consult with the~~  
27 ~~advisory board in the formulation, drafting and presentation~~  
28 ~~stages of all regulations of a technical nature promulgated~~  
29 ~~under this act. The advisory board shall be given a reasonable~~  
30 ~~opportunity to review and comment on all regulations of a~~

1 ~~technical nature prior to submission to the Environmental~~  
2 ~~Quality Board for initial consideration. The written report of~~  
3 ~~the board shall be presented to the Environmental Quality Board~~  
4 ~~with any regulatory proposal. The chairman of the advisory board~~  
5 ~~shall be invited to participate in the presentation of all~~  
6 ~~regulations of a technical nature before the Environmental~~  
7 ~~Quality Board to the extent allowed by procedures of the~~  
8 ~~Environmental Quality Board. Nothing herein shall preclude any~~  
9 ~~member of the advisory board from filing a petition for~~  
10 ~~rulemaking with the Environmental Quality Board in accordance~~  
11 ~~with procedures established by the Environmental Quality Board.~~

12 ~~CHAPTER 5~~

13 ~~SPILL PREVENTION RESPONSE PLAN~~

14 ~~Section 501. Submission of spill prevention response plan.~~

15 ~~(a) Schedule. Accompanying the registration form as set~~  
16 ~~forth in section 306, each owner of an aboveground storage tank~~  
17 ~~or tank facility shall submit to the department within one year~~  
18 ~~of the effective date of this act a plan for each aboveground~~  
19 ~~storage tank or tank facility. Each plan shall be site specific~~  
20 ~~and be consistent with the requirements of this act. This~~  
21 ~~chapter shall not apply to small aboveground storage tanks.~~

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

27 ~~(1) Substantial changes in design, construction,~~  
28 ~~operation, maintenance of the storage tank or tank facility~~  
29 ~~or other circumstances that increase the potential for fires,~~  
30 ~~explosions or releases of regulated substances.~~

1           ~~(2) Substantial changes in emergency equipment at the~~  
2           ~~facility.~~

3           ~~(3) Substantial changes in tank facility emergency~~  
4           ~~organization.~~

5           ~~(4) Revision of applicable department regulations.~~

6           ~~(5) Failure of the plan in an emergency.~~

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

9           ~~(7) Otherwise deemed necessary by the department.~~

10          ~~(c) Existing plans. All existing plans covering storage~~  
11          ~~tanks approved by the department pursuant to the act of June 22,~~  
12          ~~1937 (P.L.1987, No.394), known as The Clean Streams Law, and~~  
13          ~~known as preparedness, prevention and contingency plans must be~~  
14          ~~revised within one year of the effective date of this act.~~

15          ~~Section 502. Content of spill prevention response plan.~~

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

24          ~~(b) Plan implementation at facility, including emergency~~  
25          ~~response contractors. The plan shall identify all individuals~~  
26          ~~and their duties and responsibilities for developing,~~  
27          ~~implementing and maintaining the plan. The plan shall describe~~  
28          ~~in detail the chain of command at the aboveground storage tank~~  
29          ~~or storage tank facility and list and describe how the owner or~~  
30          ~~operator will notify and coordinate spill response with off site~~

1 ~~spill response agencies and the local emergency response~~  
2 ~~agencies.~~

3 ~~(c) Spill leak prevention and response. The plan shall~~  
4 ~~provide a preventive maintenance program that includes~~  
5 ~~monitoring and inspection procedures, including identification~~  
6 ~~of stress points, employee training program and security system.~~

7 ~~(d) Countermeasure. The plan shall explain in detail the~~  
8 ~~specific response that emergency personnel shall take upon the~~  
9 ~~occurrence of any release at the facility.~~

10 ~~(e) Emergency spill control network. The plan shall include~~  
11 ~~information obtained by the owner of the aboveground storage~~  
12 ~~tank facility from the county and municipal emergency management~~  
13 ~~agencies.~~

14 ~~(f) Other information. The owner shall provide the~~  
15 ~~department with all other information required by the department~~  
16 ~~to carry out its duties under this act.~~

17 ~~Section 503. Review of spill prevention response plan.~~

18 ~~(a) Written notice. The owner of the aboveground storage~~  
19 ~~tank facility located adjacent to surface waters shall provide~~  
20 ~~public notice to all downstream municipalities, downstream water~~  
21 ~~companies and downstream industrial users within 20 miles of the~~  
22 ~~aboveground storage tank facility site and the local~~  
23 ~~municipality and county in which the facility is located upon~~  
24 ~~submission of the plan to the department. All comments must be~~  
25 ~~submitted to the department within 30 days.~~

26 ~~(b) Review and comment. Upon receipt of the plan, the~~  
27 ~~department shall forward copies to the Pennsylvania Emergency~~  
28 ~~Management Agency, the Pennsylvania Fish Commission and the~~  
29 ~~local and county emergency management agencies for review and~~  
30 ~~comment. All comments must be submitted within 90 days.~~



1       ~~(c) Department action. Within 30 days after completion of~~  
2 ~~the comment period, the department shall approve the plan or~~  
3 ~~disapprove the plan and provide the owner of the storage tank or~~  
4 ~~tank facility with specific reasons for the disapproval. The~~  
5 ~~owner of the storage tank or tank facility shall submit a~~  
6 ~~revised plan to the department which the department shall act~~  
7 ~~upon within 30 days.~~

8 ~~Section 504. Notification.~~

9       ~~(a) Procedure. Upon the occurrence of a release at the~~  
10 ~~aboveground storage tank, the owner or operator of a storage~~  
11 ~~tank shall immediately notify the department, the Pennsylvania~~  
12 ~~Emergency Management Agency and the local emergency management~~  
13 ~~agency. All downstream water companies, downstream~~  
14 ~~municipalities and downstream industrial users within 20 miles~~  
15 ~~of the aboveground storage tank located adjacent to surface~~  
16 ~~waters shall be notified on a priority basis based on the~~  
17 ~~proximity of the release by the owner or operator or the agent~~  
18 ~~of the owner or operator of the aboveground storage tank within~~  
19 ~~two hours of any release which enters a water supply or which~~  
20 ~~threatens the water supply of downstream users.~~

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

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

1 ~~(d) Other emergency response plans. Notwithstanding Chapter~~  
2 ~~5 to the contrary, the spill prevention response plan shall be~~  
3 ~~developed by the owner of the aboveground storage tank and~~  
4 ~~approved by the department consistent with the emergency~~  
5 ~~management plans developed by local emergency management~~  
6 ~~agencies under Title III of the Superfund Amendments and~~  
7 ~~Reauthorization Act of 1986 (Public Law 99-499, 100 Stat. 1613).~~

8 CHAPTER 7

9 FINANCIAL PROVISIONS

10 Section 701. ~~Financial responsibility.~~

11 ~~(a) Regulations of department. The department is authorized~~  
12 ~~to establish, by regulation, requirements for maintaining~~  
13 ~~evidence of financial responsibility as deemed necessary and~~  
14 ~~desirable, for taking corrective action and for compensating~~  
15 ~~third parties for bodily injury and property damage caused by~~  
16 ~~sudden and nonsudden releases arising from operation of a~~  
17 ~~storage tank. Standards for underground storage tanks shall be~~  
18 ~~identical to the coverage provided by the Underground Storage~~  
19 ~~Tank Indemnification Fund in sections 704, 705 and 706. Every~~  
20 ~~owner or operator shall meet the financial responsibility~~  
21 ~~requirements established by the department.~~

22 ~~(b) Methods of obtaining financial responsibility.—~~  
23 ~~Financial responsibility required by this section may be~~  
24 ~~established in accordance with regulations promulgated by the~~  
25 ~~department by any one, or any combination of the following:~~  
26 ~~insurance, guarantee, surety bond, letter of credit,~~  
27 ~~qualification as a self insurer, indemnity contract, risk~~  
28 ~~retention coverage, or any other method deemed satisfactory by~~  
29 ~~the department. Owners of underground tanks must meet these~~  
30 ~~requirements by complying with sections 704, 705 and 706. In~~

1 ~~regulations or policy under this section, the department is~~  
2 ~~authorized to specify policy or other contractual terms,~~  
3 ~~conditions, or defenses which are necessary or acceptable in~~  
4 ~~establishing such evidence of financial responsibility.~~

5 ~~(c) Bankruptcy of owner or operator. In any case where the~~  
6 ~~owner or operator is in bankruptcy, reorganization, or~~  
7 ~~arrangement pursuant to the Federal Bankruptcy Code or where~~  
8 ~~with reasonable diligence jurisdiction in any State court or the~~  
9 ~~Federal courts cannot be obtained over an owner or operator~~  
10 ~~likely to be insolvent at the time of judgment, any claim~~  
11 ~~arising from conduct for which evidence of financial~~  
12 ~~responsibility must be provided under this subsection may be~~  
13 ~~asserted directly against the guarantor providing such evidence~~  
14 ~~of financial responsibility. In the case of any action pursuant~~  
15 ~~to this subsection, such guarantor shall be entitled to invoke~~  
16 ~~all rights and defenses which would have been available to the~~  
17 ~~owner or operator if any action had been brought against the~~  
18 ~~owner or operator by the claimant and which would have been~~  
19 ~~available to the guarantor if an action had been brought against~~  
20 ~~the guarantor by the owner or operator.~~

21 ~~(d) Guarantor liability. The total liability of any~~  
22 ~~guarantor shall be limited to the aggregate amount which the~~  
23 ~~guarantor has provided as evidence of financial responsibility~~  
24 ~~to the owner or operator under this section. Nothing in this~~  
25 ~~subsection shall be construed to limit any other State or~~  
26 ~~Federal statutory, contractual or common law liability of a~~  
27 ~~guarantor to its owner or operator, including, but not limited~~  
28 ~~to, the liability of such guarantor for bad faith either in~~  
29 ~~negotiating or in failing to negotiate the settlement of any~~  
30 ~~claim. Nothing in this subsection shall be construed to diminish~~

1 ~~the liability of any person under section 107 or 111 of the~~  
2 ~~Comprehensive Environmental Response, Compensation and Liability~~  
3 ~~Act of 1980 or other applicable statutes.~~

4 ~~(c) Definition. As used in this subsection, the term~~  
5 ~~"guarantor" means any person, other than the owner or operator,~~  
6 ~~who provides evidence of financial responsibility for an owner~~  
7 ~~or operator under this subsection.~~

8 ~~Section 702. Storage Tank Fund.~~

9 ~~(a) Establishment of fund. There is hereby created a~~  
10 ~~special nonlapsing fund in the State Treasury to be known as the~~  
11 ~~Storage Tank Fund. All fees, fines, judgments, bond forfeitures~~  
12 ~~and recovered costs collected by the department under this act~~  
13 ~~shall be paid into the Storage Tank Fund. All moneys placed in~~  
14 ~~the Storage Tank Fund are hereby appropriated to the department~~  
15 ~~for the costs of operating the aboveground and underground~~  
16 ~~storage tank programs, including activities necessary for the~~  
17 ~~elimination of releases from storage tanks and any other~~  
18 ~~activities necessary to meet the requirements of this act. The~~  
19 ~~fund shall also be available to pay third party claims as~~  
20 ~~required under section 701(a) where the owner or operator of an~~  
21 ~~aboveground tank has not complied with the requirements of~~  
22 ~~section 701. No more than 75% of the fund shall be available for~~  
23 ~~departmental administration costs for this act.~~

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

27 ~~(c) Liability for costs. Whenever costs have been incurred~~  
28 ~~by the Commonwealth for taking corrective action or paying~~  
29 ~~damages pursuant to section 701(a) with respect to a storage~~  
30 ~~tank regulated by this act, any person who has caused a release~~

1 ~~of a regulated substance from such tank shall be strictly~~  
2 ~~liable, without fault, to the Commonwealth for such costs,~~  
3 ~~subject to the defenses set forth as follows:~~

4 ~~(1) An act or omission caused by war.~~

5 ~~(2) An act or omission caused by sabotage.~~

6 ~~(3) An act of God.~~

7 ~~(d) Effect of liability on property. Any costs incurred by~~  
8 ~~the Commonwealth for taking corrective action or paying damages~~  
9 ~~pursuant to section 701(a) with respect to a release from a~~  
10 ~~storage tank regulated under this act shall constitute in each~~  
11 ~~instance a debt of the owner or operator, as may be appropriate,~~  
12 ~~to the Storage Tank Fund. The debt shall constitute a lien on~~  
13 ~~all property owned by said owner or operator when a notice of~~  
14 ~~lien incorporating a description of the property of the owner or~~  
15 ~~operator subject to the action and an identification of the~~  
16 ~~amount of expenditure from the fund is duly filed with the~~  
17 ~~prothonotary of the court of common pleas where the property is~~  
18 ~~located. The prothonotary shall promptly enter upon the civil~~  
19 ~~judgment or order docket the name and address of the owner or~~  
20 ~~operator, as may be appropriate, and the amount of the lien as~~  
21 ~~set forth in the notice of lien. Upon entry by the prothonotary,~~  
22 ~~the lien shall attach to the revenues and all real and personal~~  
23 ~~property of the owner or operator, whether or not the owner or~~  
24 ~~operator is solvent. The notice of lien filed pursuant to this~~  
25 ~~subsection which affects the property of the owner or operator~~  
26 ~~shall create a lien with priority over all subsequent claims or~~  
27 ~~liens which are filed against the owner or operator.~~

28 ~~(e) Third party claims against the fund.~~

29 ~~(1) Claims shall be filed with the department not later~~  
30 ~~than two years after the date of discovery of damages or not~~

1 ~~later than five years after the date of the incident which~~  
2 ~~caused the damage. The department shall develop forms and~~  
3 ~~procedures for such claims.~~

4 ~~(2) The department shall inform all affected parties~~  
5 ~~within ten days of receipt of the claim.~~

6 ~~(3) Any person who knowingly gives false information as~~  
7 ~~part of a claim, in addition to other penalties in this act,~~  
8 ~~commits a misdemeanor of the third degree, punishable by a~~  
9 ~~fine not to exceed \$10,000.~~

10 ~~(4) The department shall attempt to promote and arrange~~  
11 ~~settlement between the claimant and the person responsible~~  
12 ~~for the release. If the parties fail to agree upon a~~  
13 ~~settlement then the claim shall be resolved by binding~~  
14 ~~arbitration with a three member panel chosen by the~~  
15 ~~department and based on the information filed by both~~  
16 ~~parties.~~

17 ~~(f) Status of fund. The Storage Tank Fund shall not be~~  
18 ~~subject to 42 Pa.C.S. Ch. 37 Subch. C (relating to Judicial~~  
19 ~~Computer System).~~

20 ~~Section 703. Underground Storage Tank Indemnification Board.~~

21 ~~(a) Establishment of board, appointment and terms. There is~~  
22 ~~hereby created the Underground Storage Tank Indemnification~~  
23 ~~Board which shall consist of seven members. The Insurance~~  
24 ~~Commissioner and the Secretary of the Department of~~  
25 ~~Environmental Resources shall be ex officio members. Five~~  
26 ~~members shall be appointed by the Governor, as follows:~~

27 ~~(1) Three members who shall be persons with particular~~  
28 ~~expertise in the management of underground petroleum storage~~  
29 ~~tanks. Two of these members shall be appointed for terms of~~  
30 ~~four years and one shall be appointed for a term of three~~

1 ~~years. The Governor shall appoint the members, one each from~~  
2 ~~a list of nominees provided by each of the following:~~

3 ~~(i) The Associated Petroleum Industries of~~  
4 ~~Pennsylvania.~~

5 ~~(ii) The Pennsylvania Petroleum Association.~~

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

9 ~~The Governor may reject any or all of the nominees contained~~  
10 ~~on the lists provided above, and may request that additional~~  
11 ~~lists of nominees be provided to him.~~

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

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

19 ~~(b) Chairman. The board shall select a chairman from its~~  
20 ~~members annually.~~

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

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

28 ~~(e) Conflicts. No member shall participate in making any~~  
29 ~~decision in a matter involving any payment from which he or his~~  
30 ~~employer may benefit or which may benefit a member of his~~

1 ~~immediate family.~~

2 ~~(f) Meetings and quorum. The board shall meet at least~~  
3 ~~quarterly. Additional meetings may be held upon reasonable~~  
4 ~~notice at times and locations selected by the board. The board~~  
5 ~~shall meet at the call of the chairman or upon written request~~  
6 ~~of three members of the board. Four members shall constitute a~~  
7 ~~quorum and a quorum may act for the board in all matters.~~

8 ~~Section 704. Underground Storage Tank Indemnification Fund.~~

9 ~~(a) Establishment of fund. There is hereby created a~~  
10 ~~special fund in the State Treasury to be known as the~~  
11 ~~Underground Storage Tank Indemnification Fund. This fund shall~~  
12 ~~consist of the fees assessed by the board under section 705(d),~~  
13 ~~amounts recovered by the board due to fraudulent or improper~~  
14 ~~claims or as penalties for failure to pay fees when due, and~~  
15 ~~funds earned by the investment and reinvestment of the moneys~~  
16 ~~collected. Moneys in the fund are hereby appropriated to the~~  
17 ~~board for the purpose of making payments to owners and operators~~  
18 ~~of underground petroleum storage tanks who incur liability for~~  
19 ~~taking corrective action or for bodily injury or property damage~~  
20 ~~caused by an accidental release from underground petroleum~~  
21 ~~storage tanks. The fund shall be the sole source of payments~~  
22 ~~under this act, and the Commonwealth shall have no liability~~  
23 ~~beyond the amount of the fund.~~

24 ~~(b) Limit of payments. Payments to eligible owners or~~  
25 ~~operators shall be limited to the actual costs of corrective~~  
26 ~~action and the amount of an award of damages by a court of~~  
27 ~~competent jurisdiction for bodily injury, property damage, or~~  
28 ~~both, not to exceed a total of \$1,000,000 per tank per~~  
29 ~~occurrence. Payments of claims against the fund shall be subject~~  
30 ~~to a deductible as provided in section 705.~~



1 ~~(c) Prohibited uses. Moneys in the fund shall not be used~~  
2 ~~for the repair, replacement or maintenance of underground~~  
3 ~~petroleum storage tanks or improvement of property on which the~~  
4 ~~tanks are located.~~

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

8 ~~(e) Status of fund. The Underground Storage Tank~~  
9 ~~Indemnification Fund shall not be subject to 42 Pa.C.S. Ch. 37~~  
10 ~~Subch. C (relating to Judicial Computer System).~~

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

13 ~~(a) Support. The board may employ the personnel necessary~~  
14 ~~to process fee payments to administer claims made against the~~  
15 ~~Underground Storage Tank Indemnification Fund and to carry out~~  
16 ~~the purposes of the board. The board may also contract for the~~  
17 ~~services of attorneys, consultants and actuaries necessary to~~  
18 ~~advise the board in establishing fees under subsection (d) and~~  
19 ~~deductible amounts under subsection (c).~~

20 ~~(b) Claims. The board shall establish procedures by which~~  
21 ~~owners and operators may make claims for costs estimated or~~  
22 ~~incurred in taking corrective action and for liability due to~~  
23 ~~bodily injury and property damage caused by an accidental~~  
24 ~~release from underground petroleum storage tanks. Claims~~  
25 ~~determined to be eligible shall be paid upon receipt of~~  
26 ~~information required under regulations which the board shall~~  
27 ~~promulgate. The board, by regulation, may establish a system for~~  
28 ~~prioritizing claims.~~

29 ~~(c) Deductible.~~

30 ~~(1) Claims shall be subject to a deductible amount which~~

1 ~~the board shall set annually. The board shall give at least~~  
2 ~~30 days' notice of a proposed change in deductible amounts by~~  
3 ~~publication in the Pennsylvania Bulletin, and the change~~  
4 ~~shall take effect on the date specified in the notice. Each~~  
5 ~~owner or operator shall be responsible for the amount of the~~  
6 ~~deductible as provided in section 705.~~

7 ~~(2) The board shall set the initial deductible for~~  
8 ~~corrective action claims at \$75,000 per tank per occurrence.~~  
9 ~~Thereafter, the deductible shall be based on an estimate of~~  
10 ~~the average cost of taking corrective action due to an~~  
11 ~~accidental release from underground petroleum storage tanks~~  
12 ~~in this Commonwealth. The board shall not set a deductible in~~  
13 ~~an amount lower than \$50,000 per tank per occurrence.~~

14 ~~(3) The board shall set the initial deductible for~~  
15 ~~claims due to bodily injury, property damage, or both, at~~  
16 ~~\$150,000 per tank per occurrence. Thereafter, the deductible~~  
17 ~~shall be based on an estimate of the average award for~~  
18 ~~settlement of third party claims involving bodily injury,~~  
19 ~~property damage, or both, caused by accidental release from~~  
20 ~~underground petroleum storage tanks in this Commonwealth. The~~  
21 ~~board shall not set a deductible in an amount lower than~~  
22 ~~\$100,000 per tank per occurrence.~~

23 ~~(d) Fees. The board, by regulations, shall establish fees~~  
24 ~~to be paid by the owner or operator, as appropriate, of~~  
25 ~~underground petroleum storage tanks. Fees shall be set on an~~  
26 ~~actuarial basis in order to provide an amount sufficient to pay~~  
27 ~~outstanding and anticipated claims against the Underground~~  
28 ~~Storage Tank Indemnification Fund in a timely manner. Fees shall~~  
29 ~~also include an amount sufficient to meet all other financial~~  
30 ~~requirements of the board. Fees shall be adjusted as deemed~~

1 ~~necessary by the board, but no more than once a year.~~

2 ~~(c) Payment of fees. Fees established under subsection (d)~~  
3 ~~shall be paid by the owner of the tank unless a written~~  
4 ~~agreement between the owner and the operator provides otherwise.~~  
5 ~~A person who fails or refuses to pay the fee or a part of the~~  
6 ~~fee by the date established by the board shall be assessed a~~  
7 ~~penalty of 5% of the amount due which shall accrue on the first~~  
8 ~~day of delinquency and be added thereto. Thereafter, on the last~~  
9 ~~day of each month during which any part of any fee or any prior~~  
10 ~~accrued penalty remains unpaid, an additional 5% of the then~~  
11 ~~unpaid balance shall accrue and be added thereto.~~

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

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

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

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

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

1 ~~Section 706.— Eligibility of claimants.~~

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

5 ~~(1) The claimant is the owner or operator of the~~  
6 ~~underground tank which is the subject of the claim.~~

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

8 ~~(3) The tank has been registered in accordance with the~~  
9 ~~requirements of section 306.~~

10 ~~(4) The owner or operator has obtained a permit, if~~  
11 ~~required under sections 304 and 305.~~

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

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

18 ~~Section 707.— Audit.~~

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

21 ~~Section 708.— Sunset review.~~

22 ~~The Underground Storage Tank Indemnification Fund and the~~  
23 ~~board shall be subject to periodic evaluation, review and~~  
24 ~~termination or continuation under the act of December 22, 1981~~  
25 ~~(P.L.508, No.142), known as the Sunset Act, every five years~~  
26 ~~commencing with an initial termination date of December 31,~~  
27 ~~1993. Nothing in the Sunset Act or this section shall be~~  
28 ~~construed to invalidate any claim submitted prior to the date of~~  
29 ~~termination.~~

30

CHAPTER 9

1           ~~SITING OF NEW ABOVEGROUND STORAGE TANK FACILITIES~~

2   ~~Section 901. Siting of new aboveground storage tank facilities.~~

3       ~~(a) Procedure. The owner or operator of an existing or~~  
4 ~~proposed aboveground tank facility shall provide written~~  
5 ~~notification to the local municipality and county in which the~~  
6 ~~aboveground tank facility is situated or to be located prior to~~  
7 ~~submitting an application for an aboveground storage permit to~~  
8 ~~construct or reconstruct an additional aboveground storage tank~~  
9 ~~at the aboveground storage tank facility or construct a new~~  
10 ~~aboveground storage tank facility. This chapter shall not apply~~  
11 ~~to small aboveground storage tanks. For purposes of this~~  
12 ~~chapter, the term "tank facility" means an area in which two or~~  
13 ~~more aboveground storage tanks are located.~~

14       ~~(b) Public hearings. Upon submission to the department of~~  
15 ~~the permit application to construct any new aboveground tank~~  
16 ~~facility, the department may hold a public hearing in the~~  
17 ~~municipality or county in which the aboveground tank facility is~~  
18 ~~proposed to be located. The department shall publish the permit~~  
19 ~~application in the Pennsylvania Bulletin upon receipt of the~~  
20 ~~permit application and provide not more than a 60 day comment~~  
21 ~~period.~~

22       ~~(c) Public comment on aboveground storage tank permit. The~~  
23 ~~department shall publish the aboveground storage tank permit~~  
24 ~~application in the Pennsylvania Bulletin upon receipt of the~~  
25 ~~permit application and provide a 30 day comment period for new~~  
26 ~~aboveground storage tank facilities consistent with section 311.~~

27   ~~Section 902. Siting criteria for aboveground tank facilities.~~

28       ~~The Environmental Quality Board shall promulgate siting~~  
29 ~~regulations for new aboveground storage tank facilities~~  
30 ~~consistent with section 311 which shall contain detailed site~~

1 ~~specific provisions which an applicant shall use to evaluate a~~  
2 ~~potential site. The regulations shall include, but not be~~  
3 ~~limited to, consideration for public health and safety,~~  
4 ~~protection of water supply sources, water quality, air quality,~~  
5 ~~flooding, topography, soil conditions and hydrogeology. The~~  
6 ~~Environmental Quality Board shall hold at least one public~~  
7 ~~hearing on the siting regulations and shall solicit and take~~  
8 ~~into consideration written public comments, prior to final~~  
9 ~~adoption.~~

10 ~~CHAPTER 11~~

11 ~~ENFORCEMENT AND REMEDIES~~

12 ~~Section 1101. Unlawful conduct.~~

13 ~~(a) Offenses defined. It shall be unlawful for any person~~  
14 ~~to:~~

15 ~~(1) Sell, distribute, provide or fill any storage tank~~  
16 ~~with a regulated substance unless the storage tank has a~~  
17 ~~valid registration issued under this act and the regulations~~  
18 ~~promulgated hereunder.~~

19 ~~(2) Violate, or cause or assist in the violation of, any~~  
20 ~~provision of this act, any regulation promulgated hereunder,~~  
21 ~~any order issued hereunder, or the terms or conditions of any~~  
22 ~~spill prevention and response plan approved by the department~~  
23 ~~under this act.~~

24 ~~(3) Fail to adhere to the schedule set forth in, or~~  
25 ~~pursuant to, this act for developing or submitting to the~~  
26 ~~department a spill prevention and response plan.~~

27 ~~(4) Hinder, obstruct, prevent or interfere with the~~  
28 ~~department or its personnel in the performance of any duty~~  
29 ~~under this act.~~

30 ~~(5) Violate the provisions of 18 Pa.C.S. § 4903~~

1 ~~(relating to false swearing) or 4904 (relating to unsworn~~  
2 ~~falsification to authorities) in complying with any provision~~  
3 ~~of this act, including, but not limited to, providing or~~  
4 ~~preparing any information required by this act.~~

5 ~~(b) Public nuisance. All unlawful conduct set forth in~~  
6 ~~subsection (a) shall also constitute a public nuisance.~~

7 ~~Section 1102. Enforcement orders.~~

8 ~~(a) Issuance. The department may issue such orders to~~  
9 ~~persons as it deems necessary to aid in the enforcement of the~~  
10 ~~provisions of this act. The orders may include, but shall not be~~  
11 ~~limited to, orders requiring compliance with the provisions of~~  
12 ~~this act and the regulations promulgated pursuant thereto. Any~~  
13 ~~order issued under this act shall take effect upon notice,~~  
14 ~~unless the order specifies otherwise. The power of the~~  
15 ~~department to issue an order under this act is in addition to~~  
16 ~~any other remedy which may be afforded to the department~~  
17 ~~pursuant to this act or any other act.~~

18 ~~(b) Compliance. It shall be the duty of any person to~~  
19 ~~proceed diligently to comply with any order issued pursuant to~~  
20 ~~subsection (a). If such person fails to proceed diligently or~~  
21 ~~fails to comply with the order within such time, if any, as may~~  
22 ~~be specified, such person shall be guilty of contempt and shall~~  
23 ~~be punished by the court in an appropriate manner, and for this~~  
24 ~~purpose, application may be made by the department to the~~  
25 ~~Commonwealth Court, which is hereby granted jurisdiction.~~

26 ~~Section 1103. Civil penalties.~~

27 ~~(a) Assessment. In addition to proceeding under any other~~  
28 ~~remedy available at law or in equity for a violation of any~~  
29 ~~provision of this act, the regulations promulgated hereunder or~~  
30 ~~any order of the department issued hereunder, the department may~~

1 ~~assess a civil penalty upon a person for the violation. The~~  
2 ~~penalty may be assessed whether or not the violation was willful~~  
3 ~~or negligent. In determining the amount of the penalty, the~~  
4 ~~department shall consider the willfulness of the violation;~~  
5 ~~damage to air, water, land or other natural resources of this~~  
6 ~~Commonwealth or their uses; cost of restoration and abatement;~~  
7 ~~savings resulting to the person in consequence of the violation;~~  
8 ~~deterrence of future violations; and other relevant factors. If~~  
9 ~~the violation leads to issuance of a cessation order, a civil~~  
10 ~~penalty shall be assessed.~~

11 ~~(b) Escrow. When the department assesses a civil penalty,~~  
12 ~~it shall inform the person of the amount of the penalty. The~~  
13 ~~person charged with the penalty shall then have 30 days to pay~~  
14 ~~the penalty in full or, if the person wishes to contest either~~  
15 ~~the amount of the penalty or the fact of the violation, either~~  
16 ~~to forward the proposed amount to the department for placement~~  
17 ~~in an escrow account with the State Treasurer or with a bank in~~  
18 ~~this Commonwealth or to post an appeal bond in the amount of the~~  
19 ~~penalty. The bond must be executed by a surety licensed to do~~  
20 ~~business in this Commonwealth and must be satisfactory to the~~  
21 ~~department. If, through administrative or judicial review of the~~  
22 ~~proposed penalty, it is determined that no violation occurred or~~  
23 ~~that the amount of the penalty shall be reduced, the department~~  
24 ~~shall, within 30 days, remit the appropriate amount to the~~  
25 ~~person, with an interest accumulated by the escrow deposit.~~  
26 ~~Failure to forward the money or the appeal bond to the~~  
27 ~~department within 30 days shall result in a waiver of all legal~~  
28 ~~rights to contest the violation or the amount of the penalty.~~

29 ~~(c) Amount. The maximum civil penalty which may be assessed~~  
30 ~~pursuant to this section is \$10,000 per violation. Each~~



1 ~~violation for each separate day and each violation of any~~  
2 ~~provision of this act, any regulation promulgated hereunder or~~  
3 ~~any order issued hereunder shall constitute a separate offense~~  
4 ~~under this section.~~

5 ~~(d) Statute of limitations. Notwithstanding any other~~  
6 ~~provision of law to the contrary, there shall be a statute of~~  
7 ~~limitations of seven years upon actions brought by the~~  
8 ~~Commonwealth under this section.~~

9 ~~Section 1104. Criminal penalties.~~

10 ~~(a) Summary offense. Any person who initially violates any~~  
11 ~~provision of Chapter 3, any regulation promulgated thereunder,~~  
12 ~~any order issued thereunder or the terms or conditions of any~~  
13 ~~permit shall, upon conviction thereof in a summary proceeding,~~  
14 ~~be sentenced to pay a fine of not less than \$100 nor more than~~  
15 ~~\$1,000 and costs and, in default of the payment of such fine and~~  
16 ~~costs, to imprisonment for not more than 30 days.~~

17 ~~(b) Misdemeanor offense. Any person who willfully violates~~  
18 ~~any other provision of this act, any regulation promulgated~~  
19 ~~hereunder, any order issued hereunder or the terms or conditions~~  
20 ~~of any permit commits a misdemeanor of the third degree and~~  
21 ~~shall, upon conviction, be sentenced to pay a fine of not less~~  
22 ~~than \$1,000 nor more than \$10,000 per day for each violation or~~  
23 ~~to imprisonment for a period of not more than one year, or both.~~

24 ~~(c) Second or subsequent offense. Any person who, within~~  
25 ~~two years after a conviction of a misdemeanor for any willful~~  
26 ~~violation of this act, willfully violates the same provision of~~  
27 ~~this act at the same facility, any regulation promulgated~~  
28 ~~hereunder, any order issued hereunder or the terms or conditions~~  
29 ~~of any permit commits a misdemeanor of the second degree and~~  
30 ~~shall, upon conviction, be sentenced to pay a fine of not less~~

1 ~~than \$2,500 nor more than \$25,000 for each violation or to~~  
2 ~~imprisonment for a period of not more than two years, or both.~~

3 ~~(d) Violations to be separate offenses. Each violation of~~  
4 ~~any provision of this act, any regulation promulgated hereunder,~~  
5 ~~any order issued hereunder or the terms or conditions of any~~  
6 ~~permit shall constitute a separate offense under subsections~~  
7 ~~(a), (b) and (c).~~

8 ~~Section 1105. Production of materials; recordkeeping~~  
9 ~~requirements.~~

10 ~~(a) Authority of department. The department and its agents~~  
11 ~~and employees shall:~~

12 ~~(1) Have access to, and require the production of, books~~  
13 ~~and papers, documents and physical evidence pertinent to any~~  
14 ~~matter under investigation.~~

15 ~~(2) Require any person holding a permit to establish and~~  
16 ~~maintain such records and make such reports and furnish such~~  
17 ~~information as the department may prescribe.~~

18 ~~(3) Have the authority to enter any building, property,~~  
19 ~~premises or place where a storage tank is located for the~~  
20 ~~purposes of making an investigation or inspection necessary~~  
21 ~~to ascertain the compliance or noncompliance by any person~~  
22 ~~with the provisions of this act and the regulations~~  
23 ~~promulgated under this act. In connection with the inspection~~  
24 ~~or investigation, samples may be taken for analysis. If~~  
25 ~~analysis is made of the samples, a copy of the results of the~~  
26 ~~analysis shall be furnished within five business days after~~  
27 ~~receiving the analysis to the person having apparent~~  
28 ~~authority over the building, property, premises or place.~~

29 ~~(b) Warrants. An agent or employee of the department may~~  
30 ~~apply for a search warrant to any Commonwealth official~~

1 authorized to issue a search warrant for the purposes of  
2 inspecting or examining any property, building, premises, place,  
3 book, record or other physical evidence; of conducting tests; or  
4 of taking samples. The warrant shall be issued upon probable  
5 cause. It shall be sufficient probable cause to show any of the  
6 following:

7       (1) ~~The inspection, examination, test or sampling is~~  
8       ~~pursuant to a general administrative plan to determine~~  
9       ~~compliance with this act.~~

10       (2) ~~The agent or employee has reason to believe that a~~  
11       ~~violation of this act has occurred or may occur.~~

12       (3) ~~The agent or employee has been refused access to the~~  
13       ~~property, building, premises, place, book, record or physical~~  
14       ~~evidence or has been prevented from conducting tests or~~  
15       ~~taking samples.~~

16 Section 1106. ~~Collection of fines, fees, etc.~~

17       (a) ~~Lien. All fines, fees, interest and penalties and any~~  
18       ~~other assessments shall be collectible in any manner provided by~~  
19       ~~law for the collection of debts. If the person liable to pay any~~  
20       ~~such amount neglects or refuses to pay the same after demand,~~  
21       ~~the amount, together with interest and any costs that may~~  
22       ~~accrue, shall be a judgment in favor of the Commonwealth upon~~  
23       ~~the property of such person, but only after same has been~~  
24       ~~entered and docketed of record by the prothonotary of the county~~  
25       ~~where the property is situated. The Commonwealth may at any time~~  
26       ~~transmit to the prothonotaries of the respective counties~~  
27       ~~certified copies of all such judgments, and it shall be the duty~~  
28       ~~of each prothonotary to enter and docket the same of record in~~  
29       ~~his office, and to index the same as judgments are indexed,~~  
30       ~~without requiring the payment of costs as a condition precedent~~

1 ~~to the entry thereof.~~

2 ~~(b) Deposit of fines. All fines collected pursuant to~~  
3 ~~sections 1103 and 1104 shall be paid into the Underground~~  
4 ~~Storage Tank Indemnification Fund.~~

5 ~~Section 1107. Public information.~~

6 ~~(a) General rule. Except as provided in subsection (b),~~  
7 ~~records, reports or other information obtained by the department~~  
8 ~~under this act shall be available to the public for inspection~~  
9 ~~or copying during regular business hours.~~

10 ~~(b) Confidentiality. The department may, upon request,~~  
11 ~~designate records, reports or information as confidential when~~  
12 ~~the person providing the information demonstrates all of the~~  
13 ~~following:~~

14 ~~(1) The information contains the trade secrets,~~  
15 ~~processes, operations, style of work or apparatus of a person~~  
16 ~~or is otherwise confidential business information.~~

17 ~~(2) The information does not relate to public health,~~  
18 ~~safety or welfare, or the environment.~~

19 ~~(c) Separation of information. When submitting information~~  
20 ~~under this act, a person shall designate the information which~~  
21 ~~the person believes is confidential or shall submit that~~  
22 ~~information separately from other information being submitted.~~

23 ~~Section 1108. Relationship to other laws.~~

24 ~~The department shall take enforcement actions and actions to~~  
25 ~~recover the Commonwealth's costs for undertaking corrective~~  
26 ~~actions under this act before taking actions pursuant to the act~~  
27 ~~of October 18, 1988 (P.L.756, No.108), known as the Hazardous~~  
28 ~~Sites Cleanup Act.~~

29 ~~CHAPTER 21~~

30 ~~MISCELLANEOUS PROVISIONS~~

1 ~~Section 2101. Appropriations.~~

2 ~~(a) Storage Tank Fund. The sum of \$700,000, or as much~~  
3 ~~thereof as may be necessary, is hereby appropriated to the~~  
4 ~~Storage Tank Fund for the fiscal year July 1, 1988, to June 30,~~  
5 ~~1989.~~

6 ~~(b) Underground Storage Tank Indemnification Fund. The sum~~  
7 ~~of \$300,000, or as much thereof as may be necessary, is hereby~~  
8 ~~appropriated to the Underground Storage Tank Indemnification~~  
9 ~~Fund for the fiscal year July 1, 1988, to June 30, 1989.~~

10 ~~Section 2102. Severability.~~

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

16 ~~Section 2103. Repeals.~~

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

19 ~~Act of June 8, 1911 (P.L. 705, No. 281), entitled "An act~~  
20 ~~creating the office of Fire Marshal, to be attached to the~~  
21 ~~Department of Public Safety in cities of the first class;~~  
22 ~~prescribing his duties and powers; and providing penalties for~~  
23 ~~violations of the provisions of the act; and providing for the~~  
24 ~~method of appointment, compensation, and for the maintenance of~~  
25 ~~his office," insofar as it is inconsistent with this act, only~~  
26 ~~to the extent that this act provides coverage over the same~~  
27 ~~class of storage tanks and materials.~~

28 ~~Act of April 27, 1927 (P.L. 450, No. 291), referred to as the~~  
29 ~~State Fire Marshal Law, insofar as the authority of the State~~  
30 ~~Fire Marshal and the Pennsylvania State Police are to adopt and~~

1 ~~enforce rules and regulations governing the use, storage and~~  
2 ~~sale and retention of gasoline, naphthalene, kerosene, fuel oil~~  
3 ~~or other substances of like character, only to the extent that~~  
4 ~~this act provides coverage over the same class of storage tanks~~  
5 ~~and materials.~~

6 ~~Act of July 28, 1953 (P.L.723, No.230), known as the Second~~  
7 ~~Class County Code, insofar as it is inconsistent with this act,~~  
8 ~~only to the extent that this act provides coverage over the same~~  
9 ~~class of storage tanks and materials.~~

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

13 ~~Section 2104. Effective date.~~

14 ~~This act shall take effect in 30 days.~~

15 CHAPTER 1

16 GENERAL PROVISIONS

17 SECTION 101. SHORT TITLE.

18 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE STORAGE TANK  
19 AND SPILL PREVENTION ACT.

20 SECTION 102. LEGISLATIVE FINDINGS.

21 (A) FINDINGS ENUMERATED.--THE GENERAL ASSEMBLY OF THE  
22 COMMONWEALTH FINDS AND DECLARES THAT:

23 (1) THE LANDS AND WATERS OF THIS COMMONWEALTH CONSTITUTE  
24 A UNIQUE AND IRREPLACEABLE RESOURCE FROM WHICH THE WELL-BEING  
25 OF THE PUBLIC HEALTH AND ECONOMIC VITALITY OF THIS  
26 COMMONWEALTH IS ASSURED.

27 (2) THESE RESOURCES HAVE BEEN CONTAMINATED BY RELEASES  
28 AND RUPTURES OF REGULATED SUBSTANCES FROM BOTH ACTIVE AND  
29 ABANDONED STORAGE TANKS.

30 (3) ONCE CONTAMINATED, THE QUALITY OF THE AFFECTED

1 RESOURCES MAY NOT BE COMPLETELY RESTORED TO THEIR ORIGINAL  
2 STATE.

3 (4) WHEN REMEDIAL ACTION IS REQUIRED OR UNDERTAKEN, THE  
4 COST IS EXTREMELY HIGH.

5 (5) CONTAMINATION OF GROUNDWATER SUPPLIES CAUSED BY  
6 RELEASES FROM STORAGE TANKS CONSTITUTES A GRAVE THREAT TO THE  
7 HEALTH OF AFFECTED RESIDENTS.

8 (6) CONTAMINATION OF THESE RESOURCES MUST BE PREVENTED  
9 THROUGH IMPROVED SAFEGUARDS ON THE INSTALLATION AND  
10 CONSTRUCTION OF STORAGE TANKS.

11 (B) DECLARATION.--THE GENERAL ASSEMBLY DECLARES THESE  
12 STORAGE TANK DISCHARGES TO BE A THREAT TO THE PUBLIC HEALTH AND  
13 SAFETY OF THIS COMMONWEALTH AND HEREBY EXERCISES THE POWER OF  
14 THE COMMONWEALTH TO PREVENT THE OCCURRENCE OF THESE DISCHARGES  
15 THROUGH THE ESTABLISHMENT OF A REGULATORY SCHEME FOR THE STORAGE  
16 OF REGULATED SUBSTANCES IN NEW AND EXISTING STORAGE TANKS AND TO  
17 PROVIDE LIABILITY FOR DAMAGES SUSTAINED WITHIN THIS COMMONWEALTH  
18 AS A RESULT OF A DISCHARGE AND TO REQUIRE PROMPT CLEANUP AND  
19 REMOVAL OF SUCH POLLUTION AND DISCHARGED REGULATED SUBSTANCE.  
20 SECTION 103. DEFINITIONS.

21 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
22 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
23 CONTEXT CLEARLY INDICATES OTHERWISE:

24 "ABOVEGROUND STORAGE TANK." ANY ONE OR COMBINATION OF TANKS,  
25 INCLUDING UNDERGROUND PIPES AND DISPENSING SYSTEMS CONNECTED  
26 THERETO, WHICH IS OR WAS USED TO CONTAIN AN ACCUMULATION OF  
27 REGULATED SUBSTANCES, AND THE VOLUME OF WHICH, INCLUDING THE  
28 VOLUME OF ALL PIPING CONNECTED THERETO, IS GREATER THAN 90%  
29 ABOVE THE SURFACE OF THE GROUND. THE TERM INCLUDES ANY TANK  
30 WHICH CAN BE VISUALLY INSPECTED, FROM THE EXTERIOR, IN AN

1 UNDERGROUND AREA. THE TERM SHALL NOT INCLUDE ANY OF THE  
2 FOLLOWING:

3 (1) A FARM OR RESIDENTIAL TANK OF 1,100 GALLONS OR LESS  
4 CAPACITY USED FOR STORING MOTOR FUEL FOR NONCOMMERCIAL  
5 PURPOSES.

6 (2) A TANK OF 1,100 GALLONS OR LESS CAPACITY USED FOR  
7 STORING RESIDENTIAL HEATING OIL FOR CONSUMPTIVE USE ON THE  
8 PREMISES WHERE STORED.

9 (3) A PIPELINE FACILITY, INCLUDING GATHERING LINES,  
10 REGULATED UNDER:

11 (I) THE NATURAL GAS PIPELINE SAFETY ACT OF 1968  
12 (PUBLIC LAW 90-481, 82 STAT. 720, 49 U.S.C. APP. § 1671  
13 ET SEQ.).

14 (II) THE HAZARDOUS LIQUID PIPELINE SAFETY ACT OF  
15 1979 (PUBLIC LAW 96-129, 93 STAT. 989, 49 U.S.C. § 2001  
16 ET SEQ.); OR

17 (III) STATE LAWS COMPARABLE TO THE PROVISIONS OF LAW  
18 REFERRED TO IN SUBPARAGRAPH (I) OR (II).

19 (4) A SURFACE IMPOUNDMENT, PIT, POND OR LAGOON.

20 (5) A STORM WATER OR WASTEWATER COLLECTION SYSTEM.

21 (6) A FLOW-THROUGH PROCESS TANK, INCLUDING BUT NOT  
22 LIMITED TO, A PRESSURE VESSEL OR PROCESS VESSEL AND OIL AND  
23 WATER SEPARATORS.

24 (7) A NONSTATIONARY TANK LIQUID TRAP OR ASSOCIATED  
25 GATHERING LINES DIRECTLY RELATED TO OIL AND GAS PRODUCTION OR  
26 GATHERING OPERATIONS.

27 (8) TANKS WHICH ARE USED TO STORE BRINES, CRUDE OIL,  
28 DRILLING OR FRAC FLUIDS AND SIMILAR SUBSTANCES OR MATERIALS  
29 AND ARE RELATED TO THE EXPLORATION, DEVELOPMENT OR PRODUCTION  
30 OF CRUDE OIL OR NATURAL GAS REGULATED UNDER THE ACT OF



1 DECEMBER 19, 1984 (P.L.1140, NO.223), KNOWN AS THE OIL AND  
2 GAS ACT.

3 (9) TANKS REGULATED UNDER THE ACT OF MAY 31, 1945  
4 (P.L.1198, NO.418), KNOWN AS THE SURFACE MINING CONSERVATION  
5 AND RECLAMATION ACT.

6 (10) TANKS USED FOR THE STORAGE OF PRODUCTS WHICH ARE  
7 REGULATED PURSUANT TO THE FEDERAL FOOD, DRUG, AND COSMETIC  
8 ACT (52 STAT. 1040, 21 U.S.C. § 301 ET SEQ.).

9 (11) TANKS PERMITTED PURSUANT TO THE ACT OF JULY 7, 1980  
10 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT,  
11 INCLUDING, BUT NOT LIMITED TO, PIPING, TANKS, COLLECTION AND  
12 TREATMENT SYSTEMS USED FOR LEACHATE, METHANE GAS AND METHANE  
13 GAS CONDENSATE MANAGEMENT.

14 (12) ANY OTHER TANK EXCLUDED BY POLICY OR REGULATIONS  
15 PROMULGATED PURSUANT TO THIS ACT.

16 THE TERM SHALL NOT INCLUDE ANY PIPES CONNECTED TO ANY TANK  
17 DESCRIBED IN PARAGRAPHS (1) THROUGH (11).

18 "ABOVEGROUND STORAGE TANK FACILITY EMERGENCY RESPONSE PLAN."  
19 EMERGENCY PLANS AND PROCEDURES DEVELOPED BY THE LOCAL AND COUNTY  
20 EMERGENCY MANAGEMENT AGENCY FOR COUNTY-MUNICIPAL GOVERNMENT AND  
21 COMMUNITY RESPONSE TO AN ACCIDENT OR SPILL AT AN ABOVEGROUND  
22 STORAGE TANK FACILITY.

23 "CATHODIC PROTECTION." A TECHNIQUE TO PREVENT CORROSION OF A  
24 METAL SURFACE BY MAKING THAT SURFACE THE CATHODE OF AN  
25 ELECTROCHEMICAL CELL.

26 "CERTIFIED INSPECTOR." A PERSON CERTIFIED BY THE DEPARTMENT  
27 TO CONDUCT ENVIRONMENTAL AUDITS AND INSPECTIONS OF TANKS OR TANK  
28 FACILITIES. A CERTIFIED INSPECTOR SHALL NOT BE AN EMPLOYEE OF A  
29 TANK OWNER.

30 "CERTIFIED INSTALLER." A PERSON CERTIFIED BY THE DEPARTMENT

1 TO INSTALL, ERECT, CONSTRUCT, MODIFY OR REMOVE STORAGE TANKS. A  
2 CERTIFIED INSTALLER MAY BE AN EMPLOYEE OF A TANK OWNER.

3 "COMMERCIAL HEATING OIL STORAGE TANK." UNDERGROUND STORAGE  
4 TANK IN EXCESS OF 3,000 GALLONS USED FOR STORAGE OF HEATING OIL  
5 FOR THE CONSUMPTIVE USE OF THE PREMISES WHERE STORED.

6 "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND  
7 LIABILITY ACT OF 1980." PUBLIC LAW 96-510, 94 STAT. 2767.

8 "CORRECTIVE ACTION." THE TERM SHALL INCLUDE THE FOLLOWING:

9 (1) CONTAINING, ASSESSING OR INVESTIGATING A RELEASE.

10 (2) REMOVING A RELEASE OR ANY MATERIAL AFFECTED BY A  
11 RELEASE.

12 (3) TAKING MEASURES TO PREVENT, MITIGATE, ABATE OR  
13 REMEDY RELEASES, POLLUTION AND POTENTIAL FOR POLLUTION,  
14 NUISANCES AND DAMAGES TO THE PUBLIC HEALTH, SAFETY OR  
15 WELFARE, INCLUDING, BUT NOT LIMITED TO, WATERS OF THIS  
16 COMMONWEALTH, INCLUDING SURFACE WATER AND GROUNDWATER, PUBLIC  
17 AND PRIVATE PROPERTY, SHORELINES, BEACHES, WATER COLUMNS AND  
18 BOTTOM SEDIMENTS, SOILS AND OTHER AFFECTED PROPERTY,  
19 INCLUDING WILDLIFE AND OTHER NATURAL RESOURCES.

20 (4) TAKING ACTIONS TO PREVENT, ABATE, MITIGATE OR  
21 RESPOND TO A VIOLATION OF THIS ACT.

22 (5) TEMPORARILY OR PERMANENTLY RELOCATING RESIDENTS,  
23 PROVIDING ALTERNATIVE SUPPLIES OR UNDERTAKING AN EXPOSURE  
24 ASSESSMENT.

25 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OF  
26 THE COMMONWEALTH.

27 "ENVIRONMENTAL HEARING BOARD." THE BOARD ESTABLISHED  
28 PURSUANT TO THE ACT OF JULY 13, 1988 (P.L.530, NO.94), KNOWN AS  
29 THE ENVIRONMENTAL HEARING BOARD ACT.

30 "ENVIRONMENTAL QUALITY BOARD." THE BOARD ESTABLISHED

1 PURSUANT TO SECTION 1920-A OF THE ACT OF APRIL 9, 1929 (P.L.177,  
2 NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929, FOR THE  
3 PURPOSES SET FORTH IN THAT SECTION.

4 "EXPOSURE ASSESSMENT." AN ASSESSMENT TO DETERMINE THE EXTENT  
5 OF EXPOSURE OF, OR POTENTIAL FOR EXPOSURE OF, INDIVIDUALS, THE  
6 BIOLOGICAL COMMUNITY AND ALL OTHER NATURAL RESOURCES TO RELEASES  
7 FROM A STORAGE TANK BASED ON, BUT NOT LIMITED TO, SUCH FACTORS  
8 AS THE NATURE AND EXTENT OF CONTAMINATION AND THE EXISTENCE OF  
9 OR POTENTIAL FOR PATHWAYS OF HUMAN EXPOSURE (INCLUDING  
10 GROUNDWATER OR SURFACE WATER CONTAMINATION, AIR EMISSIONS, SOIL  
11 CONTAMINATION AND FOOD CHAIN CONTAMINATION), THE SIZE OF THE  
12 COMMUNITY WITHIN THE LIKELY PATHWAYS OF EXPOSURE AND THE  
13 COMPARISON OF EXPECTED HUMAN EXPOSURE LEVELS TO THE SHORT-TERM  
14 AND LONG-TERM HEALTH EFFECTS ASSOCIATED WITH IDENTIFIED  
15 CONTAMINANTS.

16 "FARM." LAND USED FOR THE PRODUCTION FOR COMMERCIAL PURPOSES  
17 OF CROPS, LIVESTOCK AND LIVESTOCK PRODUCTS, INCLUDING THE  
18 PROCESSING OF RETAIL MARKETING OF SUCH CROPS, LIVESTOCK OR  
19 LIVESTOCK PRODUCTS IF MORE THAN 50% OF SUCH PROCESSED OR  
20 MERCHANDISED PRODUCTS ARE PRODUCED BY THE FARM OPERATOR. "CROPS,  
21 LIVESTOCK AND LIVESTOCK PRODUCTS" INCLUDE, BUT ARE NOT LIMITED  
22 TO:

23 (1) FIELD CROPS, INCLUDING CORN, WHEAT, OATS, RYE,  
24 BARLEY, HAY, POTATOES AND DRY BEANS.

25 (2) FRUITS, INCLUDING APPLES, PEACHES, GRAPES, CHERRIES  
26 AND BERRIES.

27 (3) VEGETABLES, INCLUDING TOMATOES, SNAP BEANS, CABBAGE,  
28 CARROTS, BEETS, ONIONS AND MUSHROOMS.

29 (4) HORTICULTURAL SPECIALITIES, INCLUDING NURSERY STOCK,  
30 ORNAMENTAL SHRUBS, ORNAMENTAL TREES AND FLOWERS.

1 (5) LIVESTOCK AND LIVESTOCK PRODUCTS, INCLUDING CATTLE,  
2 SHEEP, HOGS, GOATS, HORSES, POULTRY, FURBEARING ANIMALS,  
3 MILK, EGGS AND FURS.

4 (6) AQUATIC PLANTS AND ANIMALS AND THEIR BY-PRODUCTS.

5 "HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979." PUBLIC LAW  
6 96-129, 93 STAT. 989, 49 U.S.C. § 2001 ET SEQ.

7 "MONITORING SYSTEM." A SYSTEM CAPABLE OF DETECTING RELEASES  
8 IN CONNECTION WITH AN ABOVEGROUND OR UNDERGROUND STORAGE TANK.

9 "NATURAL GAS PIPELINE SAFETY ACT OF 1968." PUBLIC LAW 90-  
10 481, 82 STAT. 720, 49 U.S.C. APP. § 1671 ET SEQ.

11 "OPERATOR." ANY PERSON WHO MANAGES, SUPERVISES, ALTERS,  
12 CONTROLS, OR HAS RESPONSIBILITY FOR THE OPERATION OF A STORAGE  
13 TANK.

14 "OWNER."

15 (1) IN THE CASE OF A STORAGE TANK IN USE ON THE  
16 EFFECTIVE DATE OF THIS ACT, OR BROUGHT INTO USE AFTER THAT  
17 DATE, ANY PERSON WHO OWNS OR HAS AN OWNERSHIP INTEREST,  
18 EITHER LEGAL OR EQUITABLE, IN A STORAGE TANK USED FOR THE  
19 STORAGE, CONTAINMENT, USE OR DISPENSING OF REGULATED  
20 SUBSTANCES.

21 (2) IN THE CASE OF A STORAGE TANK IN USE BEFORE THE  
22 EFFECTIVE DATE OF THIS ACT, BUT NO LONGER IN USE ON THE  
23 EFFECTIVE DATE OF THIS ACT, ANY PERSON WHO OWNED THE TANK,  
24 IMMEDIATELY BEFORE THE DISCONTINUANCE OF ITS USE, AS WELL AS  
25 ANY PERSON WHO MEETS THE DEFINITION OF OWNER IN PARAGRAPH  
26 (1).

27 "PERSON." ANY INDIVIDUAL, PARTNERSHIP, CORPORATION,  
28 ASSOCIATION, JOINT VENTURE, CONSORTIUM, INSTITUTION, TRUST,  
29 FIRM, JOINT-STOCK COMPANY, COOPERATIVE ENTERPRISE, MUNICIPALITY,  
30 MUNICIPAL AUTHORITY, FEDERAL GOVERNMENT OR AGENCY, COMMONWEALTH

1 DEPARTMENT, AGENCY, BOARD, COMMISSION, OR AUTHORITY, OR ANY  
2 OTHER LEGAL ENTITY WHATSOEVER WHICH IS RECOGNIZED BY LAW AS THE  
3 SUBJECT OF RIGHTS AND DUTIES. IN ANY PROVISIONS OF THIS ACT  
4 PRESCRIBING A FINE, IMPRISONMENT OR PENALTY, OR ANY COMBINATION  
5 OF THE FOREGOING, THE TERM "PERSON" SHALL INCLUDE THE OFFICERS  
6 AND DIRECTORS OF ANY CORPORATION OR OTHER LEGAL ENTITY HAVING  
7 OFFICERS AND DIRECTORS.

8 "PRESSURE VESSEL." A VESSEL USED IN INDUSTRIAL PROCESSES  
9 DESIGNED TO WITHSTAND PRESSURES ABOVE 15 PSIG.

10 "PROCESS VESSEL." A VESSEL IN INDUSTRIAL OR COMMERCIAL  
11 OPERATION IN WHICH, DURING USE, THERE IS A MECHANICAL, PHYSICAL  
12 OR CHEMICAL CHANGE OF THE CONTAINED SUBSTANCES TAKING PLACE. THE  
13 INDUSTRIAL OR COMMERCIAL PROCESS MAY INCLUDE, BUT IS NOT LIMITED  
14 TO, MIXING, SEPARATING, CHEMICALLY ALTERING, DEHYDRATING,  
15 EXTRACTING, REFINING OR POLISHING OF THE SUBSTANCES IN THE TANK.  
16 THE TERM DOES NOT INCLUDE TANKS USED ONLY TO STORE SUBSTANCES  
17 PRIOR TO SALE OR TO STORE FEEDSTOCK PRIOR TO ADDITIONAL  
18 PROCESSING.

19 "REGULATED SUBSTANCE." AN ELEMENT, COMPOUND, MIXTURE,  
20 SOLUTION OR SUBSTANCE THAT, WHEN RELEASED INTO THE ENVIRONMENT,  
21 MAY PRESENT SUBSTANTIAL DANGER TO THE PUBLIC HEALTH, WELFARE OR  
22 THE ENVIRONMENT. THE TERM INCLUDES:

23 (1) ANY SUBSTANCE DEFINED AS A HAZARDOUS SUBSTANCE IN  
24 SECTION 101(14) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,  
25 COMPENSATION, AND LIABILITY ACT OF 1980 (PUBLIC LAW 96-510,  
26 94 STAT. 2767), BUT NOT INCLUDING ANY SUBSTANCE REGULATED AS  
27 A HAZARDOUS WASTE UNDER SUBTITLE C OF THE RESOURCE  
28 CONSERVATION AND RECOVERY ACT OF 1976 (PUBLIC LAW 94-580, 42  
29 U.S.C. § 6901 ET SEQ.).

30 (2) PETROLEUM, INCLUDING CRUDE OIL OR ANY FRACTION

1       THEREOF AND HYDROCARBONS WHICH ARE LIQUID AT STANDARD  
2       CONDITIONS OF TEMPERATURE AND PRESSURE (60 DEGREES FAHRENHEIT  
3       AND 14.7 POUNDS PER SQUARE INCH ABSOLUTE), INCLUDING, BUT NOT  
4       LIMITED TO, OIL, PETROLEUM, FUEL OIL, OIL SLUDGE, OIL REFUSE,  
5       OIL MIXED WITH OTHER NONHAZARDOUS WASTES AND CRUDE OILS,  
6       GASOLINE AND KEROSENE.

7           (3) ANY OTHER SUBSTANCE DETERMINED BY THE DEPARTMENT BY  
8       REGULATION WHOSE CONTAINMENT, STORAGE, USE OR DISPENSING MAY  
9       PRESENT A HAZARD TO THE PUBLIC HEALTH AND SAFETY OR THE  
10      ENVIRONMENT.

11      THE TERM DOES NOT INCLUDE THE STORAGE OR USE OF ANIMAL WASTE IN  
12      NORMAL AGRICULTURAL PRACTICES.

13      "RELEASE." ANY SPILLING, LEAKING, EMITTING, DISCHARGING,  
14      ESCAPING, LEACHING OR DISPOSING FROM A STORAGE TANK INTO SURFACE  
15      WATERS AND GROUNDWATERS OF THIS COMMONWEALTH OR SOILS OR  
16      SUBSURFACE SOILS OR CONTAINMENT STRUCTURES OR FACILITIES IN AN  
17      AMOUNT EQUAL TO OR GREATER THAN THE REPORTABLE RELEASED QUANTITY  
18      DETERMINED UNDER SECTION 102 OF THE COMPREHENSIVE ENVIRONMENTAL  
19      RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AND  
20      REGULATIONS PROMULGATED THEREUNDER, OR AN AMOUNT EQUAL TO OR  
21      GREATER THAN A DISCHARGE AS DEFINED IN SECTION 311 OF THE  
22      FEDERAL WATER POLLUTION CONTROL ACT (62 STAT. 1155, 33 U.S.C. §  
23      1321) AND REGULATIONS PROMULGATED THEREUNDER.

24      "RESOURCE CONSERVATION AND RECOVERY ACT OF 1976." PUBLIC LAW  
25      94-580, 42 U.S.C. § 6901 ET SEQ.

26      "SECONDARY CONTAINMENT." AN ADDITIONAL LAYER OF IMPERVIOUS  
27      MATERIAL CREATING A SPACE IN WHICH A RELEASE OF A REGULATED  
28      SUBSTANCE FROM A STORAGE TANK MAY BE DETECTED BEFORE IT ENTERS  
29      THE ENVIRONMENT.

30      "SECRETARY." THE SECRETARY OF ENVIRONMENTAL RESOURCES OF THE

1 COMMONWEALTH.

2 "SPILL PREVENTION RESPONSE PLAN." EMERGENCY PLANS AND  
3 PROCEDURES DEVELOPED BY AN ABOVEGROUND STORAGE TANK OR TANK  
4 FACILITY OWNER AND/OR OPERATOR FOR RESPONSE TO AN ACCIDENT OR  
5 SPILL ON THE FACILITY BY FACILITY PERSONNEL OR CONTRACTORS.

6 "STORAGE TANK." ANY ABOVEGROUND OR UNDERGROUND STORAGE TANK,  
7 VESSEL OR CONTAINMENT STRUCTURE MADE OF NONEARTHEN MATERIALS  
8 WHICH IS USED FOR THE STORAGE OF ANY REGULATED SUBSTANCE.

9 "STORAGE TANK FACILITY." ONE OR MORE STATIONARY TANKS,  
10 INCLUDING ANY ASSOCIATED INTRAFACILITY PIPELINES, FIXTURES,  
11 MONITORING DEVICES AND OTHER EQUIPMENT. A FACILITY MAY INCLUDE  
12 ABOVEGROUND TANKS, UNDERGROUND TANKS, OR A COMBINATION OF BOTH.

13 "SUBSTANTIAL MODIFICATION." AN ACTIVITY TO CONSTRUCT,  
14 REFURBISH, RESTORE OR REMOVE FROM SERVICE AN EXISTING STORAGE  
15 TANK PIPING OR STORAGE TANK FACILITY WHICH ALTERS THE PHYSICAL  
16 CONSTRUCTION AND INTEGRITY OF THE TANK OR TANK FACILITY OR ITS  
17 OPERATION.

18 "UNDERGROUND STORAGE TANK." ANY ONE OR COMBINATION OF TANKS  
19 (INCLUDING UNDERGROUND PIPES CONNECTED THERETO) WHICH ARE USED  
20 TO CONTAIN AN ACCUMULATION OF REGULATED SUBSTANCES, AND THE  
21 VOLUME OF WHICH (INCLUDING THE VOLUME OF THE UNDERGROUND PIPES  
22 CONNECTED THERETO) IS 10% OR MORE BENEATH THE SURFACE OF THE  
23 GROUND. THE TERM SHALL NOT INCLUDE:

24 (1) FARM OR RESIDENTIAL TANKS OF 1,100 GALLONS OR LESS  
25 CAPACITY USED FOR STORING MOTOR FUEL FOR NONCOMMERCIAL  
26 PURPOSES.

27 (2) TANKS OF 3,000 GALLONS OR LESS USED FOR STORING  
28 HEATING OIL FOR CONSUMPTIVE USE ON THE PREMISES WHERE STORED.

29 (3) A SEPTIC OR OTHER SUBSURFACE SEWAGE TREATMENT TANK.

30 (4) A PIPELINE FACILITY (INCLUDING GATHERING LINES)

1 REGULATED UNDER:

2 (I) THE NATURAL GAS PIPELINE SAFETY ACT OF 1968  
3 (PUBLIC LAW 90-481, 82 STAT. 720, 49 U.S.C. APP. § 1671  
4 ET SEQ.).

5 (II) THE HAZARDOUS LIQUID PIPELINE SAFETY ACT OF  
6 1979 (PUBLIC LAW 96-129, 93 STAT. 989, 49 U.S.C. § 2001  
7 ET SEQ.).

8 (5) AN INTERSTATE OR INTRASTATE PIPELINE FACILITY  
9 REGULATED UNDER STATE LAWS COMPARABLE TO THE PROVISIONS OF  
10 LAW IN PARAGRAPH (4).

11 (6) SURFACE IMPOUNDMENTS, PITS, PONDS OR LAGOONS.

12 (7) STORM WATER OR WASTEWATER COLLECTION SYSTEMS.

13 (8) FLOW-THROUGH PROCESS TANKS.

14 (9) LIQUID TRAPS OR ASSOCIATED GATHERING LINES DIRECTLY  
15 RELATED TO OIL OR GAS PRODUCTION AND GATHERING OPERATIONS.

16 (10) STORAGE TANKS SITUATED IN AN UNDERGROUND AREA  
17 (SUCH AS A BASEMENT, CELLAR, MINE WORKING, DRIFT, SHAFT OR  
18 TUNNEL) IF THE TANK IS SITUATED UPON OR ABOVE THE SURFACE OF  
19 THE FLOOR.

20 (11) TANKS PERMITTED PURSUANT TO THE ACT OF JULY 7, 1980  
21 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT,  
22 INCLUDING, BUT NOT LIMITED TO, PIPING, TANKS, COLLECTION AND  
23 TREATMENT SYSTEMS USED FOR LEACHATE, METHANE GAS AND METHANE GAS  
24 CONDENSATE MANAGEMENT.

25 (12) ANY OTHER TANK EXCLUDED BY POLICY OR REGULATIONS  
26 PROMULGATED PURSUANT TO THIS ACT.

27 SECTION 104. API.

28 A REFERENCE IN THIS ACT TO A DOCUMENT PUBLISHED BY "API" IS A  
29 REFERENCE TO THE APPROPRIATE TECHNICAL PUBLICATION, INCLUDING  
30 APPENDICES, OF THE AMERICAN PETROLEUM INSTITUTE.



1 SECTION 105. ADVISORY COMMITTEE.

2 (A) APPOINTMENT, COMPOSITION, ETC.--A STORAGE TANK ADVISORY  
3 COMMITTEE SHALL BE APPOINTED BY THE SECRETARY WITHIN 30 DAYS  
4 AFTER THE EFFECTIVE DATE OF THIS ACT. THE COMMITTEE SHALL  
5 CONSIST OF NO MORE THAN 11 MEMBERS. FOUR MEMBERS SHALL BE  
6 REPRESENTATIVES OF LOCAL GOVERNMENT, THREE MEMBERS SHALL BE  
7 REPRESENTATIVES OF THE REGULATED COMMUNITY, ONE MEMBER SHALL BE  
8 A REGISTERED PROFESSIONAL ENGINEER WITH THREE YEARS OF  
9 EXPERIENCE IN THIS COMMONWEALTH AND THREE MEMBERS SHALL BE  
10 REPRESENTATIVES OF THE PUBLIC AT LARGE. MEMBERS SHALL SERVE  
11 WITHOUT COMPENSATION OTHER THAN REIMBURSEMENT FOR REASONABLE AND  
12 NECESSARY EXPENSES IN ACCORDANCE WITH COMMONWEALTH POLICY OR  
13 REGULATIONS AND SHALL SERVE FOR TERMS FIXED BY THE SECRETARY.  
14 THE THREE REPRESENTATIVES FROM THE REGULATED COMMUNITY SHALL BE  
15 APPOINTED BY THE SECRETARY, ONE EACH FROM A LIST OF THREE  
16 NOMINEES PROVIDED BY THE FOLLOWING:

17 (1) THE ASSOCIATED PETROLEUM INDUSTRIES OF PENNSYLVANIA.

18 (2) THE PENNSYLVANIA PETROLEUM ASSOCIATION.

19 (3) THE SERVICE STATION DEALERS AND AUTOMOTIVE REPAIR  
20 ASSOCIATION OF PENNSYLVANIA AND DELAWARE AND THE PETROLEUM  
21 RETAILERS AND AUTO REPAIR ASSOCIATION, INC.

22 (B) COMMENT ON PROPOSED REGULATIONS.--

23 (1) THE COMMITTEE SHALL BE PROVIDED WITH THE OPPORTUNITY  
24 TO COMMENT DURING THE DEVELOPMENT OF ALL PROPOSED TECHNICAL  
25 REGULATIONS OF THE DEPARTMENT PROMULGATED PURSUANT TO THIS  
26 ACT.

27 (2) PRIOR TO SUBMISSION OF ANY PROPOSED TECHNICAL  
28 REGULATION TO THE ENVIRONMENTAL QUALITY BOARD, THE COMMITTEE  
29 SHALL HAVE THE OPPORTUNITY TO SUBMIT, IN A TIMELY FASHION,  
30 ITS RECOMMENDATIONS TO THE SECRETARY FOR HIS CONSIDERATION.

1 FAILURE BY THE COMMITTEE TO ACT WITHIN 30 DAYS FROM RECEIPT  
2 OF ANY REGULATION PROPOSED BY THE DEPARTMENT SHALL BE DEEMED  
3 A FAVORABLE RECOMMENDATION CONCERNING SAID REGULATION BY THE  
4 COMMITTEE.

5 SECTION 106. POWERS AND DUTIES OF ENVIRONMENTAL QUALITY BOARD.

6 THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND ITS  
7 DUTY SHALL BE TO ADOPT RULES AND REGULATIONS OF THE DEPARTMENT  
8 GOVERNING ABOVEGROUND AND UNDERGROUND STORAGE TANKS TO  
9 ACCOMPLISH THE PURPOSES AND CARRY OUT THE PROVISIONS OF THIS  
10 ACT.

11 SECTION 107. POWERS AND DUTIES OF DEPARTMENT.

12 (A) COOPERATIVE AGREEMENTS.--THE DEPARTMENT IS AUTHORIZED TO  
13 ENTER INTO AGREEMENTS, CONTRACTS OR COOPERATIVE ARRANGEMENTS  
14 UNDER SUCH TERMS AND CONDITIONS AS MAY BE DEEMED APPROPRIATE,  
15 WITH OTHER STATE AGENCIES, FEDERAL AGENCIES, COUNTIES, JOINT  
16 COUNTY AUTHORITIES OR MULTIMUNICIPAL AUTHORITIES TO DELEGATE ANY  
17 OR ALL OF ITS REGULATORY AUTHORITY TO PERMIT, INSPECT, MONITOR  
18 AND ENFORCE THIS ACT AND THE UNDERGROUND AND ABOVEGROUND STORAGE  
19 TANK PROGRAMS.

20 (B) COMPLIANCE POLICY AND PROCEDURE.--THE DEPARTMENT SHALL  
21 DEVELOP AND IMPLEMENT POLICIES, PROCEDURES AND FORMS AS MAY BE  
22 NECESSARY AND APPROPRIATE IN ORDER TO ADMINISTER AND OBTAIN  
23 COMPLIANCE WITH THIS ACT, OR THE RULES AND REGULATIONS  
24 PROMULGATED PURSUANT TO THIS ACT, AND PERMITS ISSUED HEREUNDER.

25 (C) PRODUCTION OF MATERIALS, RECORDKEEPING REQUIREMENTS AND  
26 RIGHTS OF ENTRY.--

27 (1) THE DEPARTMENT, ITS AGENTS AND EMPLOYEES ARE  
28 AUTHORIZED TO REQUIRE ANY PERSON REGULATED BY THIS ACT TO  
29 ESTABLISH AND MAINTAIN SUCH RECORDS AND MAKE SUCH REPORTS AND  
30 FURNISH SUCH INFORMATION AS THE DEPARTMENT MAY PRESCRIBE

1 REGARDING ANY MATTER REGULATED BY THIS ACT.

2 (2) THE DEPARTMENT IS AUTHORIZED TO MAKE SUCH  
3 INSPECTIONS, CONDUCT SUCH TESTS OR SAMPLING, OR EXAMINE OR  
4 REQUIRE PRODUCTION OF BOOKS, PAPERS AND RECORDS, AND PHYSICAL  
5 EVIDENCE PERTINENT TO ANY MATTER UNDER INVESTIGATION PURSUANT  
6 TO THIS ACT AS IT DEEMS NECESSARY TO DETERMINE COMPLIANCE  
7 WITH THIS ACT AND, FOR THIS PURPOSE, THE DULY AUTHORIZED  
8 AGENTS AND EMPLOYEES OF THE DEPARTMENT ARE AUTHORIZED TO  
9 ENTER AND EXAMINE ANY PROPERTY, FACILITY, OPERATION OR  
10 ACTIVITY GOVERNED BY THIS ACT, UPON PRESENTATION OF  
11 APPROPRIATE CREDENTIALS, WITHOUT PRIOR NOTICE AT ALL  
12 REASONABLE TIMES, DURING REGULAR BUSINESS HOURS OF THE  
13 OPERATION AND TIMES WHEN ACTIVITY IS BEING CONDUCTED AT THE  
14 SITE.

15 (3) THE OWNER, OPERATOR OR OTHER PERSON IN CHARGE OF  
16 SUCH PROPERTY, FACILITY, OPERATION OR ACTIVITY, UPON  
17 PRESENTATION OF PROPER IDENTIFICATION AND PURPOSE FOR  
18 INSPECTION BY THE AGENTS OR EMPLOYEES OF THE DEPARTMENT,  
19 SHALL GIVE SUCH AGENTS AND EMPLOYEES FREE AND UNRESTRICTED  
20 ENTRY AND ACCESS AND, UPON REFUSAL TO GRANT SUCH ENTRY OR  
21 ACCESS, THE AGENT OR EMPLOYEE MAY OBTAIN A SEARCH WARRANT OR  
22 OTHER SUITABLE ORDER FOR THE PURPOSES OF INSPECTING,  
23 EXAMINING AND SEIZING ANY PROPERTY, BUILDING, PREMISES,  
24 PLACE, BOOK, RECORD OR OTHER PHYSICAL EVIDENCE, AND FOR THE  
25 PURPOSES OF CONDUCTING TESTS AND TAKING SAMPLES. SUCH  
26 WARRANTS SHALL BE ISSUED UPON PROBABLE CAUSE. IT SHALL BE  
27 SUFFICIENT PROBABLE CAUSE TO SHOW ANY ONE OF THE FOLLOWING:

28 (I) THE INSPECTION, EXAMINATION, TEST OR SAMPLING IS  
29 PURSUANT TO A GENERAL ADMINISTRATIVE PLAN TO DETERMINE  
30 COMPLIANCE WITH THIS ACT.

1           (II) THE AGENT OR EMPLOYEE HAS REASON TO BELIEVE  
2           THAT A VIOLATION OF THIS ACT HAS OCCURRED OR IS LIKELY TO  
3           OCCUR.

4           (III) THE AGENT OR EMPLOYEE HAS BEEN REFUSED ACCESS  
5           TO THE PROPERTY, BUILDING, PREMISES, PLACE, BOOK, RECORD  
6           OR OTHER PHYSICAL EVIDENCE ON SITES OR PERTAINING TO  
7           MATTERS GOVERNED BY THIS ACT OR HAS BEEN PREVENTED FROM  
8           CONDUCTING TESTS OR OBTAINING PHYSICAL EVIDENCE WHICH  
9           ACTIVITIES ARE NECESSARY TO DETERMINE COMPLIANCE OR TO  
10          RESPOND TO A VIOLATION OF THIS ACT.

11          (IV) THE OBJECT OF THE INVESTIGATION IS SUBJECT TO  
12          REGULATION UNDER THIS ACT AND ACCESS, EXAMINATION,  
13          INSPECTION OR TESTING IS NECESSARY TO ENFORCE THE  
14          PROVISIONS OF THIS ACT.

15          (D) CERTIFICATION PROGRAM.--THE DEPARTMENT SHALL HAVE THE  
16          AUTHORITY TO ESTABLISH, BY REGULATION, A CERTIFICATION AND  
17          LICENSING PROGRAM FOR INSTALLERS AND INSPECTORS OF STORAGE TANKS  
18          AND STORAGE TANK FACILITIES, INCLUDING PROCEDURES FOR THE  
19          SUSPENSION AND REVOCATION OF CERTIFICATIONS.

20          (E) REVOCATION.--THE DEPARTMENT SHALL HAVE THE POWER TO  
21          REVOKE ANY PERMIT, CERTIFICATION OR REGISTRATION PROVIDED FOR IN  
22          THIS ACT FOR ANY VIOLATION OF THIS ACT OR THE REGULATIONS  
23          PROMULGATED HEREUNDER.

24          (F) ENFORCEMENT.--THE DEPARTMENT SHALL HAVE THE AUTHORITY TO  
25          ISSUE ORDERS, ASSESS CIVIL PENALTIES, INSTITUTE ENFORCEMENT  
26          PROCEEDINGS AND PROSECUTE VIOLATIONS OF THIS ACT AS DEEMED BY  
27          THE DEPARTMENT TO BE NECESSARY AND APPROPRIATE.

28          (G) CORRECTIVE ACTION.--THE DEPARTMENT SHALL HAVE THE  
29          AUTHORITY TO ORDER CORRECTIVE ACTION TO BE UNDERTAKEN, TO TAKE  
30          CORRECTIVE ACTION OR TO AUTHORIZE A THIRD PARTY TO TAKE

1 CORRECTIVE ACTION.

2 (H) COST RECOVERY.--THE DEPARTMENT SHALL HAVE THE AUTHORITY  
3 TO RECOVER THE COSTS OF TAKING OR AUTHORIZING THIRD PARTIES TO  
4 TAKE CORRECTIVE ACTION. COST RECOVERY SHALL NOT INCLUDE THE COST  
5 OF ROUTINE INSPECTION AND PERMITTING ACTIVITIES NOT ASSOCIATED  
6 WITH A RELEASE.

7 SECTION 108. INTERIM CERTIFICATION OF INSTALLERS AND  
8 INSPECTORS.

9 (A) CERTIFICATION.--UNTIL SUCH TIME AS THE DEPARTMENT ADOPTS  
10 REGULATIONS FOR THE CERTIFICATION OF INSTALLERS AND INSPECTORS  
11 OF STORAGE TANKS, ANY PERSON MAY BE CERTIFIED BY THE DEPARTMENT  
12 ON AN INTERIM BASIS BY COMPLYING WITH ALL OF THE FOLLOWING:

13 (1) THE PERSON MUST FILE A COMPLETE APPLICATION FOR AN  
14 INTERIM CERTIFICATION WITH THE DEPARTMENT, WITH THE  
15 APPROPRIATE REQUIRED INFORMATION.

16 (2) THE PERSON MUST DEMONSTRATE THAT HE OR SHE HAS BEEN  
17 SUCCESSFULLY TRAINED BY THE MANUFACTURER IN THE INSTALLATION  
18 OF ALL THE EQUIPMENT, DEVICES AND OTHER RELATED PRODUCTS USED  
19 IN THE INSTALLATION OF A STORAGE TANK FACILITY AND/OR HAS  
20 EQUIVALENT EXPERTISE THROUGH EDUCATION.

21 (3) THE PERSON HAS SUCCESSFULLY COMPLETED A FORMALIZED  
22 TRAINING PROGRAM CONDUCTED BY THE MANUFACTURER FOR ALL  
23 INSTALLERS AND INSPECTORS.

24 (4) THE PERSON DEMONSTRATES THAT ALL INSTALLATIONS OF  
25 STORAGE TANKS AND RELATED EQUIPMENT ARE INSTALLED ACCORDING  
26 TO THE MANUFACTURER'S TECHNICAL SPECIFICATIONS AND MANUALS.

27 (5) THE PERSON MAINTAINS ALL APPLICABLE TECHNICAL  
28 SPECIFICATIONS AND MANUALS WHICH GOVERN THE INSTALLATION AND  
29 OPERATION OF TANK FACILITIES. THE PERSON SHALL MAKE THIS  
30 INFORMATION AVAILABLE TO THE DEPARTMENT UPON REQUEST.

1 (6) THE PERSON FILES COMPLETED DOCUMENTATION WITH THE  
2 DEPARTMENT FOR ALL CERTIFIED INSTALLATIONS AND INSPECTIONS OF  
3 TANK FACILITIES ATTESTING TO COMPLIANCE WITH REQUIREMENTS OF  
4 THE ACT.

5 (7) THE PERSON REPORTS TO THE DEPARTMENT THE EXTENT OF  
6 VISIBLE CONTAMINATION FROM REGULATED SUBSTANCES AT THE SITE  
7 OF THE TANK INSTALLATION, ON A FORM PROVIDED BY THE  
8 DEPARTMENT.

9 (B) REVOCATION, SUSPENSION, ETC.--THE DEPARTMENT MAY REVOKE  
10 OR SUSPEND INTERIM INSTALLER OR INSPECTOR CERTIFICATION FOR GOOD  
11 CAUSE, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO:

12 (1) THE INSTALLATION OF A TANK AND RELATED EQUIPMENT IS  
13 NOT IN ACCORDANCE WITH ALL APPLICABLE TECHNICAL  
14 SPECIFICATIONS AND PROCEDURES OF THE MANUFACTURER.

15 (2) THE INSTALLATION HAS PRESENTED OR DOES PRESENT A  
16 FIRE SAFETY HAZARD, POLLUTION, THREAT OF POLLUTION, OR HAZARD  
17 TO THE PUBLIC HEALTH, SAFETY AND WELFARE.

18 (3) THE CERTIFIED INSTALLER OR INSPECTOR HAS FALSIFIED  
19 INFORMATION IN SUBSECTION (A) OR HAS FAILED TO COMPLY WITH  
20 THE REQUIREMENTS OF SUBSECTION (A).

21 (4) THE CERTIFIED INSPECTOR HAS FAILED TO IDENTIFY OR  
22 REPORT ANY CONDITION OR PROCEDURE:

23 (I) THAT IS NOT IN ACCORDANCE WITH THE  
24 MANUFACTURER'S TECHNICAL AND PROCEDURAL SPECIFICATIONS  
25 FOR THE INSTALLATION, CONSTRUCTION OR OPERATION OF A TANK  
26 OR TANK FACILITY.

27 (II) THAT IS NOT IN ACCORDANCE WITH THE PROVISIONS  
28 OF THIS ACT AND ANY REGULATIONS ADOPTED PURSUANT TO THIS  
29 ACT.

30 (III) THAT PRESENTS A POLLUTION, THREAT OF

1 POLLUTION, OR HARM TO THE PUBLIC HEALTH, SAFETY AND  
2 WELFARE.

3 SECTION 109. CONSTRUCTION.

4 THIS ACT AND THE REGULATIONS PROMULGATED UNDER THIS ACT SHALL  
5 BE LIBERALLY CONSTRUED IN ORDER TO FULLY PROTECT THE PUBLIC  
6 HEALTH, WELFARE AND SAFETY OF THE RESIDENTS OF THIS  
7 COMMONWEALTH.

8 CHAPTER 3

9 ABOVEGROUND STORAGE TANKS

10 SECTION 301. ABOVEGROUND STORAGE TANK REQUIREMENTS.

11 (A) MINIMUM PROGRAM REQUIREMENTS.--THE DEPARTMENT SHALL, BY  
12 REGULATION, ADOPT AND IMPLEMENT AN ABOVEGROUND STORAGE TANK  
13 PROGRAM THAT, AT A MINIMUM, REQUIRES ALL OF THE FOLLOWING:

14 (1) THE PAYMENT OF AN ANNUAL REGISTRATION FEE TO THE  
15 DEPARTMENT BY ABOVEGROUND STORAGE TANK OWNERS.

16 (2) METHODS AND PROCEDURES FOR THE OPERATION OF  
17 ABOVEGROUND STORAGE TANKS AND THE EARLY DETECTION, BY OWNERS,  
18 OF RELEASES OR POTENTIAL RELEASES, INCLUDING TESTING ON NEW  
19 OR SUBSTANTIALLY MODIFIED ABOVEGROUND STORAGE TANKS AND OUT-  
20 OF-SERVICE INSPECTION AT LEAST ONCE EVERY TEN YEARS FOR  
21 EXISTING AND NEW ABOVEGROUND STORAGE TANKS. TESTING OF  
22 ABOVEGROUND STORAGE TANKS AFTER INITIAL INSTALLATION MAY BE  
23 BY HYDROSTATIC MEANS OR, IN INSTANCES WHERE WASTEWATER WOULD  
24 BE GENERATED OR MATERIALS STORED IN THE TANK MIGHT BE WATER  
25 REACTIVE, OTHER METHODS OF TESTING SUCH AS THE RADIOACTIVE  
26 METHOD, THE MAGNETIC PARTICLE METHOD, THE ULTRASONIC METHOD  
27 OR THE LIQUID PENETRANT METHOD, IN ACCORDANCE WITH "API"  
28 STANDARDS, MAY BE USED. A NEW ABOVEGROUND STORAGE TANK NOT  
29 EXCEEDING 21,000 GALLON CAPACITY MAY MEET THE INITIAL TESTING  
30 REQUIREMENTS IF THE TANK IS FULLY ASSEMBLED, INSPECTED AND

1 TESTED AT THE PLANT WHERE IT IS MANUFACTURED.

2 (3) METHODS AND PROCEDURES FOR INVENTORY CONTROL  
3 MEASURES BY OWNERS AND OPERATORS.

4 (4) THE PERIODIC INSPECTION OF THE LEAK DETECTION  
5 SYSTEMS, THE STRUCTURAL INTEGRITY OF THE ABOVEGROUND STORAGE  
6 TANK AND ASSOCIATED EQUIPMENT, AND RELEASE PREVENTION  
7 MEASURES.

8 (5) CORRECTIVE ACTIONS, BY OWNERS, OPERATORS, LANDOWNERS  
9 AND OCCUPIERS, OR OTHER RESPONSIBLE PARTIES, ON AN EMERGENCY  
10 BASIS IF NECESSARY, IN RESPONSE TO A RELEASE FROM AN  
11 ABOVEGROUND STORAGE TANK.

12 (6) THE REPORTING, BY THE OWNER OR OPERATOR, OF ANY  
13 RELEASE AND CORRECTIVE ACTION TAKEN IN RESPONSE TO A RELEASE  
14 FROM AN ABOVEGROUND STORAGE TANK.

15 (7) THE MAINTENANCE OF RECORDS, BY OWNERS AND OPERATORS,  
16 OF PERIODIC INSPECTIONS OF THE LEAK DETECTION SYSTEMS,  
17 INSPECTIONS OF STRUCTURAL INTEGRITY OF THE ABOVEGROUND  
18 STORAGE TANK AND ASSOCIATED EQUIPMENT, AND ALL RELEASE  
19 PREVENTION MEASURES.

20 (8) MINIMUM STANDARDS FOR THE CONSTRUCTION, TESTING,  
21 CORROSION PROTECTION, OPERATION, RELEASE PREVENTION, AND  
22 REPAIR AND REUSE OF ABOVEGROUND STORAGE TANKS.

23 (9) A PERMIT, BY RULE, FOR CERTAIN CLASSIFICATIONS OF  
24 ABOVEGROUND STORAGE TANKS, INCLUDING SMALL ABOVEGROUND  
25 STORAGE TANKS.

26 (10) METHODS AND PROCEDURES FOR THE REMOVAL OF  
27 ABOVEGROUND STORAGE TANKS FROM SERVICE BY THE OWNER AND  
28 OPERATOR.

29 (11) REQUIREMENTS FOR REPORTING, BY THE OWNER OR  
30 OPERATOR, OF THE INTENDED AND COMPLETED CLOSURE OF ANY



1 ABOVEGROUND STORAGE TANK.

2 (B) TANK CLASSIFICATION.--THE DEPARTMENT SHALL HAVE THE  
3 AUTHORITY TO ESTABLISH CLASSES AND CATEGORIES OF ABOVEGROUND  
4 STORAGE TANKS BY REGULATION, WHICH CLASSES MAY BE REGULATED IN  
5 CONSIDERATION OF, AMONG OTHER FACTORS, SIZE, INTENDED USE,  
6 CONTENTS AND POTENTIAL RISK OF HARM TO PUBLIC HEALTH AND THE  
7 ENVIRONMENT.

8 (C) CERTIFIED INSTALLER AND INSPECTOR PROGRAM.--

9 (1) THE DEPARTMENT SHALL ESTABLISH, BY REGULATION, A  
10 CERTIFICATION PROGRAM FOR INSTALLERS AND INSPECTORS OF  
11 ABOVEGROUND STORAGE TANKS, INCLUDING QUALIFICATION STANDARDS,  
12 PROCEDURES FOR TRAINING AND TESTING, AND PROCEDURES FOR  
13 REVOCATION AND SUSPENSION OF SUCH CERTIFICATES. ALL  
14 DEPARTMENT EMPLOYEES ADMINISTERING THIS PROGRAM SHALL BE  
15 DEEMED CERTIFIED WHILE IN THE EMPLOYMENT OF THE DEPARTMENT.

16 (2) ABOVEGROUND STORAGE TANKS SHALL ONLY BE INSTALLED BY  
17 A CERTIFIED INSTALLER AS PROVIDED BY REGULATIONS OF THE  
18 DEPARTMENT.

19 (3) ABOVEGROUND STORAGE TANKS, AS DEEMED NECESSARY BY  
20 THE DEPARTMENT, SHALL BE INSPECTED BY A CERTIFIED INSPECTOR  
21 PRIOR TO PERMITTING AND FACILITY OPERATION AND AT A FREQUENCY  
22 THEREAFTER ESTABLISHED BY THE DEPARTMENT.

23 SECTION 302. INTERIM REQUIREMENTS.

24 (A) REGISTRATION FEES AND REQUIREMENTS.--

25 (1) UNTIL ALTERNATIVE FEES ARE ESTABLISHED BY THE  
26 DEPARTMENT BY REGULATION, ANNUAL REGISTRATION FEES TO BE PAID  
27 BY OWNERS OF ABOVEGROUND STORAGE TANKS ARE HEREBY ESTABLISHED  
28 AS FOLLOWS:

29 (I) THREE HUNDRED DOLLARS FOR EACH ABOVEGROUND  
30 STORAGE TANK WITH A CAPACITY OF MORE THAN 50,000 GALLONS.

1 (II) ONE HUNDRED TWENTY-FIVE DOLLARS FOR EACH  
2 ABOVEGROUND STORAGE TANK WITH A CAPACITY OF MORE THAN  
3 5,000 GALLONS AND LESS THAN OR EQUAL TO 50,000 GALLONS.

4 (III) FIFTY DOLLARS FOR EACH ABOVEGROUND STORAGE  
5 TANK WITH A CAPACITY OF UP TO OR EQUAL TO 5,000 GALLONS.

6 (2) THE OWNER OF ANY ABOVEGROUND STORAGE TANK WITH A  
7 CAPACITY GREATER THAN 5,000 GALLONS SHALL, ALONG WITH THE  
8 REGISTRATION FEE, SUBMIT TO THE DEPARTMENT ALL INFORMATION  
9 REQUIRED ON THE DATA PLATE REQUIRED BY SECTION 8.1 OF API 650  
10 LARGE WELDED STORAGE TANKS (ATMOSPHERIC) AND SUCH OTHER  
11 INFORMATION AS IS REQUIRED BY THE DEPARTMENT.

12 (B) INTERIM INSTALLATION REQUIREMENTS.--

13 (1) UNTIL SUCH TIME AS THE DEPARTMENT ADOPTS  
14 INSTALLATION REQUIREMENTS BY REGULATION, NO PERSON SHALL  
15 INSTALL A NEW OR RECONSTRUCTED ABOVEGROUND STORAGE TANK OR  
16 MAKE A SUBSTANTIAL MODIFICATION TO AN ABOVEGROUND STORAGE  
17 TANK UNLESS THE TANK MEETS THE APPLICABLE TECHNICAL STANDARDS  
18 FOR THE SPECIFIC TYPE AND CLASS OF TANK AS SET FORTH IN THE  
19 APPLICABLE UNDERWRITERS LABORATORY STANDARDS NO. 142 AND BY  
20 THE AMERICAN PETROLEUM INSTITUTE IN EACH OF THE FOLLOWING  
21 (INCLUDING ANY APPENDICES):

22 (I) API-12B - BOLTED TANKS FOR STORAGE OF PRODUCTION  
23 LIQUIDS.

24 (II) API-12D - FIELD WELDED TANKS FOR STORAGE OF  
25 PRODUCTION LIQUIDS.

26 (III) API-12F - SHOP WELDED TANKS FOR STORAGE OF  
27 PRODUCTION LIQUIDS.

28 (IV) API-12H - NEW BOTTOMS FOR OLD TANKS.

29 (V) API-12P - FIBERGLASS TANKS FOR STORAGE OF  
30 PRODUCTION LIQUIDS.

1 (VI) API-620 - LARGE WELDED LOW PRESSURE STORAGE  
2 TANKS.

3 (VII) API-650 - LARGE WELDED STORAGE TANKS  
4 (ATMOSPHERIC).

5 (2) UNLESS MODIFIED BY THE RULES AND REGULATIONS OF THE  
6 DEPARTMENT, THE OWNER, SUBJECT TO PARAGRAPH (1), SHALL, ALONG  
7 WITH THE REGISTRATION FORM REQUIRED BY THIS ACT, SUBMIT A  
8 CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER QUALIFIED  
9 IN TANK CONSTRUCTION THAT THE REQUIREMENTS OF PARAGRAPH (1)  
10 HAVE BEEN MET.

11 SECTION 303. REGISTRATION.

12 (A) REGISTRATION REQUIREMENTS.--EVERY OWNER OF AN  
13 ABOVEGROUND STORAGE TANK, EXCEPT AS SPECIFICALLY EXCLUDED BY  
14 POLICY OR REGULATION OF THE DEPARTMENT, SHALL REGISTER EACH  
15 ABOVEGROUND STORAGE TANK BY COMPLETING AND SUBMITTING THE FORM  
16 PROVIDED BY THE DEPARTMENT, AND BY PAYING THE YEARLY  
17 REGISTRATION FEE PRESCRIBED BY THE DEPARTMENT FOR EACH  
18 ABOVEGROUND STORAGE TANK. IT SHALL BE UNLAWFUL FOR ANY OWNER OR  
19 OPERATOR TO OPERATE OR USE, IN ANY WAY, ANY ABOVEGROUND STORAGE  
20 TANK THAT HAS NOT BEEN CURRENTLY REGISTERED AS REQUIRED BY THIS  
21 SECTION.

22 (B) PROHIBITIONS.--AFTER 12 MONTHS FROM THE EFFECTIVE DATE  
23 OF THIS ACT, IT SHALL BE UNLAWFUL TO SELL, DISTRIBUTE, DEPOSIT  
24 OR OTHERWISE SUPPLY ANY REGULATED SUBSTANCE FOR STORAGE IN AN  
25 ABOVEGROUND STORAGE TANK UNLESS SAID ABOVEGROUND STORAGE TANK  
26 HAS BEEN CURRENTLY REGISTERED AS REQUIRED BY THIS SECTION. ANY  
27 PERSON WHO KNOWINGLY SELLS, DISTRIBUTES, DEPOSITS OR OTHERWISE  
28 SUPPLIES ANY REGULATED SUBSTANCE IN VIOLATION OF THIS SUBSECTION  
29 SHALL BE LIABLE FOR ANY RELEASE FROM THE ABOVEGROUND STORAGE  
30 TANK.

1 (C) USE OF REGISTRATION FEES.--REGISTRATION FEES COLLECTED  
2 BY THE DEPARTMENT SHALL BE USED IN PART TO FUND THE DEVELOPMENT  
3 AND OPERATION OF THE STORAGE TANK PROGRAMS ESTABLISHED BY THIS  
4 ACT.

5 (D) INITIAL REGISTRATION.-- WITHIN SIX MONTHS OF THE  
6 EFFECTIVE DATE OF THIS ACT, ALL OWNERS OF ABOVEGROUND STORAGE  
7 TANKS SHALL MEET THE REGISTRATION REQUIREMENTS AND PAY THE  
8 REGISTRATION FEE REQUIRED BY THIS ACT.

9 SECTION 304. PERMITS AND PLANS.

10 (A) PERMIT REQUIREMENTS.--NO PERSON SHALL INSTALL,  
11 CONSTRUCT, ERECT, MODIFY, OPERATE OR REMOVE FROM SERVICE ALL OR  
12 PART OF AN ABOVEGROUND STORAGE TANK FACILITY UNLESS SUCH  
13 INSTALLATION, CONSTRUCTION, MODIFICATION, OPERATION OR REMOVAL  
14 FROM SERVICE IS AUTHORIZED BY RULES AND REGULATIONS OF THE  
15 DEPARTMENT OR THE PERSON HAS FIRST OBTAINED A PERMIT FROM THE  
16 DEPARTMENT USING THE PRESCRIBED FORMS AND PROCEDURES OF THE  
17 DEPARTMENT.

18 (B) APPLICATION.--APPLICATIONS FOR PERMITS SHALL BE  
19 SUBMITTED IN WRITING TO THE DEPARTMENT IN SUCH FORM AND WITH  
20 SUCH ACCOMPANYING DATA AS SHALL BE PRESCRIBED BY THE DEPARTMENT.

21 (C) FEE.--EACH APPLICATION SHALL BE ACCOMPANIED BY A FEE OF  
22 \$20 PER WHOLE 10,000 GALLON UNITS OF STORAGE CAPACITY. THIS FEE  
23 MAY BE MODIFIED BY REGULATION.

24 (D) PRIOR PERMITS.--ANY PERSON WHO HAS OBTAINED A PERMIT FOR  
25 THE ABOVEGROUND STORAGE TANK FACILITY, PRIOR TO THE EFFECTIVE  
26 DATE OF THIS ACT, PURSUANT TO THE ACT OF JUNE 8, 1911 (P.L.705,  
27 NO.281), ENTITLED "AN ACT CREATING THE OFFICE OF FIRE MARSHAL,  
28 TO BE ATTACHED TO THE DEPARTMENT OF PUBLIC SAFETY IN CITIES OF  
29 THE FIRST CLASS; PRESCRIBING HIS DUTIES AND POWERS; AND  
30 PROVIDING PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THE ACT;

1 AND PROVIDING FOR THE METHOD OF APPOINTMENT, COMPENSATION, AND  
2 FOR THE MAINTENANCE OF HIS OFFICE," THE ACT OF APRIL 27, 1927  
3 (P.L.450, NO.291), REFERRED TO AS THE STATE FIRE MARSHAL LAW, OR  
4 THE ACT OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND  
5 CLASS COUNTY CODE, SHALL BE DEEMED TO HAVE AN OPERATING PERMIT  
6 UNDER THIS ACT SO LONG AS THAT PERSON COMPLIES WITH THE  
7 REGISTRATION PROVISIONS AND OPERATIONAL STANDARDS AND  
8 REQUIREMENTS FOR REMOVAL FROM SERVICE ESTABLISHED THROUGH  
9 REGULATION PROMULGATED BY THE DEPARTMENT UNDER THIS ACT AND ALL  
10 OTHER APPLICABLE LAWS.

11 (E) INTERIM PERMIT REQUIREMENTS.--PRIOR TO THE EFFECTIVE  
12 DATE OF A REGULATION OF THE DEPARTMENT CONCERNING INSTALLATION,  
13 CONSTRUCTION, ERECTION, MODIFICATION, OPERATION OR REMOVAL FROM  
14 SERVICE OF AN ABOVEGROUND STORAGE TANK FACILITY, ANY OWNER OR  
15 OPERATOR WHO MEETS THE INTERIM INSTALLATION REQUIREMENTS OF  
16 SECTION 302(B) OF THIS ACT AND OTHER APPLICABLE PROVISIONS SHALL  
17 BE DEEMED TO MEET THE PERMIT REQUIREMENTS FOR INSTALLATION AND  
18 OPERATION OF AN ABOVEGROUND STORAGE TANK FACILITY.

19 (F) REVIEW OF APPLICATIONS.--THE DEPARTMENT SHALL MAKE A  
20 DETERMINATION REGARDING WHETHER AN APPLICATION IS REASONABLY  
21 COMPLETE WITHIN 45 DAYS OF THE FILING OF AN APPLICATION WITH THE  
22 DEPARTMENT AND SHALL IDENTIFY ALL AREAS IN WHICH AN APPLICATION  
23 IS INCOMPLETE WHEN ISSUING A NOTICE OF DEFICIENCY. THE  
24 DEPARTMENT SHALL REVIEW ANY AMENDED APPLICATION FILED IN  
25 RESPONSE TO A NOTICE OF DEFICIENCY WITHIN 45 DAYS OF THE FILING  
26 OF THE AMENDED APPLICATION WITH THE DEPARTMENT. NOTHING IN THIS  
27 SECTION SHALL PROHIBIT THE DEPARTMENT AND THE APPLICANT FROM  
28 AGREEING TO EXTEND ANY DEADLINE FOR ACTION PROVIDED BY THIS  
29 SECTION. NOTHING IN THIS SECTION SHALL PROHIBIT THE DEPARTMENT  
30 FROM REQUESTING AND ACCEPTING SUPPLEMENTAL INFORMATION,

1 EXPLANATIONS AND CLARIFICATIONS REGARDING THE CONTENT OF AN  
2 APPLICATION PRIOR TO THE DEADLINE FOR DEPARTMENT ACTION.

3 (G) RENEWAL OF PERMIT.-- IN ORDER TO CONTINUE TO OPERATE AN  
4 ABOVEGROUND STORAGE TANK FACILITY, THE OWNER OR OPERATOR MUST  
5 OBTAIN A NEW PERMIT OR A RENEWED PERMIT AT LEAST EVERY TEN  
6 YEARS.

7 (H) UNLAWFUL CONDUCT.--IT SHALL BE UNLAWFUL TO INSTALL,  
8 CONSTRUCT, ERECT, MODIFY, OPERATE OR REMOVE FROM SERVICE AN  
9 ABOVEGROUND STORAGE TANK FACILITY UNLESS AUTHORIZED BY THE  
10 POLICIES, RULES OR REGULATIONS OF THE DEPARTMENT OR UNLESS THE  
11 OWNER OR OPERATOR HAS FIRST OBTAINED A PERMIT FROM THE  
12 DEPARTMENT. HOWEVER, ANY PERSON WHO HAS INSTALLED, CONSTRUCTED  
13 OR ERECTED AN ABOVEGROUND STORAGE TANK PRIOR TO THE EFFECTIVE  
14 DATE OF THIS ACT WHO WAS NOT REQUIRED TO OBTAIN A PERMIT UNDER  
15 ONE OF THE AUTHORITIES LISTED IN SUBSECTION (D) SHALL HAVE 12  
16 MONTHS FROM THE EFFECTIVE DATE OF THIS ACT TO OBTAIN AN  
17 OPERATING PERMIT FROM THE DEPARTMENT.

18 CHAPTER 5

19 UNDERGROUND STORAGE TANKS

20 SECTION 501. UNDERGROUND STORAGE TANK REQUIREMENTS.

21 (A) PROGRAM REQUIREMENTS.--THE DEPARTMENT SHALL ADOPT  
22 REGULATIONS AND IMPLEMENT AN UNDERGROUND STORAGE TANK PROGRAM  
23 THAT, AT A MINIMUM, REQUIRES ALL OF THE FOLLOWING:

24 (1) THE PAYMENT OF AN ANNUAL REGISTRATION FEE TO THE  
25 DEPARTMENT BY OWNERS OF UNDERGROUND STORAGE TANKS AND  
26 COMMERCIAL HEATING OIL STORAGE TANKS.

27 (2) METHODS AND PROCEDURES FOR THE OPERATION OF  
28 UNDERGROUND STORAGE TANK FACILITIES AND FOR THE OPERATOR'S  
29 AND OWNER'S MAINTENANCE OF A LEAK DETECTION SYSTEM, AN  
30 INVENTORY CONTROL SYSTEM TOGETHER WITH TANK TESTING OR A

1 COMPARABLE SYSTEM OR METHOD DESIGNED TO IDENTIFY RELEASES OR  
2 POTENTIAL RELEASES IN A MANNER CONSISTENT WITH THE PROTECTION  
3 OF HUMAN HEALTH AND THE ENVIRONMENT.

4 (3) THE MAINTENANCE OF RECORDS BY THE OWNER OR OPERATOR  
5 OF ANY MONITORING OR LEAK DETECTION SYSTEM OR INVENTORY  
6 CONTROL SYSTEM OR TANK TESTING SYSTEM.

7 (4) THE REPORTING BY THE OWNER OR OPERATOR OF ANY  
8 RELEASES AND CORRECTIVE ACTION TAKEN IN RESPONSE TO A RELEASE  
9 FROM AN UNDERGROUND STORAGE TANK.

10 (5) CORRECTIVE ACTIONS BY OWNERS, OPERATORS, LANDOWNERS  
11 AND OCCUPIERS, OR OTHER RESPONSIBLE PARTIES, ON AN EMERGENCY  
12 BASIS IF NECESSARY, IN RESPONSE TO A RELEASE FROM AN  
13 UNDERGROUND STORAGE TANK.

14 (6) REQUIREMENTS FOR CLOSURE OF TANKS BY OWNERS AND  
15 OPERATORS TO PREVENT FUTURE RELEASES OF REGULATED SUBSTANCES  
16 INTO THE ENVIRONMENT.

17 (7) STANDARDS FOR INSTALLATION AND PERFORMANCE FOR NEW  
18 AND EXISTING UNDERGROUND STORAGE TANKS, INCLUDING MINIMUM  
19 STANDARDS FOR THE CONSTRUCTION, TESTING, CORROSION,  
20 PROTECTION, OPERATION, RELEASE PREVENTION AND REPAIR AND  
21 REUSE OF UNDERGROUND STORAGE TANKS.

22 (8) STANDARDS AND PROCEDURES FOR PERMITTING ,  
23 INSTALLATION, CONSTRUCTION, MODIFICATION , OPERATION AND  
24 REMOVAL OF TANKS AND INTENDED AND COMPLETED CLOSURE OF AN  
25 UNDERGROUND STORAGE TANK.

26 (9) METHODS AND PROCEDURES FOR THE REMOVAL OF  
27 UNDERGROUND STORAGE TANKS FROM SERVICE BY THE OWNER OR  
28 OPERATOR.

29 (10) REQUIREMENTS FOR REPORTING BY THE OWNER OR OPERATOR  
30 OF INTENDED AND COMPLETED CLOSURE OF ANY UNDERGROUND STORAGE

1 TANK FACILITIES.

2 (11) THE PERIODIC INSPECTION OF THE LEAK DETECTION  
3 SYSTEMS, STRUCTURAL INTEGRITY OF THE UNDERGROUND STORAGE  
4 TANKS AND ASSOCIATED EQUIPMENT, AND RELEASE PREVENTION  
5 MEASURES.

6 (12) A PERMIT, BY RULE, FOR CERTAIN CLASSIFICATIONS OF  
7 UNDERGROUND STORAGE TANKS.

8 (B) TANK CLASSIFICATION.--THE DEPARTMENT SHALL HAVE THE  
9 AUTHORITY TO ESTABLISH CLASSES AND CATEGORIES OF UNDERGROUND  
10 STORAGE TANKS BY REGULATION, WHICH CLASSES MAY BE REGULATED IN  
11 CONSIDERATION OF, AMONG OTHER FACTORS, SIZE, COMPOSITION,  
12 INTENDED USE, CONTENTS AND POTENTIAL RISK OF HARM TO PUBLIC  
13 HEALTH AND THE ENVIRONMENT.

14 (C) CERTIFIED INSTALLER AND INSPECTOR PROGRAM.--

15 (1) THE DEPARTMENT SHALL ESTABLISH, BY REGULATION, A  
16 CERTIFICATION PROGRAM FOR INSTALLERS AND INSPECTORS OF  
17 UNDERGROUND STORAGE TANKS AND FACILITIES. THIS PROGRAM SHALL  
18 INCLUDE PROVISIONS FOR QUALIFICATIONS AND STANDARDS,  
19 PROCEDURES FOR TRAINING AND TESTING AND FOR THE REVOCATION  
20 AND SUSPENSION OF CERTIFICATION. ALL DEPARTMENT EMPLOYEES  
21 ADMINISTERING THIS PROGRAM SHALL BE DEEMED CERTIFIED WHILE IN  
22 THE EMPLOYMENT OF THE DEPARTMENT.

23 (2) UNDERGROUND STORAGE TANKS SHALL ONLY BE INSTALLED  
24 MODIFIED AND REMOVED BY A CERTIFIED INSTALLER AS PROVIDED BY  
25 POLICY OR REGULATIONS OF THE DEPARTMENT.

26 (3) UNDERGROUND STORAGE TANKS SHALL BE INSPECTED BY  
27 CERTIFIED INSPECTORS PRIOR TO PERMITTING AND AT A FREQUENCY  
28 THEREAFTER ESTABLISHED BY THE DEPARTMENT AS PROVIDED BY  
29 REGULATIONS OF THE DEPARTMENT.

30 SECTION 502. INTERIM REQUIREMENTS AND DISCONTINUED USE.



1 (A) REGISTRATION FEES AND REQUIREMENTS.--UNTIL ALTERNATIVE  
2 FEES ARE ESTABLISHED BY THE DEPARTMENT BY REGULATION, AN ANNUAL  
3 FEE OF \$50 FOR EACH UNDERGROUND STORAGE TANK AND EACH COMMERCIAL  
4 HEATING OIL STORAGE TANK TO BE PAID BY OWNERS OF THE UNDERGROUND  
5 STORAGE TANK IS HEREBY ESTABLISHED.

6 (B) INTERIM INSTALLATION AND OPERATION REQUIREMENTS.--UNTIL  
7 SUCH TIME AS THE DEPARTMENT ADOPTS INSTALLATION AND OPERATIONAL  
8 REQUIREMENTS BY REGULATION, NO PERSON SHALL INSTALL OR MAKE A  
9 SUBSTANTIAL MODIFICATION TO AN UNDERGROUND STORAGE TANK OR  
10 FACILITY UNLESS THAT TANK OR FACILITY MEETS ALL OF THE FOLLOWING  
11 REQUIREMENTS:

12 (1) THE TANK PREVENTS RELEASES DUE TO CORROSION OR  
13 STRUCTURAL FAILURE FOR THE OPERATIONAL LIFE OF THE TANK.

14 (2) THE TANK IS CATHODICALLY PROTECTED AGAINST  
15 CORROSION, CONSTRUCTED OF NONCORROSIVE MATERIAL, STEEL CLAD  
16 WITH A NONCORROSIVE MATERIAL, OR DESIGNED IN A MANNER TO  
17 PREVENT THE RELEASE OR THREATENED RELEASE OF ANY STORED  
18 SUBSTANCE.

19 (3) THE MATERIAL USED IN THE CONSTRUCTION OR LINING OF  
20 THE TANK IS COMPATIBLE WITH THE SUBSTANCE TO BE STORED.

21 (4) THE TANK IS EQUIPPED WITH SPILL AND OVERFILL  
22 PREVENTION EQUIPMENT.

23 (5) THE TANK IS INSTALLED BY A CERTIFIED INSTALLER.

24 (C) DISCONTINUED USE.--UPON ABANDONMENT OR DISCONTINUANCE OF  
25 THE USE OR ACTIVE OPERATION OF AN UNDERGROUND STORAGE TANK, THE  
26 OWNER AND OPERATOR SHALL REMOVE THE TANK AND ITS CONTENTS OR  
27 SHALL SEAL THE TANK, AND RESTORE THE AREA IN A MANNER THAT  
28 PREVENTS ANY FUTURE RELEASE, AND SHALL REMEDY ANY ADVERSE  
29 IMPACTS FROM ANY PRIOR RELEASE IN A MANNER DEEMED SATISFACTORY  
30 TO THE DEPARTMENT.

1 SECTION 503. REGISTRATION.

2 (A) REQUIREMENTS.--EVERY OWNER OF AN UNDERGROUND STORAGE  
3 TANK, EXCEPT AS SPECIFICALLY EXCLUDED BY POLICY OR REGULATION OF  
4 THE DEPARTMENT, SHALL REGISTER WITH THE DEPARTMENT EACH  
5 UNDERGROUND STORAGE TANK BY COMPLETING AND SUBMITTING THE FORM  
6 PROVIDED BY THE DEPARTMENT AND BY PAYING THE REGISTRATION FEE  
7 PRESCRIBED BY THE DEPARTMENT FOR EACH UNDERGROUND STORAGE TANK  
8 WITHIN THREE MONTHS OF THE EFFECTIVE DATE OF THIS ACT. IT SHALL  
9 BE UNLAWFUL FOR ANY OWNER OR OPERATOR TO OPERATE OR USE, IN ANY  
10 WAY, ANY UNDERGROUND STORAGE TANK THAT HAS NOT BEEN REGISTERED  
11 AS REQUIRED BY THIS SECTION.

12 (B) PROHIBITIONS.--AFTER 12 MONTHS FROM THE EFFECTIVE DATE  
13 OF THIS ACT, IT SHALL BE UNLAWFUL TO SELL, DISTRIBUTE, DEPOSIT  
14 OR OTHERWISE SUPPLY ANY REGULATED SUBSTANCE FOR STORAGE IN AN  
15 UNDERGROUND STORAGE TANK UNLESS THE UNDERGROUND STORAGE TANK HAS  
16 BEEN REGISTERED AS REQUIRED BY THIS SECTION. ANY PERSON WHO  
17 KNOWINGLY SELLS, DISTRIBUTES, DEPOSITS OR OTHERWISE SUPPLIES ANY  
18 REGULATED SUBSTANCE IN VIOLATION OF THIS SECTION SHALL BE LIABLE  
19 FOR ANY RELEASE FROM THE UNDERGROUND STORAGE TANK.

20 (C) USE OF REGISTRATION FEES.--REGISTRATION FEES COLLECTED  
21 BY THE DEPARTMENT SHALL BE USED IN PART TO FUND THE DEVELOPMENT  
22 AND OPERATION OF THE STORAGE TANK PROGRAMS ESTABLISHED BY THIS  
23 ACT.

24 SECTION 504. PERMITS AND PLANS.

25 (A) PERMIT REQUIREMENTS.--NO PERSON SHALL INSTALL,  
26 CONSTRUCT, MODIFY, OPERATE OR REMOVE FROM SERVICE ALL OR PART OF  
27 AN UNDERGROUND STORAGE TANK FACILITY UNLESS SUCH INSTALLATION,  
28 CONSTRUCTION, MODIFICATION, OPERATION OR REMOVAL FROM SERVICE IS  
29 AUTHORIZED BY THE RULES AND REGULATIONS OF THE DEPARTMENT OR THE  
30 PERSON HAS FIRST OBTAINED A PERMIT FROM THE DEPARTMENT.

1 (B) APPLICATION.--APPLICATIONS FOR PERMITS SHALL BE  
2 SUBMITTED IN WRITING TO THE DEPARTMENT IN SUCH FORM AND WITH  
3 SUCH ACCOMPANYING DATA AS SHALL BE PRESCRIBED BY THE DEPARTMENT.

4 (C) FEE.--EACH APPLICATION SHALL BE ACCOMPANIED BY A PERMIT  
5 FEE OF \$20 PER TANK. THIS FEE MAY BE MODIFIED BY REGULATION.

6 (D) PRIOR PERMITS.--ANY PERSON WHO HAS OBTAINED A PERMIT FOR  
7 THE UNDERGROUND STORAGE TANK FACILITY, PRIOR TO THE EFFECTIVE  
8 DATE OF THIS ACT, PURSUANT TO THE ACT OF JUNE 8, 1911 (P.L.705,  
9 NO.281), ENTITLED "AN ACT CREATING THE OFFICE OF FIRE MARSHAL,  
10 TO BE ATTACHED TO THE DEPARTMENT OF PUBLIC SAFETY IN CITIES OF  
11 THE FIRST CLASS; PRESCRIBING HIS DUTIES AND POWERS; AND  
12 PROVIDING PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THE ACT;  
13 AND PROVIDING FOR THE METHOD OF APPOINTMENT, COMPENSATION, AND  
14 FOR THE MAINTENANCE OF HIS OFFICE," THE ACT OF APRIL 27, 1927  
15 (P.L.450, NO.29), REFERRED TO AS THE STATE FIRE MARSHAL LAW, OR  
16 THE ACT OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND  
17 CLASS COUNTY CODE, SHALL BE DEEMED TO HAVE AN OPERATING PERMIT  
18 UNDER THIS ACT SO LONG AS THAT PERSON COMPLIES WITH THE  
19 OPERATIONAL STANDARDS AND REQUIREMENTS FOR REMOVAL FROM SERVICE  
20 ESTABLISHED THROUGH REGULATION PROMULGATED BY THE DEPARTMENT  
21 UNDER THIS ACT AND ALL OTHER APPLICABLE LAWS.

22 (E) SUBMISSION OF APPLICATIONS.--THE APPLICANT SHALL PROVIDE  
23 A COMPLETED PERMIT APPLICATION WITH ALL REQUESTED INFORMATION  
24 USING THE FORMS PROVIDED BY THE DEPARTMENT. APPLICATION FORMS  
25 SHALL BE ACCOMPANIED BY THE NECESSARY FEES. NOTHING IN THIS  
26 SECTION SHALL PROHIBIT THE DEPARTMENT FROM REQUESTING ADDITIONAL  
27 INFORMATION OR CLARIFICATIONS REGARDING THE CONTENT OF THE  
28 APPLICATION.

29 (F) INTERIM OPERATING PERMIT REQUIREMENTS.--PRIOR TO THE  
30 EFFECTIVE DATE OF A REGULATION OF THE DEPARTMENT CONCERNING

1 INSTALLATION, SUBSTANTIAL MODIFICATION OR OPERATION OF  
2 UNDERGROUND STORAGE TANKS AT A TANK FACILITY, ANY OWNER OR  
3 OPERATOR WHO SUBMITS AN APPLICATION DEMONSTRATING THAT HE MEETS  
4 THE INTERIM INSTALLATION AND OPERATION REQUIREMENTS OF SECTIONS  
5 502 AND 503 OF THIS ACT SHALL MEET THE OPERATING PERMIT  
6 REQUIREMENTS OF THIS SECTION.

7 (G) REVIEW OF APPLICATIONS.--THE DEPARTMENT SHALL MAKE A  
8 DETERMINATION REGARDING WHETHER AN APPLICATION IS REASONABLY  
9 COMPLETE WITHIN 45 DAYS OF THE FILING OF AN APPLICATION WITH THE  
10 DEPARTMENT AND SHALL IDENTIFY ALL AREAS IN WHICH AN APPLICATION  
11 IS INCOMPLETE WHEN ISSUING A NOTICE OF DEFICIENCY. THE  
12 DEPARTMENT SHALL REVIEW ANY AMENDED APPLICATION FILED IN  
13 RESPONSE TO A NOTICE OF DEFICIENCY WITHIN 45 DAYS OF THE FILING  
14 OF THE AMENDED APPLICATION WITH THE DEPARTMENT. NOTHING IN THIS  
15 SECTION SHALL PROHIBIT THE DEPARTMENT AND THE APPLICANT FROM  
16 AGREEING TO EXTEND ANY DEADLINE FOR ACTION PROVIDED BY THIS  
17 SECTION. NOTHING IN THIS SECTION SHALL PROHIBIT THE DEPARTMENT  
18 FROM REQUESTING AND ACCEPTING SUPPLEMENTAL INFORMATION,  
19 EXPLANATIONS AND CLARIFICATIONS REGARDING THE CONTENT OF AN  
20 APPLICATION PRIOR TO THE DEADLINE FOR DEPARTMENT ACTION.

21 (H) UNLAWFUL CONDUCT.--IT SHALL BE UNLAWFUL TO INSTALL,  
22 CONSTRUCT, MODIFY, OPERATE OR REMOVE FROM SERVICE AN UNDERGROUND  
23 STORAGE TANK UNLESS AUTHORIZED BY THE RULES OR REGULATIONS OF  
24 THE DEPARTMENT OR UNLESS THE OWNER OR OPERATOR HAS FIRST  
25 OBTAINED A PERMIT FROM THE DEPARTMENT. HOWEVER, ANY PERSON WHO  
26 HAS INSTALLED, CONSTRUCTED OR ERECTED AN UNDERGROUND STORAGE  
27 TANK PRIOR TO THE EFFECTIVE DATE OF THIS ACT WHO WAS NOT  
28 REQUIRED TO OBTAIN A PERMIT UNDER ONE OF THE AUTHORITIES LISTED  
29 IN SUBSECTION (D) SHALL HAVE 12 MONTHS FROM THE EFFECTIVE DATE  
30 OF THIS ACT TO OBTAIN A PERMIT FROM THE DEPARTMENT.

1 SECTION 505. COMMERCIAL HEATING OIL STORAGE TANKS.

2 THE ENVIRONMENTAL QUALITY BOARD SHALL ESTABLISH, BY  
3 REGULATION, SPECIFIC REQUIREMENTS FOR COMMERCIAL HEATING OIL  
4 STORAGE TANKS, INCLUDING, BUT NOT LIMITED TO, REQUIREMENTS  
5 REGARDING PERMITTING, MONITORING, LEAK DETECTION, CORRECTIVE  
6 ACTION AND RELEASE PREVENTION, CLOSURE AND RESTORATION.

7 SECTION 506. SMALL OPERATOR ASSISTANCE PROGRAM FOR UNDERGROUND  
8 STORAGE TANKS.

9 THE DEPARTMENT SHALL ESTABLISH, IMPLEMENT AND ADMINISTER A  
10 SMALL OPERATOR ASSISTANCE PROGRAM WITHIN 180 DAYS OF THE  
11 EFFECTIVE DATE OF THIS ACT. THE SMALL OPERATOR ASSISTANCE  
12 PROGRAM SHALL PROVIDE INFORMATION AND ASSISTANCE TO SMALL  
13 OPERATORS LOCATED IN RURAL AREAS WHO PUMP, ON A MONTHLY BASIS,  
14 LESS THAN 3,000 GALLONS RETAIL MOTOR FUEL SALES.

15 CHAPTER 7

16 FINANCIAL PROVISIONS

17 SECTION 701. FINANCIAL RESPONSIBILITY.

18 (A) REGULATIONS OF THE ENVIRONMENTAL QUALITY BOARD.--THE  
19 ENVIRONMENTAL QUALITY BOARD IS AUTHORIZED TO ESTABLISH, BY  
20 REGULATION, REQUIREMENTS FOR MAINTAINING EVIDENCE OF FINANCIAL  
21 RESPONSIBILITY AS DEEMED NECESSARY AND DESIRABLE, FOR TAKING  
22 CORRECTIVE ACTION AND FOR COMPENSATING THIRD PARTIES FOR BODILY  
23 INJURY AND PROPERTY DAMAGE CAUSED BY SUDDEN AND NONSUDDEN  
24 RELEASES ARISING FROM OPERATION OF A STORAGE TANK. EVERY OWNER  
25 OR OPERATOR SHALL MEET THE FINANCIAL RESPONSIBILITY REQUIREMENTS  
26 ESTABLISHED BY THE DEPARTMENT.

27 (B) METHODS OF OBTAINING FINANCIAL RESPONSIBILITY.--  
28 FINANCIAL RESPONSIBILITY REQUIRED BY THIS SECTION MAY BE  
29 ESTABLISHED IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE  
30 ENVIRONMENTAL QUALITY BOARD BY ANY ONE OR ANY COMBINATION OF THE

1 FOLLOWING: INSURANCE, GUARANTEE, SURETY, BOND, LETTER OF CREDIT,  
2 QUALIFICATION AS A SELF-INSURER, INDEMNITY CONTRACT, RISK  
3 RETENTION COVERAGE, OR ANY OTHER METHOD DEEMED SATISFACTORY BY  
4 THE DEPARTMENT. OWNERS OF UNDERGROUND STORAGE TANKS MUST MEET  
5 THESE REQUIREMENTS BY COMPLYING WITH SECTIONS 703, 704, 705 AND  
6 706. IN REGULATIONS UNDER THIS SECTION, THE DEPARTMENT IS  
7 AUTHORIZED TO SPECIFY POLICY OR OTHER CONTRACTUAL TERMS,  
8 CONDITIONS, OR DEFENSES WHICH ARE NECESSARY OR ACCEPTABLE IN  
9 ESTABLISHING SUCH EVIDENCE OF FINANCIAL RESPONSIBILITY.

10 (C) BANKRUPTCY OF OWNER OR OPERATOR.--IN ANY CASE WHERE THE  
11 OWNER OR OPERATOR IS IN BANKRUPTCY, REORGANIZATION, OR  
12 ARRANGEMENT PURSUANT TO THE FEDERAL BANKRUPTCY CODE OR WHERE  
13 WITH REASONABLE DILIGENCE JURISDICTION IN ANY STATE COURT OR THE  
14 FEDERAL COURTS CANNOT BE OBTAINED OVER AN OWNER OR OPERATOR  
15 LIKELY TO BE SOLVENT AT THE TIME OF JUDGMENT, ANY CLAIM ARISING  
16 FROM CONDUCT FOR WHICH EVIDENCE OF FINANCIAL RESPONSIBILITY MUST  
17 BE PROVIDED UNDER THIS SUBSECTION MAY BE ASSERTED DIRECTLY  
18 AGAINST THE GUARANTOR PROVIDING SUCH EVIDENCE OF FINANCIAL  
19 RESPONSIBILITY. IN THE CASE OF ANY ACTION PURSUANT TO THIS  
20 SUBSECTION, SUCH GUARANTOR SHALL BE ENTITLED TO INVOKE ALL  
21 RIGHTS AND DEFENSES WHICH WOULD HAVE BEEN AVAILABLE TO THE OWNER  
22 OR OPERATOR IF ANY ACTION HAD BEEN BROUGHT AGAINST THE OWNER OR  
23 OPERATOR BY THE CLAIMANT AND WHICH WOULD HAVE BEEN AVAILABLE TO  
24 THE GUARANTOR IF AN ACTION HAD BEEN BROUGHT AGAINST THE  
25 GUARANTOR BY THE OWNER OR OPERATOR.

26 (D) GUARANTOR LIABILITY.--THE TOTAL LIABILITY OF ANY  
27 GUARANTOR SHALL BE LIMITED TO THE AGGREGATE AMOUNT WHICH THE  
28 GUARANTOR HAS PROVIDED AS EVIDENCE OF FINANCIAL RESPONSIBILITY  
29 TO THE OWNER OR OPERATOR UNDER THIS SECTION. NOTHING IN THIS  
30 SUBSECTION SHALL BE CONSTRUED TO LIMIT ANY OTHER STATE OR

1 FEDERAL STATUTORY, CONTRACTUAL OR COMMON LAW LIABILITY OF A  
2 GUARANTOR TO ITS OWNER OR OPERATOR, INCLUDING, BUT NOT LIMITED  
3 TO, THE LIABILITY OF SUCH GUARANTOR FOR BAD FAITH EITHER IN  
4 NEGOTIATING OR IN FAILING TO NEGOTIATE THE SETTLEMENT OF ANY  
5 CLAIM. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO DIMINISH  
6 THE LIABILITY OF ANY PERSON UNDER SECTION 107 OR 111 OF THE  
7 COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY  
8 ACT OF 1980 OR OTHER APPLICABLE STATUTES.

9 (E) DEFINITION.--AS USED IN THIS SUBSECTION, THE TERM  
10 "GUARANTOR" MEANS ANY PERSON, OTHER THAN THE OWNER OR OPERATOR,  
11 WHO PROVIDES EVIDENCE OF FINANCIAL RESPONSIBILITY FOR AN OWNER  
12 OR OPERATOR UNDER THIS SUBSECTION.

13 SECTION 702. STORAGE TANK FUND.

14 (A) ESTABLISHMENT OF FUND.--THERE IS HEREBY CREATED A  
15 SPECIAL NONLAPSING FUND IN THE STATE TREASURY TO BE KNOWN AS THE  
16 STORAGE TANK FUND. ALL FEES, FINES, JUDGMENTS, BOND FORFEITURES,  
17 INTEREST AND RECOVERED COSTS COLLECTED BY THE DEPARTMENT UNDER  
18 THIS ACT SHALL BE PAID INTO THE STORAGE TANK FUND. ALL MONEYS  
19 PLACED IN THE STORAGE TANK FUND AND THE INTEREST IT ACCRUES ARE  
20 HEREBY APPROPRIATED, UPON AUTHORIZATION BY THE GOVERNOR, TO THE  
21 DEPARTMENT FOR THE COSTS OF OPERATING THE ABOVEGROUND AND  
22 UNDERGROUND STORAGE TANK PROGRAMS, INCLUDING ACTIVITIES  
23 NECESSARY FOR THE ELIMINATION OF RELEASES FROM STORAGE TANKS AND  
24 ANY OTHER ACTIVITIES NECESSARY TO MEET THE REQUIREMENTS OF THIS  
25 ACT.

26 (B) SUPPLEMENTS TO FUND.--THE STORAGE TANK FUND MAY BE  
27 SUPPLEMENTED BY APPROPRIATIONS FROM THE GENERAL ASSEMBLY, THE  
28 FEDERAL, STATE OR LOCAL GOVERNMENT OR FROM ANY PRIVATE SOURCE.

29 (C) LIABILITY FOR COSTS.--WHENEVER COSTS HAVE BEEN INCURRED  
30 BY THE COMMONWEALTH FOR TAKING CORRECTIVE ACTION OR ENFORCEMENT

1 ACTION IN RESPONSE TO A RELEASE FROM A STORAGE TANK REGULATED BY  
2 THIS ACT, THE OWNER OR OPERATOR, AS MAY BE APPROPRIATE, OF SUCH  
3 TANK SHALL BE LIABLE TO THE COMMONWEALTH FOR SUCH COSTS.

4 (D) EFFECT OF LIABILITY ON PROPERTY.--ANY COSTS INCURRED BY  
5 THE COMMONWEALTH FOR TAKING CORRECTIVE ACTION OR ENFORCEMENT  
6 ACTION IN RESPONSE TO A RELEASE FROM A STORAGE TANK UNDER THIS  
7 ACT SHALL CONSTITUTE IN EACH INSTANCE A DEBT OF THE OWNER OR  
8 OPERATOR, AS MAY BE APPROPRIATE, TO THE STORAGE TANK FUND. THE  
9 DEBT SHALL CONSTITUTE A LIEN ON ALL PROPERTY OWNED BY SAID OWNER  
10 OR OPERATOR WHEN A NOTICE OF LIEN INCORPORATING A DESCRIPTION OF  
11 THE PROPERTY OF THE OWNER OR OPERATOR SUBJECT TO THE ACTION AND  
12 AN IDENTIFICATION OF THE AMOUNT OF EXPENDITURE FROM THE FUND IS  
13 DULY FILED WITH THE PROTHONOTARY OF THE COURT OF COMMON PLEAS  
14 WHERE THE PROPERTY IS LOCATED. THE PROTHONOTARY SHALL PROMPTLY  
15 ENTER UPON THE CIVIL JUDGMENT OR ORDER DOCKET THE NAME AND  
16 ADDRESS OF THE OWNER OR OPERATOR, AS MAY BE APPROPRIATE, AND THE  
17 AMOUNT OF THE LIEN AS SET FORTH IN THE NOTICE OF LIEN. UPON  
18 ENTRY BY THE PROTHONOTARY, THE LIEN SHALL ATTACH TO THE REVENUES  
19 AND ALL REAL AND PERSONAL PROPERTY OF THE OWNER OR OPERATOR,  
20 WHETHER OR NOT THE OWNER OR OPERATOR IS SOLVENT. THE NOTICE OF  
21 LIEN FILED PURSUANT TO THIS SUBSECTION WHICH AFFECTS THE  
22 PROPERTY OF THE OWNER OR OPERATOR SHALL CREATE A LIEN WITH  
23 PRIORITY OVER ALL SUBSEQUENT CLAIMS OR LIENS WHICH ARE FILED  
24 AGAINST THE OWNER OR OPERATOR.

25 SECTION 703. UNDERGROUND STORAGE TANK INDEMNIFICATION BOARD.

26 (A) ESTABLISHMENT OF BOARD, APPOINTMENT AND TERMS.--THERE IS  
27 HEREBY CREATED THE UNDERGROUND STORAGE TANK INDEMNIFICATION  
28 BOARD WHICH SHALL CONSIST OF SEVEN MEMBERS. THE INSURANCE  
29 COMMISSIONER AND THE SECRETARY OF THE DEPARTMENT OF  
30 ENVIRONMENTAL RESOURCES SHALL BE EX OFFICIO MEMBERS. FIVE



1 MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, AS FOLLOWS:

2 (1) THREE MEMBERS WHO SHALL BE PERSONS WITH PARTICULAR  
3 EXPERTISE IN THE MANAGEMENT OF UNDERGROUND STORAGE TANKS. TWO  
4 OF THESE MEMBERS SHALL BE APPOINTED FOR TERMS OF FOUR YEARS  
5 AND ONE SHALL BE APPOINTED FOR A TERM OF THREE YEARS. THE  
6 GOVERNOR SHALL APPOINT THE MEMBERS, ONE EACH FROM A LIST OF  
7 NOMINEES PROVIDED BY EACH OF THE FOLLOWING:

8 (I) THE ASSOCIATED PETROLEUM INDUSTRIES OF  
9 PENNSYLVANIA.

10 (II) THE PENNSYLVANIA PETROLEUM ASSOCIATION.

11 (III) THE SERVICE STATION DEALERS AND AUTOMOTIVE  
12 REPAIR ASSOCIATION OF PENNSYLVANIA AND DELAWARE AND THE  
13 PETROLEUM RETAILERS AND AUTO REPAIR ASSOCIATION, INC.

14 (2) ONE LOCAL GOVERNMENT MEMBER WHO SHALL HAVE KNOWLEDGE  
15 AND EXPERTISE IN UNDERGROUND STORAGE TANKS. THE LOCAL  
16 GOVERNMENT MEMBER SHALL BE APPOINTED FOR A TERM OF TWO YEARS.

17 (3) ONE PUBLIC MEMBER WHO SHALL NOT BE AN OWNER OR  
18 OPERATOR OF STORAGE TANKS NOR AFFILIATED IN ANY WAY WITH ANY  
19 PERSON REGULATED UNDER THIS ACT. THE PUBLIC MEMBER SHALL BE  
20 APPOINTED FOR A TERM OF THREE YEARS.

21 (B) CHAIRMAN.--THE BOARD SHALL SELECT A CHAIRMAN FROM ITS  
22 MEMBERS ANNUALLY.

23 (C) VACANCIES.--VACANCIES IN APPOINTED POSITIONS SHALL BE  
24 FILLED BY THE GOVERNOR IN THE SAME MANNER AS THE ORIGINAL  
25 APPOINTMENT. MEMBERS SHALL SERVE UNTIL THEIR SUCCESSORS ARE  
26 APPOINTED AND QUALIFIED.

27 (D) COMPENSATION.--MEMBERS SHALL RECEIVE NO COMPENSATION FOR  
28 THEIR SERVICE OTHER THAN REIMBURSEMENT FOR NECESSARY EXPENSES IN  
29 ACCORDANCE WITH COMMONWEALTH REGULATIONS.

30 (E) CONFLICTS.--NO MEMBER SHALL PARTICIPATE IN MAKING ANY

1 DECISION IN A MATTER INVOLVING ANY PAYMENT FROM WHICH HE OR HIS  
2 EMPLOYER MAY BENEFIT OR WHICH MAY BENEFIT A MEMBER OF HIS  
3 IMMEDIATE FAMILY.

4 (F) MEETINGS; QUORUM.--THE BOARD SHALL MEET AT LEAST  
5 QUARTERLY. ADDITIONAL MEETINGS MAY BE HELD UPON REASONABLE  
6 NOTICE AT TIMES AND LOCATIONS SELECTED BY THE BOARD. THE BOARD  
7 SHALL MEET AT THE CALL OF THE CHAIRMAN OR UPON WRITTEN REQUEST  
8 OF THREE MEMBERS OF THE BOARD. FOUR MEMBERS SHALL CONSTITUTE A  
9 QUORUM AND A QUORUM MAY ACT FOR THE BOARD IN ALL MATTERS.

10 SECTION 704. UNDERGROUND STORAGE TANK INDEMNIFICATION FUND.

11 (A) ESTABLISHMENT OF FUND.--THERE IS HEREBY CREATED A  
12 SPECIAL FUND IN THE STATE TREASURY TO BE KNOWN AS THE  
13 UNDERGROUND STORAGE TANK INDEMNIFICATION FUND. THIS FUND SHALL  
14 CONSIST OF THE FEES ASSESSED BY THE BOARD UNDER SECTION 705(D),  
15 AMOUNTS RECOVERED BY THE BOARD DUE TO FRAUDULENT OR IMPROPER  
16 CLAIMS OR AS PENALTIES FOR FAILURE TO PAY FEES WHEN DUE, AND  
17 FUNDS EARNED BY THE INVESTMENT AND REINVESTMENT OF THE MONEYS  
18 COLLECTED. MONEYS IN THE FUND ARE HEREBY APPROPRIATED TO THE  
19 BOARD FOR THE PURPOSE OF MAKING PAYMENTS TO OWNERS AND OPERATORS  
20 OF UNDERGROUND STORAGE TANKS WHO INCUR LIABILITY FOR TAKING  
21 CORRECTIVE ACTION OR FOR BODILY INJURY OR PROPERTY DAMAGE CAUSED  
22 BY A SUDDEN OR NONSUDDEN RELEASE FROM UNDERGROUND STORAGE TANKS.  
23 THE FUND SHALL BE THE SOLE SOURCE OF PAYMENTS UNDER THIS ACT,  
24 AND THE COMMONWEALTH SHALL HAVE NO LIABILITY BEYOND THE AMOUNT  
25 OF THE FUND. EVERY OWNER OF AN UNDERGROUND STORAGE TANK SHALL  
26 DEMONSTRATE FINANCIAL RESPONSIBILITY BY PARTICIPATING IN THE  
27 UNDERGROUND STORAGE TANK INDEMNIFICATION FUND. THE OWNER OR  
28 OPERATOR MAY OBTAIN COVERAGE FOR LIABILITY NOT INSURED BY THE  
29 FUND THROUGH ANY OF THE METHODS APPROVED IN ACCORDANCE WITH  
30 SECTION 701(B).

1 (B) LIMIT OF PAYMENTS.--PAYMENTS TO ELIGIBLE OWNERS OR  
2 OPERATORS SHALL BE LIMITED TO THE ACTUAL COSTS OF CORRECTIVE  
3 ACTION AND THE AMOUNT OF AN AWARD OF DAMAGES BY A COURT OF  
4 COMPETENT JURISDICTION FOR BODILY INJURY, PROPERTY DAMAGE, OR  
5 BOTH, NOT TO EXCEED A TOTAL OF \$1,000,000 PER TANK PER  
6 OCCURRENCE. PAYMENTS OF CLAIMS AGAINST THE FUND SHALL BE SUBJECT  
7 TO A DEDUCTIBLE AS PROVIDED IN SECTION 705. PAYMENTS SHALL BE  
8 MADE ONLY FOR RELEASES RESULTING FROM STORAGE TANKS THAT ARE  
9 LOCATED WITHIN THIS COMMONWEALTH. PAYMENTS SHALL NOT EXCEED AN  
10 ANNUAL AGGREGATE OF \$1,000,000 FOR EACH OWNER AND OPERATOR OF  
11 100 OR LESS UNDERGROUND STORAGE TANKS OR AN ANNUAL AGGREGATE OF  
12 \$2,000,000 FOR EACH OWNER AND OPERATOR OF 101 OR MORE  
13 UNDERGROUND STORAGE TANKS.

14 (C) PROHIBITED USES.--MONEYS IN THE FUND SHALL NOT BE USED  
15 FOR THE REPAIR, REPLACEMENT OR MAINTENANCE OF UNDERGROUND  
16 STORAGE TANKS OR IMPROVEMENT OF PROPERTY ON WHICH THE TANKS ARE  
17 LOCATED.

18 (D) EXPENSES.--ALL COSTS AND EXPENSES OF THE BOARD SHALL BE  
19 PAID FROM THE FUND, INCLUDING, BUT NOT LIMITED TO, COMPENSATION  
20 OF EMPLOYEES AND ANY INDEPENDENT CONTRACTORS OR CONSULTANTS  
21 HIRED BY THE BOARD.

22 SECTION 705. POWERS AND DUTIES OF UNDERGROUND STORAGE TANK  
23 INDEMNIFICATION BOARD.

24 (A) SUPPORT.--THE BOARD MAY EMPLOY THE PERSONNEL NECESSARY  
25 TO PROCESS FEE PAYMENTS, TO ADMINISTER CLAIMS MADE AGAINST THE  
26 UNDERGROUND STORAGE TANK INDEMNIFICATION FUND AND TO CARRY OUT  
27 THE PURPOSES OF THE BOARD. THE BOARD MAY ALSO CONTRACT FOR THE  
28 SERVICES OF ATTORNEYS, CONSULTANTS AND ACTUARIES NECESSARY TO  
29 ADVISE THE BOARD IN ESTABLISHING FEES UNDER SUBSECTION (D) AND  
30 DEDUCTIBLE AMOUNTS UNDER SUBSECTION (C).

1 (B) CLAIMS.--THE BOARD SHALL ESTABLISH PROCEDURES BY WHICH  
2 OWNERS AND OPERATORS MAY MAKE CLAIMS FOR COSTS ESTIMATED OR  
3 INCURRED IN TAKING CORRECTIVE ACTION AND FOR LIABILITY DUE TO  
4 BODILY INJURY AND PROPERTY DAMAGE CAUSED BY A SUDDEN OR  
5 NONSUDDEN RELEASE FROM UNDERGROUND STORAGE TANKS. CLAIMS  
6 DETERMINED TO BE ELIGIBLE SHALL BE PAID UPON RECEIPT OF  
7 INFORMATION REQUIRED UNDER REGULATIONS WHICH THE BOARD SHALL  
8 PROMULGATE. THE BOARD, BY REGULATION, MAY ESTABLISH A SYSTEM FOR  
9 PRIORITIZING CLAIMS.

10 (C) DEDUCTIBLE.--

11 (1) CLAIMS SHALL BE SUBJECT TO A DEDUCTIBLE AMOUNT WHICH  
12 THE BOARD SHALL SET ANNUALLY. THE BOARD SHALL GIVE AT LEAST  
13 30 DAYS' NOTICE OF A PROPOSED CHANGE IN DEDUCTIBLE AMOUNTS BY  
14 PUBLICATION IN THE PENNSYLVANIA BULLETIN, AND THE CHANGE  
15 SHALL TAKE EFFECT ON THE DATE SPECIFIED IN THE NOTICE. EACH  
16 OWNER OR OPERATOR SHALL BE RESPONSIBLE FOR THE AMOUNT OF THE  
17 DEDUCTIBLE AS PROVIDED IN SECTION 705.

18 (2) THE BOARD SHALL SET THE INITIAL DEDUCTIBLE FOR  
19 CORRECTIVE ACTION CLAIMS AT \$75,000 PER TANK PER OCCURRENCE.  
20 THEREAFTER, THE DEDUCTIBLE SHALL BE BASED ON AN ESTIMATE OF  
21 THE AVERAGE COST OF TAKING CORRECTIVE ACTION DUE TO A SUDDEN  
22 OR NONSUDDEN RELEASE FROM UNDERGROUND STORAGE TANKS IN THIS  
23 COMMONWEALTH. THE BOARD SHALL NOT SET A DEDUCTIBLE IN AN  
24 AMOUNT LOWER THAN \$50,000 PER TANK PER OCCURRENCE.

25 (3) THE BOARD SHALL SET THE INITIAL DEDUCTIBLE FOR  
26 CLAIMS DUE TO BODILY INJURY, PROPERTY DAMAGE, OR BOTH, AT  
27 \$150,000 PER TANK PER OCCURRENCE. THEREAFTER, THE DEDUCTIBLE  
28 SHALL BE BASED ON AN ESTIMATE OF THE AVERAGE AWARD FOR  
29 SETTLEMENT OF THIRD-PARTY CLAIMS INVOLVING BODILY INJURY,  
30 PROPERTY DAMAGE, OR BOTH, CAUSED BY A SUDDEN OR NONSUDDEN

1 RELEASE FROM UNDERGROUND STORAGE TANKS IN THIS COMMONWEALTH.  
2 THE BOARD SHALL NOT SET A DEDUCTIBLE IN AN AMOUNT LOWER THAN  
3 \$100,000 PER TANK PER OCCURRENCE.

4 (D) FEES.--THE BOARD, BY REGULATIONS, SHALL ESTABLISH FEES  
5 TO BE PAID BY THE OWNER OR OPERATOR, AS APPROPRIATE, OF  
6 UNDERGROUND STORAGE TANKS. FEES SHALL BE SET ON AN ACTUARIAL  
7 BASIS IN ORDER TO PROVIDE AN AMOUNT SUFFICIENT TO PAY  
8 OUTSTANDING AND ANTICIPATED CLAIMS AGAINST THE UNDERGROUND  
9 STORAGE TANK INDEMNIFICATION FUND IN A TIMELY MANNER. FEES SHALL  
10 ALSO INCLUDE AN AMOUNT SUFFICIENT TO MEET ALL OTHER FINANCIAL  
11 REQUIREMENTS OF THE BOARD. FEES SHALL BE ADJUSTED AS DEEMED  
12 NECESSARY BY THE BOARD, BUT NO MORE THAN ONCE A YEAR.

13 (E) PAYMENT OF FEES.--FEES ESTABLISHED UNDER SUBSECTION (D)  
14 SHALL BE PAID BY THE OWNER OF THE TANK UNLESS A WRITTEN  
15 AGREEMENT BETWEEN THE OWNER AND THE OPERATOR PROVIDES OTHERWISE.  
16 A PERSON WHO FAILS OR REFUSES TO PAY THE FEE OR A PART OF THE  
17 FEE BY THE DATE ESTABLISHED BY THE BOARD SHALL BE ASSESSED A  
18 PENALTY OF 5% OF THE AMOUNT DUE WHICH SHALL ACCRUE ON THE FIRST  
19 DAY OF DELINQUENCY AND BE ADDED THERETO. THEREAFTER, ON THE LAST  
20 DAY OF EACH MONTH DURING WHICH ANY PART OF ANY FEE OR ANY PRIOR  
21 ACCRUED PENALTY REMAINS UNPAID, AN ADDITIONAL 5% OF THE THEN  
22 UNPAID BALANCE SHALL ACCRUE AND BE ADDED THERETO.

23 (F) ADDITIONAL POWERS.--THE BOARD SHALL HAVE ADDITIONAL  
24 POWERS AS MAY BE NECESSARY TO CARRY OUT ITS DUTIES UNDER THIS  
25 ACT, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

26 (1) TO MAKE CONTRACTS AND EXECUTE ALL INSTRUMENTS  
27 NECESSARY OR CONVENIENT FOR CARRYING ON OF ITS BUSINESS.

28 (2) TO MAKE BYLAWS FOR THE MANAGEMENT AND REGULATION OF  
29 ITS AFFAIRS AND TO ADOPT, AMEND AND REPEAL RULES, REGULATIONS  
30 AND GUIDELINES GOVERNING THE ADMINISTRATIVE PROCEDURES AND

1 BUSINESS OF THE BOARD AND OPERATION AND ADMINISTRATION OF THE  
2 FUND. REGULATIONS OF THE BOARD SHALL BE SUBJECT TO REVIEW  
3 UNDER THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS  
4 THE REGULATORY REVIEW ACT.

5 (3) TO SUE OR BE SUED CONCERNING CLAIMS ARISING AS THE  
6 RESULT OF A RELEASE FROM AN UNDERGROUND STORAGE TANK AND TO  
7 IMPLEAD AND BE IMPEADED, COMPLAIN AND DEFEND IN ALL COURTS.

8 (4) TO CONDUCT EXAMINATIONS AND INVESTIGATIONS AND TAKE  
9 TESTIMONY UNDER OATH OR AFFIRMATION ON ANY MATTER NECESSARY  
10 TO THE DETERMINATION OF APPROVAL OR DISAPPROVAL OF ANY CLAIM.

11 SECTION 706. ELIGIBILITY OF CLAIMANTS.

12 IN ORDER TO RECEIVE A PAYMENT FROM THE UNDERGROUND STORAGE  
13 TANK INDEMNIFICATION FUND, A CLAIMANT SHALL MEET THE FOLLOWING  
14 ELIGIBILITY REQUIREMENTS:

15 (1) THE CLAIMANT IS THE OWNER OR OPERATOR OF THE TANK  
16 WHICH IS THE SUBJECT OF THE CLAIM.

17 (2) THE CURRENT FEE REQUIRED UNDER SECTION 705 HAS BEEN  
18 PAID.

19 (3) THE TANK HAS BEEN REGISTERED IN ACCORDANCE WITH THE  
20 REQUIREMENTS OF SECTION 503.

21 (4) THE OWNER OR OPERATOR HAS OBTAINED A PERMIT, IF  
22 REQUIRED UNDER SECTIONS 501 AND 504.

23 (5) THE CLAIMANT DEMONSTRATES TO THE SATISFACTION OF THE  
24 BOARD THAT THE RELEASE THAT IS THE SUBJECT OF THE CLAIM  
25 OCCURRED AFTER THE DATE ESTABLISHED BY THE BOARD FOR PAYMENT  
26 OF THE FEE REQUIRED BY SECTION 705(D).

27 (6) ADDITIONAL ELIGIBILITY REQUIREMENTS WHICH THE BOARD  
28 MAY ADOPT BY REGULATION.

29 SECTION 707. AUDIT.

30 THE BOARD SHALL CONTRACT FOR AN ANNUAL INDEPENDENT AUDIT OF

1 THE UNDERGROUND STORAGE TANK INDEMNIFICATION FUND.

2 SECTION 708. SUNSET REVIEW.

3 THE UNDERGROUND STORAGE TANK INDEMNIFICATION FUND AND THE  
4 BOARD SHALL BE SUBJECT TO PERIODIC EVALUATION, REVIEW AND  
5 TERMINATION OR CONTINUATION UNDER THE ACT OF DECEMBER 22, 1981  
6 (P.L.508, NO.142), KNOWN AS THE SUNSET ACT, EVERY FIVE YEARS  
7 COMMENCING WITH AN INITIAL TERMINATION DATE OF DECEMBER 31,  
8 1993. NOTHING IN THE SUNSET ACT OR THIS SECTION SHALL BE  
9 CONSTRUED TO INVALIDATE ANY CLAIM SUBMITTED PRIOR TO THE DATE OF  
10 TERMINATION.

11 SECTION 709. LOAN FUND.

12 (A) ESTABLISHMENT.--THERE IS ESTABLISHED A SEPARATE ACCOUNT  
13 IN THE STATE TREASURY TO BE KNOWN AS THE STORAGE TANK LOAN FUND,  
14 WHICH SHALL BE A SPECIAL FUND ADMINISTERED BY THE DEPARTMENT OF  
15 COMMERCE.

16 (B) PURPOSE.--IN A CASE WHEN THE DEPARTMENT HAS IDENTIFIED  
17 NO MORE THAN TWO PERSONS AS POTENTIALLY LIABLE TO TAKE  
18 CORRECTIVE ACTION UNDER SECTION 1302, SUCH PERSONS MAY BE  
19 ELIGIBLE, UPON WRITTEN APPLICATION TO THE DEPARTMENT OF  
20 COMMERCE, TO RECEIVE LONG-TERM, LOW-INTEREST LOANS IN AN AMOUNT  
21 UP TO \$15,000 AT AN INTEREST RATE NOT TO EXCEED 2%. THE  
22 DEPARTMENT OF COMMERCE SHALL PROMULGATE REGULATIONS ESTABLISHING  
23 ELIGIBILITY CRITERIA FOR THE LOANS. AS PART OF THIS EFFORT, THE  
24 DEPARTMENT OF COMMERCE SHALL INCLUDE A DETERMINATION OF THE  
25 AVAILABILITY OF OTHER SOURCES OF FUNDS AT REASONABLE RATES TO  
26 FINANCE ALL OR A PORTION OF THE RESPONSE ACTION AND THE NEED FOR  
27 DEPARTMENT OF COMMERCE ASSISTANCE TO FINANCE THE RESPONSE  
28 ACTION.

29 (C) FUNDS.--IN ADDITION TO ANY FUNDS AS MAY BE APPROPRIATED  
30 BY THE GENERAL ASSEMBLY, AT LEAST 2% OF THE FUNDS RAISED

1 ANNUALLY BY THE ASSESSMENTS IMPOSED BY SECTIONS 303 AND 502  
2 SHALL BE DEPOSITED INTO THE LOAN FUND.

3 (D) ANNUAL REPORT.--BEGINNING JANUARY 1, 1990, AND ANNUALLY  
4 THEREAFTER, THE DEPARTMENT OF COMMERCE SHALL TRANSMIT TO THE  
5 GENERAL ASSEMBLY A REPORT CONCERNING ACTIVITIES AND EXPENDITURES  
6 MADE PURSUANT TO THIS SECTION FOR THE PRECEDING STATE FISCAL  
7 YEAR. INCLUDED IN THIS REPORT SHALL BE INFORMATION CONCERNING  
8 ALL REVENUES AND RECEIPTS DEPOSITED INTO THE LOAN FUND AND ALL  
9 LOANS EXTENDED TO ELIGIBLE APPLICANTS.

10 (E) SUNSET.--THE LOAN FUND SHALL CEASE TO EXIST ON JUNE 30,  
11 1993, UNLESS IT IS REESTABLISHED BY ACTION OF THE GENERAL  
12 ASSEMBLY. ANY FUNDS REMAINING IN THE LOAN FUND ON JUNE 30, 1993,  
13 SHALL LAPSE TO THE STORAGE TANK FUND. MONEY RECEIVED BY THE  
14 DEPARTMENT OF COMMERCE AS REPAYMENT OF OUTSTANDING LOANS AFTER  
15 JUNE 30, 1993, SHALL LAPSE TO THE STORAGE TANK FUND.

16 CHAPTER 9

17 SPILL PREVENTION RESPONSE PLAN

18 SECTION 901. SUBMISSION OF SPILL PREVENTION RESPONSE PLAN.

19 (A) SCHEDULE.--ACCOMPANYING THE REGISTRATION FORM AS SET  
20 FORTH IN SECTION 303, EACH OWNER OF AN ABOVEGROUND STORAGE TANK  
21 OR TANK FACILITY SHALL SUBMIT TO THE DEPARTMENT WITHIN ONE YEAR  
22 OF THE EFFECTIVE DATE OF THIS ACT A PLAN FOR EACH ABOVEGROUND  
23 STORAGE TANK OR TANK FACILITY. EACH PLAN SHALL BE SITE-SPECIFIC  
24 AND BE CONSISTENT WITH THE REQUIREMENTS OF THIS ACT. THIS  
25 CHAPTER SHALL NOT APPLY TO ABOVEGROUND STORAGE TANK FACILITIES  
26 WITH A CAPACITY EQUAL TO OR LESS THAN 21,000 GALLONS.

27 (B) PLAN REVISIONS.--EACH OWNER OF AN ABOVEGROUND STORAGE  
28 TANK OR TANK FACILITY WITH AN APPROVED SPILL PREVENTION RESPONSE  
29 PLAN SHALL SUBMIT A REVISED PLAN OR ADDENDUM TO THE PLAN TO THE  
30 DEPARTMENT IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ACT IF



1 ANY OF THE FOLLOWING OCCUR:

2 (1) THERE IS A SUBSTANTIAL MODIFICATION IN DESIGN,  
3 CONSTRUCTION, OPERATION, MAINTENANCE OF THE STORAGE TANK OR  
4 TANK FACILITY OR ASSOCIATED EQUIPMENT OR OTHER CIRCUMSTANCES  
5 THAT INCREASE THE POTENTIAL FOR FIRES, EXPLOSIONS OR RELEASES  
6 OF REGULATED SUBSTANCES.

7 (2) THERE IS A SUBSTANTIAL MODIFICATION IN EMERGENCY  
8 EQUIPMENT AT THE FACILITY.

9 (3) THERE ARE SUBSTANTIAL CHANGES IN TANK FACILITY  
10 EMERGENCY ORGANIZATION.

11 (4) APPLICABLE DEPARTMENT REGULATIONS ARE REVISED.

12 (5) THE PLAN FAILS IN AN EMERGENCY.

13 (6) THE REMOVAL OR THE ADDITION OF ANY STORAGE TANK OR  
14 STORAGE TANKS.

15 (7) OTHER CIRCUMSTANCES OCCUR OF WHICH THE DEPARTMENT  
16 REQUESTS AN UPDATE.

17 (C) EXISTING PLANS.--ALL EXISTING PLANS REGARDING STORAGE  
18 TANK FACILITIES REQUIRED BY THE DEPARTMENT PURSUANT TO THE ACT  
19 OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS  
20 LAW, AND KNOWN AS PREPAREDNESS, PREVENTION AND CONTINGENCY PLANS  
21 MUST BE REVISED WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS  
22 ACT. THEREAFTER, ALL PLANS SUBMITTED IN ACCORDANCE WITH THIS  
23 CHAPTER SHALL BE DEEMED TO HAVE SATISFIED THE REQUIREMENTS OF  
24 THE CLEAN STREAMS LAW, RELATING TO PREPAREDNESS, PREVENTION AND  
25 CONTINGENCY PLANS.

26 SECTION 902. CONTENT OF SPILL PREVENTION RESPONSE PLAN.

27 (A) DESCRIPTION OF FACILITY.--THE PLAN SHALL IDENTIFY AND  
28 DESCRIBE THE INDUSTRIAL OR COMMERCIAL ACTIVITY WHICH OCCURS AT  
29 THE SITE, INCLUDING A SPECIFIC LISTING AND INVENTORY OF ALL  
30 TYPES OF PRODUCTS STORED, AMOUNT OF PRODUCTS STORED AND WASTES

1 GENERATED WHICH ARE STORED AT THE ABOVEGROUND STORAGE TANK OR  
2 TANK FACILITY. THE PLAN SHALL INCLUDE DRAWINGS OF THE  
3 ABOVEGROUND STORAGE TANK FACILITY, INCLUDING LOCATION OF ALL  
4 DRAINAGE PIPES AND WATER OUTLETS.

5 (B) DESCRIPTION OF THE ORGANIZATION STRUCTURE FOR PLAN  
6 IMPLEMENTATION.--THE PLAN SHALL IDENTIFY ALL FACILITY RELATED  
7 INDIVIDUALS AND THEIR DUTIES AND RESPONSIBILITIES FOR  
8 DEVELOPING, IMPLEMENTING AND MAINTAINING THE FACILITIES' PLAN.  
9 THE PLAN SHALL DESCRIBE IN DETAIL THE CHAIN OF COMMAND AT THE  
10 ABOVEGROUND STORAGE TANK OR STORAGE TANK FACILITY AND LIST ALL  
11 FACILITY EMERGENCY COORDINATORS, AND EMERGENCY RESPONSE  
12 CONTRACTORS.

13 (C) SPILL LEAK PREVENTION AND RESPONSE.--THE PLAN SHALL  
14 PROVIDE A PREVENTIVE MAINTENANCE PROGRAM THAT INCLUDES  
15 MONITORING AND INSPECTION PROCEDURES, INCLUDING IDENTIFICATION  
16 OF STRESS POINTS, EMPLOYEE TRAINING PROGRAM AND SECURITY SYSTEM.  
17 THE PLAN SHALL INCLUDE A DESCRIPTION OF POTENTIAL SOURCES AND  
18 AREAS WHERE SPILLS AND LEAKS MAY OCCUR BY DRAWINGS AND PLOT  
19 PLANS AND SHALL IDENTIFY SPECIFIC SPILL PREVENTION MEASURES FOR  
20 THOSE IDENTIFIED AREAS.

21 (D) COUNTERMEASURE.--THE PLAN SHALL EXPLAIN IN DETAIL THE  
22 SPECIFIC RESPONSE THAT STORAGE TANK FACILITY AND CONTRACT  
23 EMERGENCY PERSONNEL SHALL TAKE UPON THE OCCURRENCE OF ANY  
24 RELEASE AT THE FACILITY.

25 (E) EMERGENCY SPILL CONTROL NETWORK.--THE PLAN SHALL INCLUDE  
26 INFORMATION OBTAINED BY THE OWNER OF THE ABOVEGROUND STORAGE  
27 TANK FACILITY FROM THE COUNTY AND MUNICIPAL EMERGENCY MANAGEMENT  
28 AGENCIES. THE PLAN SHALL ALSO CONTAIN INFORMATION RELATING TO  
29 PERSONS TO BE NOTIFIED IN THE EVENT OF A SPILL.

30 (F) OTHER INFORMATION.--THE OWNER SHALL PROVIDE THE

1 DEPARTMENT WITH ALL OTHER INFORMATION REQUIRED BY THE DEPARTMENT  
2 TO CARRY OUT ITS DUTIES UNDER THIS ACT.

3 SECTION 903. ABOVEGROUND STORAGE TANK FACILITY EMERGENCY  
4 RESPONSE PLAN.

5 (A) COUNTY EMERGENCY RESPONSE PLAN.--THE COUNTY EMERGENCY  
6 MANAGEMENT AGENCY, AS DEFINED IN REGULATION FOR PLANNING  
7 THRESHOLD, SHALL DEVELOP A COMPREHENSIVE ABOVEGROUND STORAGE  
8 TANK EMERGENCY RESPONSE PLAN WHICH IS SITE-SPECIFIC TO THOSE  
9 ABOVEGROUND STORAGE TANK FACILITIES WHICH REQUIRE ONSITE  
10 EMERGENCY RESPONSE PLANS UNDER SECTION 901. ALL PLANS SHALL BE  
11 COMPLETED WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS  
12 SECTION. THE PLAN SHALL BE CONSISTENT WITH ESTABLISHED EMERGENCY  
13 RESPONSE PLANNING PROCEDURES AS ESTABLISHED BY THE PENNSYLVANIA  
14 EMERGENCY MANAGEMENT COUNCIL AND THE PENNSYLVANIA EMERGENCY  
15 MANAGEMENT AGENCY AND SHALL INCLUDE THE TIMELY NOTIFICATION OF  
16 ALL DOWNSTREAM WATER COMPANIES AND DOWNSTREAM INDUSTRIAL  
17 FACILITIES WHICH INTAKE WATER FROM POTENTIALLY CONTAMINATED  
18 RIVERS, STREAMS AND CREEKS WITHIN 20 MILES OF THE ABOVEGROUND  
19 STORAGE TANK FACILITY. THE COUNTY SHALL COORDINATE THE  
20 DEVELOPMENT OF EACH ABOVEGROUND STORAGE TANK FACILITY EMERGENCY  
21 RESPONSE PLAN WHICH SHALL BE CODEVELOPED WITH AFFECTED MUNICIPAL  
22 EMERGENCY MANAGEMENT AGENCIES AND THE FACILITY OPERATOR. THE  
23 COUNTY SHALL SUBMIT COMPLETED PLANS TO THE PENNSYLVANIA  
24 EMERGENCY MANAGEMENT AGENCY FOR REVIEW AND APPROVAL. AT LEAST  
25 BIENNIAL UPDATES WILL BE REQUIRED.

26 (B) COUNTY PLANS REVIEW.--UPON RECEIPT OF COUNTY ABOVEGROUND  
27 STORAGE TANK EMERGENCY RESPONSE PLANS, THE PENNSYLVANIA  
28 EMERGENCY MANAGEMENT AGENCY SHALL REVIEW EACH PLAN TO ENSURE  
29 CONSISTENCY AND COMPLIANCE WITH EXISTING FEDERAL AND STATE  
30 EMERGENCY PLANNING REQUIREMENTS. THE PENNSYLVANIA EMERGENCY

1 MANAGEMENT AGENCY WILL NOTIFY THE COUNTY EMERGENCY MANAGEMENT  
2 AGENCY IF CORRECTIONS OR CHANGES ARE NECESSARY AND THE  
3 PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY SHALL REQUIRE  
4 CORRECTION OF THE PLANS BY THE COUNTY EMERGENCY MANAGEMENT  
5 AGENCY, AS DESCRIBED IN 35 PA.C. S. § 7313 (RELATING TO POWERS  
6 AND DUTIES).

7 (C) RULES AND REGULATIONS.--THE PENNSYLVANIA EMERGENCY  
8 MANAGEMENT AGENCY SHALL HAVE THE AUTHORITY TO DEVELOP  
9 REGULATIONS TO IMPLEMENT PROVISIONS OF THIS SECTION INCLUDING  
10 REQUIREMENTS TO DEVELOP COUNTY ABOVEGROUND STORAGE TANK PLANS  
11 BASED UPON A PLANNING THRESHOLD STANDARD AND TO EXERCISE COUNTY  
12 ABOVEGROUND STORAGE TANK EMERGENCY RESPONSE PLANS ON A REGULAR  
13 BASIS.

14 SECTION 904. REVIEW OF SPILL PREVENTION RESPONSE PLANS.

15 (A) WRITTEN NOTICE.--THE OWNER OF THE ABOVEGROUND STORAGE  
16 TANK FACILITY LOCATED ADJACENT TO SURFACE WATERS SHALL ANNUALLY  
17 PROVIDE PUBLIC NOTICE TO ALL DOWNSTREAM MUNICIPALITIES,  
18 DOWNSTREAM WATER COMPANIES AND DOWNSTREAM INDUSTRIAL USERS  
19 WITHIN 20 MILES OF THE ABOVEGROUND STORAGE TANK FACILITY SITE  
20 AND THE LOCAL MUNICIPALITY AND COUNTY IN WHICH THE FACILITY IS  
21 LOCATED. THE NOTICE SHALL PROVIDE A DETAILED INVENTORY OF THE  
22 TYPE AND QUANTITY OF MATERIAL IN STORAGE AT THE FACILITY. THE  
23 FACILITY OPERATOR SHALL BIENNIALY PROVIDE A COPY OF THE  
24 FACILITY EMERGENCY RESPONSE PLAN TO THE COUNTY AND MUNICIPAL  
25 EMERGENCY MANAGEMENT AGENCY AND THE DEPARTMENT.

26 (B) DEPARTMENT ACTION.--THE DEPARTMENT SHALL APPROVE THE  
27 FACILITY PLAN OR DISAPPROVE THE PLAN AND PROVIDE THE OWNER OF  
28 THE STORAGE TANK OR TANK FACILITY WITH SPECIFIC REASONS FOR THE  
29 DISAPPROVAL. IF DISAPPROVED, THE OWNER OF THE STORAGE TANK OR  
30 TANK FACILITY SHALL SUBMIT A REVISED PLAN TO THE DEPARTMENT.

1 SECTION 905. NOTIFICATION.

2 (A) PROCEDURE FOR OFFSITE SPILL NOTIFICATION.--UPON THE  
3 OCCURRENCE OF AN OFFSITE RELEASE AT THE ABOVEGROUND STORAGE  
4 TANK, THE OWNER OR OPERATOR OF A STORAGE TANK SHALL IMMEDIATELY  
5 NOTIFY THE COUNTY EMERGENCY MANAGEMENT AGENCY, THE PENNSYLVANIA  
6 EMERGENCY MANAGEMENT AGENCY AND THE DEPARTMENT. ALL DOWNSTREAM  
7 WATER COMPANIES, DOWNSTREAM MUNICIPALITIES AND DOWNSTREAM  
8 INDUSTRIAL USERS WITHIN 20 MILES OF THE ABOVEGROUND STORAGE TANK  
9 LOCATED ADJACENT TO SURFACE WATERS SHALL BE NOTIFIED ON A  
10 PRIORITY BASIS BASED ON THE PROXIMITY OF THE RELEASE BY THE  
11 OWNER OR OPERATOR OF THE AGENT OF THE OWNER OR OPERATOR OF THE  
12 ABOVEGROUND STORAGE TANK WITHIN TWO HOURS OF ANY RELEASE WHICH  
13 ENTERS A WATER SUPPLY OR WHICH THREATENS THE WATER SUPPLY OF  
14 DOWNSTREAM USERS.

15 (B) PROCEDURE FOR ONSITE SPILL NOTIFICATION.--UPON THE  
16 OCCURRENCE OF AN ONSITE RELEASE WITH LIMITED POTENTIAL FOR  
17 OFFSITE IMPACT AT THE ABOVEGROUND STORAGE TANK, THE OWNER OR  
18 OPERATOR OF A STORAGE TANK SHALL IMMEDIATELY NOTIFY THE  
19 DEPARTMENT. IF AN EMERGENCY RESPONSE IS REQUIRED, THE  
20 ABOVEGROUND STORAGE TANK OWNER OR OPERATOR SHALL NOTIFY THE  
21 COUNTY EMERGENCY MANAGEMENT AGENCY.

22 (C) NOTIFICATION LIST.--THE OWNER OF THE ABOVEGROUND STORAGE  
23 TANK OR TANK FACILITY LOCATED ADJACENT TO SURFACE WATERS SHALL  
24 ANNUALLY OBTAIN AND ANNUALLY UPDATE A LIST FROM THE LOCAL  
25 EMERGENCY MANAGEMENT AGENCY OF ALL DOWNSTREAM MUNICIPAL WATER  
26 USERS, WATER COMPANIES AND INDUSTRIAL USERS WITHIN 20 MILES OF  
27 THE TANK FACILITY.

28 (D) COUNTY NOTIFICATION.--UPON NOTIFICATION OF AN OFFSITE  
29 ACTUAL RELEASE OR POTENTIAL FAILURE OF AN ABOVEGROUND STORAGE  
30 TANK, THE COUNTY EMERGENCY MANAGEMENT AGENCY SHALL NOTIFY THE

1 PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY AND SHALL THEN CONTACT  
2 ALL DOWNSTREAM USERS WITHIN 20 MILES OF THE ABOVEGROUND STORAGE  
3 TANK LOCATED ADJACENT TO SURFACE WATERS TO INITIATE APPROPRIATE  
4 EMERGENCY RESPONSE ACTIONS.

5 (E) STATE VERIFICATION.--UPON NOTIFICATION OF AN ACTUAL  
6 RELEASE OR POTENTIAL FAILURE OF AN ABOVEGROUND STORAGE TANK, THE  
7 DEPARTMENT SHALL VERIFY NOTIFICATION AND BE AVAILABLE TO RESPOND  
8 TO REQUESTS FOR TECHNICAL ADVICE ON A PRIORITY BASIS BASED ON  
9 THE PROXIMITY OF THE RELEASE WHICH THREATENS THE WATER SUPPLY OF  
10 DOWNSTREAM USERS.

11 (F) STATE AGENCY.--NOTWITHSTANDING ANY FEDERAL LAW TO THE  
12 CONTRARY, THE DEPARTMENT IS HEREBY DESIGNATED AS THE STATE  
13 AGENCY EMPOWERED TO DIRECT EMERGENCY CLEANUP EFFORTS ONSITE AT A  
14 RELEASE SITE UPON THE OCCURRENCE OF A RELEASE.

15 (G) OTHER EMERGENCY RESPONSE PLANS.--NOTWITHSTANDING CHAPTER  
16 9 TO THE CONTRARY, THE ABOVEGROUND STORAGE TANK FACILITY  
17 EMERGENCY RESPONSE PLAN SHALL BE DEVELOPED JOINTLY BY THE OWNER  
18 OF THE ABOVEGROUND STORAGE TANK AND LOCAL AND COUNTY EMERGENCY  
19 MANAGEMENT AGENCY AND REVIEWED BY THE PENNSYLVANIA EMERGENCY  
20 MANAGEMENT AGENCY CONSISTENT WITH THE EMERGENCY MANAGEMENT  
21 PROCEDURES DEVELOPED BY LOCAL EMERGENCY MANAGEMENT AGENCIES  
22 UNDER TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION  
23 ACT OF 1986 (PUBLIC LAW 99-499, 100 STAT. 1613).

24 CHAPTER 11

25 SITING OF NEW ABOVEGROUND STORAGE TANK FACILITY

26 AND REGULATIONS

27 SECTION 1101. NOTIFICATION.

28 (A) PROCEDURE.--THE OWNER OR OPERATOR OF AN EXISTING OR  
29 PROPOSED ABOVEGROUND TANK FACILITY SHALL PROVIDE WRITTEN  
30 NOTIFICATION TO THE LOCAL MUNICIPALITY AND COUNTY IN WHICH THE

1 ABOVEGROUND TANK FACILITY IS SITUATED OR TO BE LOCATED PRIOR TO  
2 SUBMITTING AN APPLICATION FOR AN ABOVEGROUND STORAGE PERMIT TO  
3 CONSTRUCT OR RECONSTRUCT AN ADDITIONAL ABOVEGROUND STORAGE TANK  
4 AT THE ABOVEGROUND STORAGE TANK FACILITY OR CONSTRUCT A NEW  
5 ABOVEGROUND STORAGE TANK FACILITY. THIS CHAPTER SHALL NOT APPLY  
6 TO ABOVEGROUND STORAGE TANKS WITH A CAPACITY EQUAL TO OR LESS  
7 THAN 21,000 GALLONS.

8 (B) PUBLIC HEARINGS.--UPON SUBMISSION TO THE DEPARTMENT OF  
9 THE PERMIT APPLICATION TO CONSTRUCT ANY NEW ABOVEGROUND TANK  
10 FACILITY, THE DEPARTMENT MAY HOLD A PUBLIC HEARING IN THE  
11 MUNICIPALITY OR COUNTY IN WHICH THE ABOVEGROUND TANK FACILITY IS  
12 PROPOSED TO BE LOCATED. THE DEPARTMENT SHALL PUBLISH THE PERMIT  
13 APPLICATION IN THE PENNSYLVANIA BULLETIN UPON RECEIPT OF THE  
14 PERMIT APPLICATION AND PROVIDE NOT MORE THAN A 60-DAY COMMENT  
15 PERIOD.

16 (C) PUBLIC COMMENT ON ABOVEGROUND STORAGE TANK PERMIT.--THE  
17 DEPARTMENT SHALL PUBLISH THE ABOVEGROUND STORAGE TANK FACILITY  
18 PERMIT APPLICATION IN THE PENNSYLVANIA BULLETIN UPON RECEIPT OF  
19 THE PERMIT APPLICATION AND PROVIDE A 30-DAY COMMENT PERIOD FOR  
20 NEW ABOVEGROUND STORAGE TANK FACILITIES.

21 SECTION 1102. SITING REGULATIONS.

22 THE ENVIRONMENTAL QUALITY BOARD SHALL DEVELOP SITING  
23 REGULATIONS FOR NEW ABOVEGROUND STORAGE TANK FACILITIES WHICH  
24 SHALL CONTAIN DETAILED PROVISIONS WHICH AN APPLICANT SHALL USE  
25 TO EVALUATE A POTENTIAL SITE. THE REGULATIONS SHALL INCLUDE, BUT  
26 NOT BE LIMITED TO, CONSIDERATION FOR PUBLIC HEALTH AND SAFETY,  
27 PROTECTION OF WATER SUPPLY SOURCES, WATER QUALITY, AIR QUALITY,  
28 FLOODING, TOPOGRAPHY, SOIL CONDITIONS AND HYDROGEOLOGY. THE  
29 BOARD SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE SITING  
30 REGULATIONS AND SHALL SOLICIT AND TAKE INTO CONSIDERATION

1 WRITTEN PUBLIC COMMENTS, PRIOR TO FINAL ADOPTION.

2 CHAPTER 13

3 ENFORCEMENT

4 SECTION 1301. WITHHOLDING PERMIT.

5 THE DEPARTMENT SHALL NOT ISSUE ANY PERMIT PURSUANT TO THIS  
6 ACT OR AMEND ANY PERMIT ISSUED UNDER THIS ACT, AND MAY REVOKE  
7 ANY PERMIT PREVIOUSLY ISSUED UNDER THIS ACT, IF IT FINDS, AFTER  
8 INVESTIGATION AND AN OPPORTUNITY FOR INFORMAL HEARING, THAT:

9 (1) THE APPLICANT HAS FAILED AND CONTINUES TO FAIL TO  
10 COMPLY WITH ANY PROVISIONS OF FEDERAL OR STATE LAW WHICH ARE  
11 IN ANY WAY CONNECTED WITH OR RELATED TO THE REGULATION OF  
12 STORAGE TANKS OR OF ANY RELEVANT RULE, REGULATION, PERMIT OR  
13 ORDER OF THE DEPARTMENT OR RELATED TO THE REGULATION OF  
14 STORAGE TANKS.

15 (2) THE APPLICANT HAS SHOWN A LACK OF ABILITY OR  
16 INTENTION TO COMPLY WITH ANY LAW, RULE, REGULATION, PERMIT OR  
17 ORDER OF THE DEPARTMENT ISSUED PURSUANT TO THIS ACT AS  
18 INDICATED BY PAST OR CONTINUING VIOLATIONS. ANY PERSON,  
19 PARTNERSHIP, ASSOCIATION OR CORPORATION WHICH HAS VIOLATED  
20 THIS ACT, RULE, REGULATION, ORDER OF THE DEPARTMENT, OR ANY  
21 CONDITION OF ANY PERMIT ISSUED PURSUANT TO THIS ACT, OR WHICH  
22 HAS A PARTNER, ASSOCIATE, OFFICER, PARENT CORPORATION,  
23 SUBSIDIARY CORPORATION, CONTRACTOR OR SUBCONTRACTOR WHICH HAS  
24 ENGAGED IN SUCH VIOLATION SHALL BE DENIED ANY PERMIT REQUIRED  
25 BY THIS ACT UNLESS THE PERMIT APPLICATION DEMONSTRATES THAT  
26 THE VIOLATION IS BEING CORRECTED TO THE SATISFACTION OF THE  
27 DEPARTMENT.

28 SECTION 1302. RESPONSIBILITIES OF OWNERS AND OPERATORS.

29 (A) ORDER TO CORRECT CONDITION.--WHENEVER THE DEPARTMENT  
30 FINDS THAT A RELEASE OR DANGER OF A RELEASE IS OR MAY BE



1 RESULTING FROM A STORAGE TANK IN THIS COMMONWEALTH, THE  
2 DEPARTMENT MAY ORDER THE OWNER, OPERATOR, LANDOWNER OR OCCUPIER  
3 TO TAKE CORRECTIVE ACTION IN A MANNER SATISFACTORY TO THE  
4 DEPARTMENT OR IT MAY ORDER SUCH OWNER, OPERATOR, LANDOWNER OR  
5 OCCUPIER TO ALLOW ACCESS TO THE LAND BY THE DEPARTMENT OR A  
6 THIRD PARTY TO TAKE SUCH ACTION.

7 (B) ASSESSMENT OF EXPENSES.--FOR PURPOSES OF COLLECTING OR  
8 RECOVERING THE EXPENSE INVOLVED IN TAKING CORRECTIVE AND COST  
9 RECOVERY ACTION PURSUANT TO AN ORDER OR OTHERWISE, OR RECOVERING  
10 THE COST OF INVESTIGATION, CORRECTIVE ACTION, LITIGATION,  
11 OVERSIGHT, MONITORING, SAMPLING, TESTING AND OTHER EXPENSES  
12 NECESSARY TO RESPOND TO A VIOLATION OF THIS ACT, THE DEPARTMENT  
13 MAY COLLECT THE AMOUNT IN THE SAME MANNER AS CIVIL PENALTIES ARE  
14 COLLECTED UNDER THE PROVISIONS OF SECTION 1307(B).

15 (C) CONTRACTS.--THE DEPARTMENT IS AUTHORIZED TO ENTER INTO  
16 CONTRACTS AND TO DEVELOP STREAMLINED CONTRACT PROCEDURES,  
17 POLICIES, RULES AND REGULATIONS THAT PROVIDE FOR:

18 (1) THE IDENTIFICATION, INVESTIGATION, CONTAINMENT,  
19 REMEDIATION, DISPOSAL, MONITORING AND MAINTENANCE OF LEAKING  
20 UNDERGROUND STORAGE TANKS.

21 (2) CONDUCTING AND FUNDING PROGRAMS FOR RESEARCH INTO  
22 INNOVATIVE AND ALTERNATIVE METHODS FOR SITE REMEDIATION.

23 (3) THE PURCHASE, LEASE OR RENTAL OF EQUIPMENT, AND  
24 OTHER NECESSARY EXPENSES.

25 (4) EMERGENCY HOUSING, REPLACEMENT WATER SUPPLIES AND  
26 WATER SOURCES.

27 SECTION 1303. PROTECTION OF WATER SUPPLIES.

28 (A) REGULATIONS.--IN ADDITION TO THE POWERS AND AUTHORITY  
29 HEREINBEFORE GRANTED, POWER AND AUTHORITY IS HEREBY CONFERRED  
30 UPON THE DEPARTMENT TO MAKE, ADOPT, PROMULGATE AND ENFORCE

1 ORDERS, AND REGULATIONS FOR THE PROTECTION OF ANY SOURCE OF  
2 WATER FOR PRESENT OR FUTURE SUPPLY TO THE PUBLIC OR OTHER  
3 LEGITIMATE USE, PROHIBITING THE POLLUTION OF ANY SUCH SOURCE OF  
4 WATER WHICH WOULD RENDER THE SAME INIMICAL OR INJURIOUS TO THE  
5 PUBLIC HEALTH OR OBJECTIONABLE FOR THE PURPOSES SERVED BY THE  
6 WATER SUPPLY AND FOR THE REPLACEMENT OF ANY WATER SUPPLY  
7 AFFECTED, POLLUTED, DIMINISHED OR THREATENED BY A RELEASE FROM A  
8 STORAGE TANK. FOR PURPOSES OF THIS SECTION, WATER SUPPLY TO THE  
9 PUBLIC SHALL INCLUDE A WATER SUPPLY SERVING ONE OR MORE PERSONS.

10 (B) AFFECTED OR DIMINISHED SUPPLY.--ANY OWNER OR OPERATOR  
11 OF A STORAGE TANK WHO AFFECTS OR DIMINISHES A WATER SUPPLY AS A  
12 RESULT OF A RELEASE SHALL RESTORE OR REPLACE THE AFFECTED SUPPLY  
13 WITH AN ALTERNATE SOURCE OF WATER ADEQUATE IN QUANTITY AND  
14 QUALITY FOR THE PURPOSES SERVED BY THE SUPPLY.

15 SECTION 1304. PUBLIC NUISANCES.

16 A VIOLATION OF THIS ACT OR OF ANY ORDER OR REGULATION ADOPTED  
17 BY THE DEPARTMENT OR OF PERMITS ISSUED BY THE DEPARTMENT SHALL  
18 CONSTITUTE A PUBLIC NUISANCE. THE DEPARTMENT SHALL HAVE THE  
19 AUTHORITY TO ORDER ANY PERSON CAUSING A PUBLIC NUISANCE OR THE  
20 OWNER OR OPERATOR OF A STORAGE TANK, THE LANDOWNER OR OCCUPIER,  
21 TO ABATE THE PUBLIC NUISANCE. IN ADDITION, THE DEPARTMENT OR ANY  
22 COMMONWEALTH AGENCY WHICH UNDERTAKES TO ABATE A PUBLIC NUISANCE  
23 MAY RECOVER THE COSTS OF ABATEMENT IN AN ACTION IN EQUITY  
24 BROUGHT BEFORE ANY COURT OF COMPETENT JURISDICTION. WHENEVER  
25 SUCH NUISANCE SHALL BE MAINTAINED OR CONTINUED CONTRARY TO THIS  
26 ACT OR SUCH ORDERS, POLICIES, REGULATIONS OR PERMITS THE SAME  
27 MAY BE ABATABLE IN THE MANNER PROVIDED BY THIS ACT. ANY PERSON  
28 WHO CAUSES SUCH PUBLIC NUISANCE SHALL BE LIABLE FOR THE COST OF  
29 ABATEMENT.

30 SECTION 1305. SUITS TO ABATE NUISANCES AND RESTRAIN VIOLATIONS.

1 (A) SUITS TO ABATE NUISANCES.--ANY ACTIVITY OR CONDITION  
2 DECLARED BY THIS ACT TO BE A NUISANCE, OR WHICH IS OTHERWISE IN  
3 VIOLATION OF THIS ACT, SHALL BE ABATABLE IN THE MANNER PROVIDED  
4 BY LAW OR EQUITY FOR THE ABATEMENT OF PUBLIC NUISANCES. IN  
5 ADDITION, IN ORDER TO RESTRAIN OR PREVENT ANY VIOLATION OF THIS  
6 ACT AND OF THE RULES, REGULATIONS OR ORDERS ISSUED THEREUNDER,  
7 OR TO RESTRAIN THE MAINTENANCE AND THREAT OF PUBLIC NUISANCE,  
8 SUITS MAY BE INSTITUTED IN EQUITY OR AT LAW IN THE NAME OF THE  
9 COMMONWEALTH UPON RELATION OF THE ATTORNEY GENERAL, THE GENERAL  
10 COUNSEL OR UPON RELATION OF ANY DISTRICT ATTORNEY OF ANY COUNTY,  
11 OR UPON RELATION OF THE SOLICITOR OF ANY MUNICIPALITY AFFECTED,  
12 AFTER NOTICE HAS FIRST BEEN SERVED UPON THE ATTORNEY GENERAL OF  
13 THE INTENTION OF THE GENERAL COUNSEL, DISTRICT ATTORNEY OR  
14 SOLICITOR TO SO PROCEED. SUCH PROCEEDINGS MAY BE PROSECUTED IN  
15 THE COMMONWEALTH COURT, OR IN THE COURT OF COMMON PLEAS OF THE  
16 COUNTY WHERE THE ACTIVITY HAS TAKEN PLACE, THE CONDITION EXISTS,  
17 OR THE PUBLIC IS AFFECTED, AND TO THAT END JURISDICTION IS  
18 HEREBY CONFERRED IN LAW AND EQUITY UPON SUCH COURTS. EXCEPT IN  
19 CASES OF EMERGENCY WHERE, IN THE OPINION OF THE COURT, THE  
20 EXIGENCIES OF THE CASE REQUIRE IMMEDIATE ABATEMENT OF THE  
21 NUISANCE, THE COURT MAY, IN ITS DECREE, FIX A REASONABLE TIME  
22 DURING WHICH THE PERSON RESPONSIBLE FOR THE NUISANCE MAY MAKE  
23 PROVISION FOR THE ABATEMENT OF THE SAME.

24 (B) MANDATORY AND SPECIAL INJUNCTIONS.--IN CASES WHERE THE  
25 CIRCUMSTANCES REQUIRE IT OR THE PUBLIC HEALTH IS ENDANGERED, A  
26 MANDATORY PRELIMINARY INJUNCTION, SPECIAL INJUNCTION OR  
27 TEMPORARY RESTRAINING ORDER MAY BE ISSUED UPON THE TERMS  
28 PRESCRIBED BY THE COURT, NOTICE OF THE APPLICATION THEREFOR  
29 HAVING BEEN GIVEN TO THE DEFENDANT IN ACCORDANCE WITH THE RULES  
30 OF EQUITY PRACTICE, AND IN ANY SUCH CASE THE ATTORNEY GENERAL,

1 THE GENERAL COUNSEL, THE DISTRICT ATTORNEY OR THE SOLICITOR OF  
2 ANY MUNICIPALITY SHALL NOT BE REQUIRED TO GIVE BOND. IN ANY SUCH  
3 PROCEEDING THE COURT SHALL, UPON MOTION OF THE COMMONWEALTH,  
4 ISSUE A PROHIBITORY OR MANDATORY PRELIMINARY INJUNCTION IF IT  
5 FINDS THAT THE DEFENDANT IS ENGAGING IN UNLAWFUL CONDUCT AS  
6 DEFINED BY THIS ACT OR IS ENGAGED IN CONDUCT WHICH IS CAUSING  
7 IMMEDIATE AND IRREPARABLE HARM TO THE PUBLIC. IN ADDITION TO AN  
8 INJUNCTION, THE COURT IN SUCH EQUITY PROCEEDINGS MAY LEVY CIVIL  
9 PENALTIES IN THE SAME MANNER AS THE DEPARTMENT IN ACCORDANCE  
10 WITH SECTION 1307.

11 (C) PRIVATE ACTIONS.--EXCEPT AS PROVIDED IN SUBSECTION (D),  
12 ANY PERSON HAVING AN INTEREST WHICH IS OR MAY BE AFFECTED MAY  
13 COMMENCE A CIVIL ACTION ON HIS BEHALF TO COMPEL COMPLIANCE WITH  
14 THIS ACT OR ANY RULE, REGULATION, ORDER OR PERMIT ISSUED  
15 PURSUANT TO THIS ACT BY ANY OWNER, OPERATOR, LANDOWNER OR  
16 OCCUPIER ALLEGED TO BE IN VIOLATION OF ANY PROVISION OF THIS ACT  
17 OR ANY RULE, REGULATION, ORDER OR PERMIT ISSUED PURSUANT TO THIS  
18 ACT. EXCEPT WHERE 42 PA.C.S. (RELATING TO JUDICIARY AND JUDICIAL  
19 PROCEDURE) REQUIRES OTHERWISE, THE COURTS OF COMMON PLEAS SHALL  
20 HAVE JURISDICTION OF SUCH ACTIONS, AND VENUE IN SUCH ACTIONS  
21 SHALL BE AS SET FORTH IN THE RULES OF CIVIL PROCEDURE CONCERNING  
22 CIVIL ACTIONS IN ASSUMPSIT. NO SUCH ACTION MAY BE COMMENCED IF  
23 THE DEPARTMENT HAS COMMENCED AND IS DILIGENTLY PROSECUTING A  
24 CIVIL ACTION IN A COURT OF THE UNITED STATES OR OF THE  
25 COMMONWEALTH OR IS IN LITIGATION BEFORE THE ENVIRONMENTAL  
26 HEARING BOARD TO REQUIRE THE ALLEGED VIOLATOR TO COMPLY WITH  
27 THIS ACT OR ANY RULE, REGULATION, ORDER OR PERMIT ISSUED  
28 PURSUANT TO THIS ACT, BUT IN ANY SUCH ACTION IN A COURT OF THE  
29 UNITED STATES OR OF THE COMMONWEALTH, ANY PERSON HAVING OR  
30 REPRESENTING AN INTEREST WHICH IS OR MAY BE ADVERSELY AFFECTED

1 MAY INTERVENE AS A MATTER OF RIGHT WITHOUT POSTING BOND.

2 (D) NOTICE OF PRIVATE ACTION.--NO ACTION PURSUANT TO  
3 SUBSECTION (C) MAY BE COMMENCED PRIOR TO 60 DAYS AFTER THE  
4 PLAINTIFF HAS GIVEN NOTICE, IN WRITING, OF THE VIOLATION TO THE  
5 DEPARTMENT AND TO ANY ALLEGED VIOLATOR.

6 (E) NOTICE NOT REQUIRED.--THE 60-DAY NOTICE PROVISIONS OF  
7 SUBSECTION (D) TO THE CONTRARY NOTWITHSTANDING, ANY ACTION  
8 PURSUANT TO SUBSECTION (C) MAY BE INITIATED IMMEDIATELY UPON  
9 WRITTEN NOTIFICATION TO THE DEPARTMENT IN THE CASE WHERE THE  
10 VIOLATION OR ORDER COMPLAINED OF CONSTITUTES AN IMMINENT THREAT  
11 TO THE HEALTH OR SAFETY OF THE PLAINTIFF OR WOULD IMMEDIATELY  
12 AFFECT A LEGAL INTEREST OF THE PLAINTIFF.

13 (F) FEES AND COSTS.--THE COURT, IN ISSUING ANY FINAL ORDER  
14 IN ANY ACTION BROUGHT PURSUANT TO THIS SECTION, MAY AWARD COSTS  
15 OF LITIGATION (INCLUDING ATTORNEY AND EXPERT WITNESS FEES) TO  
16 ANY PARTY, WHENEVER THE COURT DETERMINES SUCH AWARD IS  
17 APPROPRIATE. EXCEPT AS PROVIDED IN SUBSECTION (B), THE COURT  
18 MAY, IF A TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION  
19 IS SOUGHT, REQUIRE THE FILING OF A BOND OR EQUIVALENT SECURITY  
20 IN ACCORD WITH THE RULES OF CIVIL PROCEDURE.

21 SECTION 1306. CRIMINAL PENALTIES.

22 (A) SUMMARY OFFENSE.--ANY PERSON WHO VIOLATES ANY PROVISION  
23 OF THIS ACT, ANY RULE OR REGULATION OF THE DEPARTMENT, ANY ORDER  
24 OF THE DEPARTMENT, OR ANY CONDITION OR TERM OF ANY PERMIT OR  
25 CERTIFICATION ISSUED PURSUANT TO THIS ACT COMMITS A SUMMARY  
26 OFFENSE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE  
27 OF NOT LESS THAN \$100 NOR MORE THAN \$1,000 FOR EACH SEPARATE  
28 OFFENSE, AND, IN DEFAULT OF THE PAYMENT OF SUCH FINE, MAY BE  
29 SENTENCED TO IMPRISONMENT FOR 90 DAYS. EMPLOYEES OF THE  
30 DEPARTMENT ARE HEREBY DECLARED TO BE LAW ENFORCEMENT OFFICERS

1 FOR PURPOSES OF ISSUING CITATIONS FOR SUMMARY VIOLATIONS UNDER  
2 THIS ACT.

3 (B) MISDEMEANOR.--

4 (1) ANY PERSON WHO WILLFULLY OR NEGLIGENTLY VIOLATES ANY  
5 PROVISION OF THIS ACT, ANY RULE OR REGULATION OF THE  
6 DEPARTMENT, ANY ORDER OF THE DEPARTMENT, OR ANY CONDITION OR  
7 TERM OF ANY PERMIT ISSUED PURSUANT TO THIS ACT COMMITS A  
8 MISDEMEANOR OF THE THIRD DEGREE AND SHALL, UPON CONVICTION,  
9 BE SENTENCED TO PAY A FINE OF NOT LESS THAN \$2,500 NOR MORE  
10 THAN \$25,000 PER DAY FOR EACH SEPARATE OFFENSE OR TO  
11 IMPRISONMENT FOR A PERIOD OF NOT MORE THAN ONE YEAR, OR BOTH.

12 (2) ANY PERSON WHO, AFTER A CONVICTION OF A MISDEMEANOR  
13 FOR ANY VIOLATION AS PROVIDED IN PARAGRAPH (1), WILLFULLY OR  
14 NEGLIGENTLY VIOLATES ANY PROVISION OF THIS ACT, ANY RULE OR  
15 REGULATION OF THE DEPARTMENT, ANY ORDER OF THE DEPARTMENT, OR  
16 ANY CONDITION OR TERM OF ANY PERMIT ISSUED PURSUANT TO THIS  
17 ACT COMMITS A MISDEMEANOR OF THE SECOND DEGREE AND SHALL,  
18 UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN  
19 \$5,000 NOR MORE THAN \$50,000 FOR EACH SEPARATE OFFENSE OR TO  
20 IMPRISONMENT FOR A PERIOD OF NOT MORE THAN TWO YEARS, OR  
21 BOTH.

22 (C) CONTINUING VIOLATIONS.--EACH DAY OF CONTINUED VIOLATION  
23 AND EACH VIOLATION OF ANY PROVISION OF THIS ACT, ANY RULE OR  
24 REGULATION OF THE DEPARTMENT, ANY ORDER OF THE DEPARTMENT, OR  
25 ANY CONDITION OR TERM OF ANY PERMIT ISSUED PURSUANT TO THIS ACT  
26 SHALL CONSTITUTE A SEPARATE OFFENSE.

27 SECTION 1307. CIVIL PENALTIES.

28 (A) ASSESSMENT.--IN ADDITION TO PROCEEDING UNDER ANY OTHER  
29 REMEDY AVAILABLE AT LAW OR IN EQUITY FOR A VIOLATION OF A  
30 PROVISION OF THIS ACT, RULE, REGULATION, ORDER OF THE

1 DEPARTMENT, OR A CONDITION OR TERM OF ANY PERMIT ISSUED PURSUANT  
2 TO THIS ACT, THE DEPARTMENT MAY ASSESS A CIVIL PENALTY FOR THE  
3 VIOLATION. THIS PENALTY MAY BE ASSESSED WHETHER OR NOT THE  
4 VIOLATION WAS WILLFUL. THE CIVIL PENALTY SO ASSESSED SHALL NOT  
5 EXCEED \$10,000 PER DAY FOR EACH VIOLATION. IN DETERMINING THE  
6 AMOUNT OF THE PENALTY, THE DEPARTMENT SHALL CONSIDER THE  
7 WILLFULNESS OF THE VIOLATION; DAMAGE TO AIR, WATER, LAND OR  
8 OTHER NATURAL RESOURCES OF THIS COMMONWEALTH OR THEIR USES; COST  
9 OF RESTORATION AND ABATEMENT; SAVINGS RESULTING TO THE PERSON IN  
10 CONSEQUENCE OF THE VIOLATION; DETERRENCE OF FUTURE VIOLATIONS;  
11 AND OTHER RELEVANT FACTORS. EACH VIOLATION OF ANY PROVISION OF  
12 THIS ACT, RULE, REGULATION, ORDER OF THE DEPARTMENT OR CONDITION  
13 OF A PERMIT AND EACH DAY OF VIOLATION SHALL CONSTITUTE A  
14 SEPARATE VIOLATION.

15 (B) COLLECTION.--WHEN THE DEPARTMENT OR ANY STATE AGENCY,  
16 FEDERAL AGENCY, COUNTY, JOINT COUNTY AUTHORITY OR MULTIMUNICIPAL  
17 AUTHORITY DELEGATED AUTHORITY TO ASSESS CIVIL PENALTIES UNDER  
18 SECTION 107(A) PROPOSES TO ASSESS A CIVIL PENALTY, IT SHALL  
19 INFORM THE PERSON OF THE PROPOSED AMOUNT OF THE PENALTY. THE  
20 PERSON CHARGED WITH THE PENALTY SHALL THEN HAVE 30 DAYS TO PAY  
21 THE PROPOSED PENALTY IN FULL OR, IF THE PERSON WISHES TO CONTEST  
22 THE AMOUNT OF THE PENALTY OR THE FACT OF THE VIOLATION, FORWARD  
23 THE PROPOSED AMOUNT OF THE PENALTY TO THE DEPARTMENT WITHIN THE  
24 30-DAY PERIOD FOR PLACEMENT IN AN ESCROW ACCOUNT WITH THE STATE  
25 TREASURER OR ANY PENNSYLVANIA BANK, OR POST AN APPEAL BOND TO  
26 THE DEPARTMENT WITHIN 30 DAYS IN THE AMOUNT OF THE PROPOSED  
27 PENALTY, PROVIDED THAT SUCH BOND IS EXECUTED BY A SURETY  
28 LICENSED TO DO BUSINESS IN THIS COMMONWEALTH AND IS SATISFACTORY  
29 TO THE DEPARTMENT. IF, THROUGH ADMINISTRATIVE OR FINAL JUDICIAL  
30 REVIEW OF THE PROPOSED PENALTY, IT IS DETERMINED THAT NO

1 VIOLATION OCCURRED OR THAT THE AMOUNT OF THE PENALTY SHALL BE  
2 REDUCED, THE DEPARTMENT SHALL WITHIN 30 DAYS REMIT THE  
3 APPROPRIATE AMOUNT TO THE PERSON WITH ANY INTEREST ACCUMULATED  
4 BY THE ESCROW DEPOSIT. FAILURE TO FORWARD THE MONEY OR THE  
5 APPEAL BOND SHALL RESULT IN A WAIVER OF ALL LEGAL RIGHTS TO  
6 CONTEST THE VIOLATION OR THE AMOUNT OF THE PENALTY. THE AMOUNT  
7 ASSESSED AFTER ADMINISTRATIVE HEARING OR AFTER WAIVER OF  
8 ADMINISTRATIVE HEARING SHALL BE PAYABLE TO THE COMMONWEALTH OF  
9 PENNSYLVANIA AND SHALL BE COLLECTIBLE IN ANY MANNER PROVIDED BY  
10 LAW FOR THE COLLECTION OF DEBTS. IF ANY PERSON LIABLE TO PAY ANY  
11 SUCH PENALTY NEGLECTS OR REFUSES TO PAY THE SAME AFTER DEMAND,  
12 THE AMOUNT, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY  
13 ACCRUE, SHALL CONSTITUTE A JUDGMENT IN FAVOR OF THE COMMONWEALTH  
14 UPON THE PROPERTY OF SUCH PERSON FROM THE DATE IT HAS BEEN  
15 ENTERED AND DOCKETED ON RECORD BY THE PROTHONOTARY OF THE COUNTY  
16 WHERE SUCH IS SITUATED. THE DEPARTMENT MAY, AT ANY TIME,  
17 TRANSMIT TO THE PROTHONOTARIES OF THE RESPECTIVE COUNTIES  
18 CERTIFIED COPIES OF ALL SUCH JUDGMENTS, AND IT SHALL BE THE DUTY  
19 OF EACH PROTHONOTARY TO ENTER AND DOCKET THEM OF RECORD IN HIS  
20 OFFICE, AND TO INDEX THE SAME AS JUDGMENTS ARE INDEXED, WITHOUT  
21 REQUIRING THE PAYMENT OF COSTS AS A CONDITION PRECEDENT TO THE  
22 ENTRY THEREOF.

23 SECTION 1308. PROCEEDINGS WHERE WATERS ARE POLLUTED FROM MANY  
24 SOURCES.

25 NOTHING CONTAINED IN THE LAWS OF THIS COMMONWEALTH SHALL  
26 ESTOP THE DEPARTMENT FROM PROCEEDING UNDER THE PROVISIONS OF  
27 THIS ACT AGAINST ANY PERSON RELEASING ANY REGULATED SUBSTANCE  
28 INTO THE WATERS OF THE COMMONWEALTH EVEN THOUGH SAID WATERS ARE,  
29 AT THE TIME, POLLUTED FROM OTHER SOURCES.

30 SECTION 1309. ENFORCEMENT ORDERS.



1 THE DEPARTMENT MAY ISSUE SUCH ORDERS AS ARE NECESSARY TO AID  
2 IN THE ENFORCEMENT OF THE PROVISIONS OF THIS ACT. SUCH ORDERS  
3 SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, ORDERS MODIFYING,  
4 SUSPENDING OR REVOKING PERMITS OR CERTIFICATIONS, ORDERS  
5 REQUIRING PERSONS TO CEASE UNLAWFUL ACTIVITIES OR CEASE  
6 OPERATION OF AN ESTABLISHMENT WHICH, IN THE COURSE OF ITS  
7 OPERATION, IS IN VIOLATION OF ANY PROVISION OF THIS ACT, RULE OR  
8 REGULATION PROMULGATED HEREUNDER, PERMIT, ORDER TO TAKE  
9 CORRECTIVE ACTION OR TO ABATE A PUBLIC NUISANCE, OR AN ORDER  
10 REQUIRING THE TESTING, SAMPLING OR MONITORING OF ANY TANK. SUCH  
11 AN ORDER MAY BE ISSUED IF THE DEPARTMENT FINDS THAT ANY  
12 CONDITION EXISTING IN OR ON THE FACILITY OR OPERATION INVOLVED  
13 IS CAUSING OR IS CREATING A DANGER OF POLLUTION OF THE WATERS OF  
14 THIS COMMONWEALTH, INCLUDING ANY PUBLIC OR PRIVATE WATER SUPPLY,  
15 SURFACE WATER OR GROUNDWATER OR IF IT FINDS THAT THE PERMITTEE,  
16 OR ANY PERSON IS IN VIOLATION OF ANY PROVISION OF THIS ACT, OR  
17 OF ANY RULE, REGULATION OR ORDER OF THE ENVIRONMENTAL HEARING  
18 BOARD OR REGULATION, ORDER, PERMIT OR CERTIFICATION OF THE  
19 DEPARTMENT, PROVIDED, HOWEVER, THAT AN ORDER ADDRESSED TO AN  
20 OPERATION NOT DIRECTLY RELATED TO THE CONDITION OR VIOLATION IN  
21 QUESTION MAY BE ISSUED ONLY IF THE DEPARTMENT FINDS THAT THE  
22 OTHER ENFORCEMENT PROCEDURES, PENALTIES AND REMEDIES AVAILABLE  
23 UNDER THIS ACT WOULD NOT BE ADEQUATE TO EFFECTUATE PROMPT OR  
24 EFFECTIVE CORRECTION OF THE CONDITION OR VIOLATION. THE  
25 DEPARTMENT MAY, IN ITS ORDER, REQUIRE COMPLIANCE WITH SUCH  
26 CONDITIONS AS ARE NECESSARY TO PREVENT OR ABATE POLLUTION OR  
27 EFFECT THE PURPOSES OF THIS ACT. AN ORDER ISSUED UNDER THIS  
28 SECTION SHALL TAKE EFFECT UPON NOTICE, UNLESS THE ORDER  
29 SPECIFIES OTHERWISE. AN APPEAL TO THE ENVIRONMENTAL HEARING  
30 BOARD OF THE DEPARTMENT'S ORDER SHALL NOT ACT AS A SUPERSEDEAS,

1 PROVIDED, HOWEVER, THAT, UPON APPLICATION AND FOR CAUSE SHOWN,  
2 THE ENVIRONMENTAL HEARING BOARD MAY ISSUE SUCH A SUPERSEDEAS.  
3 THE RIGHT OF THE DEPARTMENT TO ISSUE AN ORDER UNDER THIS SECTION  
4 IS IN ADDITION TO ANY REMEDY OR PENALTY WHICH MAY BE IMPOSED  
5 PURSUANT TO THIS ACT. THE FAILURE TO COMPLY WITH ANY SUCH ORDER  
6 IS HEREBY DECLARED TO BE A NUISANCE.

7 SECTION 1310. UNLAWFUL CONDUCT.

8 IT SHALL BE UNLAWFUL TO FAIL TO COMPLY WITH, OR TO CAUSE OR  
9 ASSIST IN THE VIOLATION OF, ANY OF THE PROVISIONS OF THIS ACT OR  
10 RULES AND REGULATIONS ADOPTED HEREUNDER; OR TO FAIL TO COMPLY  
11 WITH ANY ORDER, PERMIT, REGISTRATION, OR CERTIFICATION  
12 REQUIREMENT OF THE DEPARTMENT; OR TO CAUSE A PUBLIC NUISANCE; OR  
13 TO CAUSE AIR, SOIL OR WATER POLLUTION; OR TO HINDER, OBSTRUCT,  
14 PREVENT OR INTERFERE WITH THE DEPARTMENT OR ITS PERSONNEL IN THE  
15 PERFORMANCE OF ANY DUTY HEREUNDER; OR TO VIOLATE THE PROVISIONS  
16 OF 18 PA.C.S. § 4903 (RELATING TO FALSE SWEARING) OR 4904  
17 (RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES) IN REGARD TO  
18 PAPERS REQUIRED TO BE SUBMITTED UNDER THIS ACT. THE OWNER OR  
19 OPERATOR OF A STORAGE TANK AND THE LANDOWNER OR OCCUPIER ON  
20 WHOSE LAND A STORAGE TANK IS OR WAS LOCATED SHALL NOT ALLOW  
21 POLLUTION RESULTING FROM, OR A RELEASE TO OCCUR FROM, A STORAGE  
22 TANK.

23 SECTION 1311. PRESUMPTION.

24 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), IT  
25 SHALL BE PRESUMED AS A REBUTTABLE PRESUMPTION OF LAW IN CIVIL  
26 AND ADMINISTRATIVE PROCEEDINGS THAT A PERSON WHO OWNS OR  
27 OPERATES AN ABOVEGROUND OR UNDERGROUND STORAGE TANK SHALL BE  
28 LIABLE, WITHOUT PROOF OF FAULT, NEGLIGENCE, OR CAUSATION FOR ALL  
29 DAMAGES, CONTAMINATION OR POLLUTION WITHIN 2,500 FEET OF THE  
30 PERIMETER OF THE SITE OF A STORAGE TANK CONTAINING OR WHICH

1 CONTAINED A REGULATED SUBSTANCE OF THE TYPE WHICH CAUSED THE  
2 DAMAGE, CONTAMINATION OR POLLUTION. SUCH PRESUMPTION MAY BE  
3 OVERCOME BY CLEAR AND CONVINCING EVIDENCE THAT THE PERSON SO  
4 CHARGED DID NOT CONTRIBUTE TO THE DAMAGE, CONTAMINATION OR  
5 POLLUTION.

6 (B) DEFENSES.--IN ORDER TO OVERCOME THE PRESUMPTION OF  
7 LIABILITY ESTABLISHED IN SUBSECTION (A), THE OWNER OR OPERATOR  
8 MUST AFFIRMATIVELY PROVE, BY CLEAR AND CONVINCING EVIDENCE, ONE  
9 OF THE FOLLOWING:

10 (1) THE DAMAGES, CONTAMINATION OR POLLUTION EXISTED  
11 PRIOR TO THE USE OF ANY STORAGE TANK AT THE FACILITY TO  
12 CONTAIN AN ACCUMULATION OF REGULATED SUBSTANCES, AS  
13 DETERMINED BY SURVEYS OF THE SITE AND WITHIN 2,500 FEET OF  
14 THE PERIMETER OF THE STORAGE TANK OR FACILITY.

15 (2) AN ADJACENT LANDOWNER REFUSED TO ALLOW THE OWNER OR  
16 OPERATOR OF A STORAGE TANK AT A NEW FACILITY ACCESS TO PROPERTY  
17 WITHIN 2,500 FEET OF THE PERIMETER OF A STORAGE TANK FACILITY TO  
18 CONDUCT A SURVEY.

19 (3) THE DAMAGE, CONTAMINATION OR POLLUTION WAS NOT  
20 WITHIN 2,500 FEET OF THE PERIMETER OF A STORAGE TANK.

21 (4) THE OWNER OR OPERATOR DID NOT CONTRIBUTE TO THE  
22 DAMAGES, CONTAMINATION OR POLLUTION.

23 SECTION 1312. EXISTING RIGHTS AND REMEDIES PRESERVED.

24 THE COLLECTION OF ANY PENALTY IMPOSED UNDER THE PROVISIONS OF  
25 THIS ACT SHALL NOT BE CONSTRUED AS ESTOPPING THE COMMONWEALTH,  
26 OR ANY DISTRICT ATTORNEY OR SOLICITOR OF A MUNICIPALITY, FROM  
27 PROCEEDING IN COURTS OF LAW OR EQUITY TO ABATE POLLUTIONS  
28 FORBIDDEN UNDER THIS ACT, OR ABATE NUISANCES UNDER EXISTING LAW.  
29 IT IS HEREBY DECLARED TO BE THE PURPOSE OF THIS ACT TO PROVIDE  
30 ADDITIONAL AND CUMULATIVE REMEDIES TO PREVENT AND ABATE THE

1 POLLUTION CAUSED BY STORAGE TANKS, AND NOTHING CONTAINED IN THIS  
2 ACT SHALL IN ANY WAY ABRIDGE OR ALTER RIGHTS OF ACTION OR  
3 REMEDIES NOW OR HEREAFTER EXISTING IN EQUITY, OR UNDER THE  
4 COMMON LAW OR STATUTORY LAW, CRIMINAL OR CIVIL, NOR SHALL ANY  
5 PROVISION IN THIS ACT, OR THE GRANTING OF ANY PERMIT UNDER THIS  
6 ACT, OR ANY ACT DONE BY VIRTUE OF THIS ACT, BE CONSTRUED AS  
7 ESTOPPING THE COMMONWEALTH, PERSONS OR MUNICIPALITIES, IN THE  
8 EXERCISE OF THEIR RIGHTS UNDER THE COMMON LAW OR DECISIONAL LAW  
9 OR IN EQUITY, FROM PROCEEDING IN COURTS OF LAW OR EQUITY TO  
10 SUPPRESS NUISANCES, OR TO ABATE ANY POLLUTION NOW OR HEREAFTER  
11 EXISTING, OR ENFORCE COMMON LAW OR STATUTORY RIGHTS.

12 SECTION 1313. APPEALABLE ACTIONS.

13 ANY PERSON AGGRIEVED BY AN ORDER OR OTHER ADMINISTRATIVE  
14 ACTION OF THE DEPARTMENT ISSUED PURSUANT TO THIS ACT SHALL HAVE  
15 THE RIGHT, WITHIN 30 DAYS, TO APPEAL THE ACTION TO THE  
16 ENVIRONMENTAL HEARING BOARD IN ACCORDANCE WITH 2 PA.C.S. CH. 5  
17 SUBCH. A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH  
18 AGENCIES) AND THE ACT OF JULY 13, 1988 (P.L.530, NO.94), KNOWN  
19 AS THE ENVIRONMENTAL HEARING BOARD ACT.

20 SECTION 1314. LIMITATION ON ACTION.

21 THE PROVISIONS OF ANY OTHER STATUTE TO THE CONTRARY  
22 NOTWITHSTANDING ACTIONS FOR CIVIL OR CRIMINAL PENALTIES UNDER  
23 THIS ACT MAY BE COMMENCED AT ANY TIME WITHIN A PERIOD OF 20  
24 YEARS FROM THE DATE THE OFFENSE IS DISCOVERED.

25 SECTION 1315. COLLECTION OF FINES AND PENALTIES.

26 ALL FINES AND PENALTIES SHALL BE COLLECTIBLE IN ANY MANNER  
27 PROVIDED BY LAW FOR THE COLLECTION OF DEBTS. IF ANY PERSON  
28 LIABLE TO PAY ANY SUCH PENALTY NEGLECTS OR REFUSES TO PAY THE  
29 SAME AFTER DEMAND, THE AMOUNT TOGETHER WITH INTEREST AND ANY  
30 COSTS THAT MAY ACCRUE, SHALL BE A JUDGMENT IN FAVOR OF THE

1 COMMONWEALTH UPON THE PROPERTY OF SUCH PERSON, BUT ONLY AFTER  
2 SAME HAS BEEN ENTERED AND DOCKETED OF RECORD BY THE PROTHONOTARY  
3 OF THE COUNTY WHERE SUCH PROPERTY IS SITUATED. THE DEPARTMENT  
4 MAY AT ANY TIME TRANSMIT TO THE PROTHONOTARIES OF THE RESPECTIVE  
5 COUNTIES CERTIFIED COPIES OF ALL SUCH JUDGMENTS, AND IT SHALL BE  
6 THE DUTY OF EACH PROTHONOTARY TO ENTER AND DOCKET THE SAME OF  
7 RECORD IN HIS OFFICE, AND TO INDEX THE SAME AS JUDGMENTS ARE  
8 INDEXED, WITHOUT REQUIRING THE PAYMENT OF COSTS AS A CONDITION  
9 PRECEDENT TO THE ENTRY THEREOF.

10 CHAPTER 21

11 MISCELLANEOUS PROVISIONS

12 SECTION 2101. START-UP COSTS.

13 THE GOVERNOR IS HEREBY AUTHORIZED TO TRANSFER \$2,500,000, OR  
14 AS MUCH THEREOF AS MAY BE NECESSARY, FROM THE HAZARDOUS SITES  
15 CLEANUP FUND CREATED BY SECTION 602.3 OF THE ACT OF MARCH 4,  
16 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, TO THE  
17 STORAGE TANK FUND TO BEGIN DEVELOPMENT AND OPERATION OF THE  
18 ABOVEGROUND AND UNDERGROUND STORAGE TANK PROGRAMS AND TO THE  
19 UNDERGROUND STORAGE TANK INDEMNIFICATION FUND TO BE USED FOR THE  
20 INITIAL ADMINISTRATIVE EXPENSES OF THE UNDERGROUND STORAGE TANK  
21 INDEMNIFICATION BOARD. ALL TRANSFERRED FUNDS FROM THE HAZARDOUS  
22 SITES CLEANUP FUND SHALL BE REPAID TO THAT FUND FROM FUNDS IN  
23 THE STORAGE TANK FUND OR THE UNDERGROUND STORAGE TANK  
24 INDEMNIFICATION FUND WITHIN TWO YEARS OF THE TRANSFER. SUCH  
25 TRANSFERS SHALL BE MADE HEREUNDER UPON WARRANT OF THE STATE  
26 TREASURER UPON REQUISITION BY THE GOVERNOR.

27 SECTION 2102. SAVED FROM REPEAL.

28 THE FOLLOWING ACTS WHICH ARE REPEALED IN SECTION 2104 ARE  
29 SAVED FROM REPEAL TO THE EXTENT THAT SUCH ACTS PROVIDE AUTHORITY  
30 FOR THE REGULATION AND PREVENTION OF FIRE OR EXPLOSIVE HAZARDS

1 AT ABOVEGROUND OR UNDERGROUND STORAGE TANKS:

2 ACT OF JUNE 8, 1911 (P.L.705, NO.281), ENTITLED "AN ACT  
3 CREATING THE OFFICE OF FIRE MARSHAL, TO BE ATTACHED TO THE  
4 DEPARTMENT OF PUBLIC SAFETY IN CITIES OF THE FIRST CLASS;  
5 PRESCRIBING HIS DUTIES AND POWERS; AND PROVIDING PENALTIES FOR  
6 VIOLATIONS OF THE PROVISIONS OF THE ACT; AND PROVIDING FOR THE  
7 METHOD OF APPOINTMENT, COMPENSATION, AND FOR THE MAINTENANCE OF  
8 HIS OFFICE."

9 ACT OF APRIL 27, 1927 (P.L.450, NO.291), REFERRED TO AS THE  
10 STATE FIRE MARSHAL LAW.

11 ACT OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND  
12 CLASS COUNTY CODE.

13 SECTION 2103. SEVERABILITY.

14 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF  
15 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS  
16 HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS  
17 OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT  
18 THE INVALID PROVISION OR APPLICATION.

19 SECTION 2104. REPEALS.

20 THE FOLLOWING ACTS AND PARTS OF ACTS ARE REPEALED TO THE  
21 EXTENT SPECIFIED:

22 ACT OF JUNE 8, 1911 (P.L.705, NO.281), ENTITLED "AN ACT  
23 CREATING THE OFFICE OF FIRE MARSHAL, TO BE ATTACHED TO THE  
24 DEPARTMENT OF PUBLIC SAFETY IN CITIES OF THE FIRST CLASS;  
25 PRESCRIBING HIS DUTIES AND POWERS; AND PROVIDING PENALTIES FOR  
26 VIOLATIONS OF THE PROVISIONS OF THE ACT; AND PROVIDING FOR THE  
27 METHOD OF APPOINTMENT, COMPENSATION, AND FOR THE MAINTENANCE OF  
28 HIS OFFICE," INsofar AS IT IS INCONSISTENT WITH THIS ACT.

29 ACT OF APRIL 27, 1927 (P.L.450, NO.291), REFERRED TO AS THE  
30 STATE FIRE MARSHAL LAW, INsofar AS THE STATE FIRE MARSHAL AND

1 THE PENNSYLVANIA STATE POLICE ARE AUTHORIZED TO ADOPT AND  
2 ENFORCE RULES AND REGULATIONS GOVERNING THE USE, STORAGE AND  
3 SALE AND RETENTION OF GASOLINE, NAPHTHALENE, KEROSENE, FUEL OIL  
4 OR OTHER SUBSTANCES OF LIKE CHARACTER, ONLY TO THE EXTENT THAT  
5 SAID ACT, RULES AND REGULATIONS ARE INCONSISTENT WITH THE  
6 PROVISIONS OF THIS ACT.

7 ACT OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND  
8 CLASS COUNTY CODE, INsofar AS IT IS INCONSISTENT WITH THIS ACT.

9 ACT OF NOVEMBER 26, 1978 (P.L.1300, NO. 314), KNOWN AS THE  
10 UNDERGROUND STORAGE ACT, INsofar AS IT IS INCONSISTENT WITH THIS  
11 ACT.

12 SECTION 2105. EFFECTIVE DATE.

13 THIS ACT SHALL TAKE EFFECT IN 30 DAYS.