
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 280 Session of
1989

INTRODUCED BY FISHER, MUSTO, REIBMAN, GREENWOOD, SHUMAKER,
PECORA, PORTERFIELD, BELAN, MELLOW, WILT, LEMMOND, CORMAN,
ANDREZESKI, LOEPER, SCANLON, JUBELIRER, SALVATORE, MADIGAN,
SHAFFER, PETERSON, AFFLERBACH AND DAWIDA, JANUARY 24, 1989

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 29, 1989

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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16 PROVIDING FOR THE REGULATION OF STORAGE TANKS AND TANK <—

17 FACILITIES; IMPOSING ADDITIONAL POWERS AND DUTIES ON THE

18 DEPARTMENT OF ENVIRONMENTAL RESOURCES AND THE ENVIRONMENTAL

19 QUALITY BOARD; AND MAKING AN APPROPRIATION.

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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~~ RELEASES TO BE A THREAT TO THE PUBLIC <—
13 HEALTH AND SAFETY OF THIS COMMONWEALTH AND HEREBY EXERCISES THE
14 POWER OF THE COMMONWEALTH TO PREVENT THE OCCURRENCE OF THESE
15 ~~DISCHARGES~~ RELEASES THROUGH THE ESTABLISHMENT OF A REGULATORY <—
16 SCHEME FOR THE STORAGE OF REGULATED SUBSTANCES IN NEW AND
17 EXISTING STORAGE TANKS AND TO PROVIDE LIABILITY FOR DAMAGES
18 SUSTAINED WITHIN THIS COMMONWEALTH AS A RESULT OF A ~~DISCHARGE~~ <—
19 RELEASE AND TO REQUIRE PROMPT CLEANUP AND REMOVAL OF SUCH <—
20 POLLUTION AND ~~DISCHARGED~~ RELEASED REGULATED SUBSTANCE. <—

21 SECTION 103. DEFINITIONS.

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

25 "ABOVEGROUND STORAGE TANK." ANY ONE OR COMBINATION OF ~~TANKS~~ <—
26 STATIONARY TANKS WITH A CAPACITY IN EXCESS OF 250 GALLONS, <—
27 INCLUDING UNDERGROUND PIPES AND DISPENSING SYSTEMS CONNECTED
28 THERETO WITHIN THE STORAGE TANK FACILITY, WHICH IS OR WAS USED <—
29 TO CONTAIN AN ACCUMULATION OF REGULATED SUBSTANCES, AND THE
30 VOLUME OF WHICH, INCLUDING THE VOLUME OF ALL PIPING ~~CONNECTED~~ <—

1 ~~THERE TO~~ WITHIN THE STORAGE TANK FACILITY, IS GREATER THAN 90% <—
2 ABOVE THE SURFACE OF THE GROUND. THE TERM INCLUDES ANY TANK
3 WHICH CAN BE VISUALLY INSPECTED, FROM THE EXTERIOR, IN AN
4 UNDERGROUND AREA. THE TERM SHALL NOT INCLUDE ANY OF THE
5 FOLLOWING:

6 (1) A FARM, MUNICIPAL OR RESIDENTIAL TANK OF 1,100 <—
7 GALLONS OR LESS CAPACITY USED FOR STORING MOTOR FUEL FOR
8 NONCOMMERCIAL PURPOSES.

9 (2) A TANK ~~OF 1,100 GALLONS OR LESS CAPACITY~~ USED FOR <—
10 STORING ~~RESIDENTIAL~~ HEATING OIL FOR CONSUMPTIVE USE ON THE <—
11 PREMISES WHERE STORED.

12 (3) A PIPELINE FACILITY, INCLUDING GATHERING LINES,
13 REGULATED UNDER:

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

17 (II) THE HAZARDOUS LIQUID PIPELINE SAFETY ACT OF
18 1979 (PUBLIC LAW 96-129, 93 STAT. 989, 49 U.S.C. § 2001
19 ET SEQ.); OR

20 (III) AN INTERSTATE OR INTRASTATE PIPELINE FACILITY <—
21 REGULATED UNDER STATE LAWS COMPARABLE TO THE PROVISIONS
22 OF LAW REFERRED TO IN SUBPARAGRAPH (I) OR (II).

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

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

25 (6) A FLOW-THROUGH PROCESS TANK, INCLUDING BUT NOT
26 LIMITED TO, A PRESSURE VESSEL OR PROCESS VESSEL AND OIL AND
27 WATER SEPARATORS.

28 (7) A NONSTATIONARY TANK LIQUID TRAP OR ASSOCIATED
29 GATHERING LINES DIRECTLY RELATED TO OIL AND GAS PRODUCTION OR
30 GATHERING OPERATIONS.

1 (8) TANKS WHICH ARE USED TO STORE BRINES, CRUDE OIL,
2 DRILLING OR FRAC FLUIDS AND SIMILAR SUBSTANCES OR MATERIALS
3 AND ARE DIRECTLY RELATED TO THE EXPLORATION, DEVELOPMENT OR <—
4 PRODUCTION OF CRUDE OIL OR NATURAL GAS REGULATED UNDER THE
5 ACT OF DECEMBER 19, 1984 (P.L.1140, NO.223), KNOWN AS THE OIL
6 AND GAS ACT.

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

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

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

18 (12) A TANK OF 1,100 GALLONS OR LESS IN CAPACITY LOCATED <—
19 ON A FARM USED SOLELY TO STORE OR CONTAIN SUBSTANCES THAT ARE
20 USED TO FACILITATE THE PRODUCTION OF CROPS, LIVESTOCK AND
21 LIVESTOCK PRODUCTS ON SUCH FARM.

22 (13) TANKS WHICH ARE USED TO STORE PROPANE GAS. <—

23 ~~(12)~~ (14) ANY OTHER TANK EXCLUDED BY POLICY OR <—
24 REGULATIONS PROMULGATED PURSUANT TO THIS ACT.

25 THE TERM SHALL NOT INCLUDE ANY PIPES CONNECTED TO ANY TANK
26 DESCRIBED IN PARAGRAPHS (1) THROUGH ~~(11)~~ (13). <—

27 ~~"ABOVEGROUND STORAGE TANK FACILITY EMERGENCY RESPONSE PLAN."~~ <—
28 ~~EMERGENCY PLANS AND PROCEDURES DEVELOPED BY THE LOCAL AND COUNTY~~
29 ~~EMERGENCY MANAGEMENT AGENCY FOR COUNTY MUNICIPAL GOVERNMENT AND~~
30 ~~COMMUNITY RESPONSE TO AN ACCIDENT OR SPILL AT AN ABOVEGROUND~~

1 ~~STORAGE TANK FACILITY.~~

2 "CATHODIC PROTECTION." A TECHNIQUE TO PREVENT CORROSION OF A
3 METAL SURFACE BY MAKING THAT SURFACE THE CATHODE OF AN
4 ELECTROCHEMICAL CELL.

5 "CERTIFIED INSPECTOR." A PERSON CERTIFIED BY THE DEPARTMENT
6 TO CONDUCT ENVIRONMENTAL AUDITS AND INSPECTIONS OF TANKS OR TANK
7 FACILITIES. A CERTIFIED INSPECTOR SHALL NOT BE AN EMPLOYEE OF A
8 TANK OWNER.

9 "CERTIFIED INSTALLER." A PERSON CERTIFIED BY THE DEPARTMENT
10 TO INSTALL, ERECT, CONSTRUCT, MODIFY OR REMOVE STORAGE TANKS. A
11 CERTIFIED INSTALLER MAY BE AN EMPLOYEE OF A TANK OWNER.

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

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

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

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

19 (2) REMOVING A RELEASE OR ANY MATERIAL AFFECTED BY A
20 RELEASE.

21 (3) TAKING MEASURES TO PREVENT, MITIGATE, ABATE OR
22 REMEDY RELEASES, POLLUTION AND POTENTIAL FOR POLLUTION,
23 NUISANCES AND DAMAGES TO THE PUBLIC HEALTH, SAFETY OR
24 WELFARE, INCLUDING, BUT NOT LIMITED TO, WATERS OF THIS
25 COMMONWEALTH, INCLUDING SURFACE WATER AND GROUNDWATER, PUBLIC
26 AND PRIVATE PROPERTY, SHORELINES, BEACHES, WATER COLUMNS AND
27 BOTTOM SEDIMENTS, SOILS AND OTHER AFFECTED PROPERTY,
28 INCLUDING WILDLIFE AND OTHER NATURAL RESOURCES.

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

1 (5) TEMPORARILY OR PERMANENTLY RELOCATING RESIDENTS,
2 PROVIDING ALTERNATIVE WATER SUPPLIES OR UNDERTAKING AN <—
3 EXPOSURE ASSESSMENT.

4 (6) DOES NOT INCLUDE THE COST OF ROUTINE INSPECTIONS, <—
5 ROUTINE INVESTIGATIONS AND PERMIT ACTIVITIES NOT ASSOCIATED
6 WITH A RELEASE.

7 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OF
8 THE COMMONWEALTH.

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

12 "ENVIRONMENTAL QUALITY BOARD." THE BOARD ESTABLISHED
13 PURSUANT TO SECTION 1920-A OF THE ACT OF APRIL 9, 1929 (P.L.177,
14 NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929, FOR THE
15 PURPOSES SET FORTH IN THAT SECTION.

16 "EXPOSURE ASSESSMENT." AN ASSESSMENT TO DETERMINE THE EXTENT
17 OF EXPOSURE OF, OR POTENTIAL FOR EXPOSURE OF, INDIVIDUALS, THE
18 BIOLOGICAL COMMUNITY AND ALL OTHER NATURAL RESOURCES TO RELEASES
19 FROM A STORAGE TANK BASED ON, BUT NOT LIMITED TO, SUCH FACTORS
20 AS THE NATURE AND EXTENT OF CONTAMINATION AND THE EXISTENCE OF
21 OR POTENTIAL FOR PATHWAYS OF HUMAN EXPOSURE (INCLUDING
22 GROUNDWATER OR SURFACE WATER CONTAMINATION, AIR EMISSIONS, SOIL
23 CONTAMINATION AND FOOD CHAIN CONTAMINATION), THE SIZE OF THE
24 COMMUNITY WITHIN THE LIKELY PATHWAYS OF EXPOSURE AND THE
25 COMPARISON OF EXPECTED HUMAN EXPOSURE LEVELS TO THE SHORT-TERM
26 AND LONG-TERM HEALTH EFFECTS ASSOCIATED WITH IDENTIFIED
27 CONTAMINANTS.

28 "FARM." LAND USED FOR THE PRODUCTION FOR COMMERCIAL PURPOSES
29 OF CROPS, LIVESTOCK AND LIVESTOCK PRODUCTS, INCLUDING THE
30 PROCESSING OF RETAIL MARKETING OF SUCH CROPS, LIVESTOCK OR

1 LIVESTOCK PRODUCTS IF MORE THAN 50% OF SUCH PROCESSED OR
2 MERCHANDISED PRODUCTS ARE PRODUCED BY THE FARM OPERATOR. "CROPS,
3 LIVESTOCK AND LIVESTOCK PRODUCTS" INCLUDE, BUT ARE NOT LIMITED
4 TO:

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

7 (2) FRUITS, INCLUDING APPLES, PEACHES, GRAPES, CHERRIES
8 AND BERRIES.

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

11 (4) HORTICULTURAL SPECIALTIES, INCLUDING NURSERY STOCK,
12 ORNAMENTAL SHRUBS, ORNAMENTAL TREES AND FLOWERS.

13 (5) LIVESTOCK AND LIVESTOCK PRODUCTS, INCLUDING CATTLE,
14 SHEEP, HOGS, GOATS, HORSES, POULTRY, FURBEARING ANIMALS,
15 MILK, EGGS AND FURS.

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

17 "HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979." PUBLIC LAW
18 96-129, 93 STAT. 989, 49 U.S.C. § 2001 ET SEQ.

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

21 "NATURAL GAS PIPELINE SAFETY ACT OF 1968." PUBLIC LAW 90-
22 481, 82 STAT. 720, 49 U.S.C. APP. § 1671 ET SEQ.

23 "OPERATOR." ANY PERSON WHO MANAGES, SUPERVISES, ALTERS,
24 CONTROLS, OR HAS RESPONSIBILITY FOR THE OPERATION OF A STORAGE
25 TANK.

26 "OWNER."

27 (1) IN THE CASE OF A STORAGE TANK IN USE ON THE
28 EFFECTIVE DATE OF THIS ACT, OR BROUGHT INTO USE AFTER THAT
29 DATE, ANY PERSON WHO OWNS OR HAS AN OWNERSHIP INTEREST,
30 ~~EITHER LEGAL OR EQUITABLE,~~ IN A STORAGE TANK USED FOR THE

←

1 STORAGE, CONTAINMENT, USE OR DISPENSING OF REGULATED
2 SUBSTANCES.

3 (2) IN THE CASE OF ~~A~~ AN ABOVEGROUND STORAGE TANK IN USE <—
4 BEFORE THE EFFECTIVE DATE OF THIS ACT, BUT NO LONGER IN USE
5 ON THE EFFECTIVE DATE OF THIS ACT, ANY PERSON WHO OWNED THE
6 ABOVEGROUND TANK, IMMEDIATELY BEFORE THE DISCONTINUANCE OF <—
7 ITS USE, AS WELL AS ANY PERSON WHO MEETS THE DEFINITION OF
8 OWNER IN PARAGRAPH (1).

9 (3) IN THE CASE OF AN UNDERGROUND STORAGE TANK, THE <—
10 OWNER OF AN UNDERGROUND STORAGE TANK HOLDING REGULATED
11 SUBSTANCES ON OR AFTER NOVEMBER 8, 1984, AND THE OWNER OF AN
12 UNDERGROUND STORAGE TANK AT THE TIME ALL REGULATED SUBSTANCES
13 WERE REMOVED WHEN REMOVAL OCCURRED PRIOR TO NOVEMBER 8, 1984.

14 "PERSON." ANY INDIVIDUAL, PARTNERSHIP, CORPORATION,
15 ASSOCIATION, JOINT VENTURE, CONSORTIUM, INSTITUTION, TRUST,
16 FIRM, JOINT-STOCK COMPANY, COOPERATIVE ENTERPRISE, MUNICIPALITY,
17 MUNICIPAL AUTHORITY, FEDERAL GOVERNMENT OR AGENCY, COMMONWEALTH
18 DEPARTMENT, AGENCY, BOARD, COMMISSION, OR AUTHORITY, OR ANY
19 OTHER LEGAL ENTITY WHATSOEVER WHICH IS RECOGNIZED BY LAW AS THE
20 SUBJECT OF RIGHTS AND DUTIES. IN ANY PROVISIONS OF THIS ACT
21 PRESCRIBING A FINE, IMPRISONMENT OR PENALTY, OR ANY COMBINATION
22 OF THE FOREGOING, THE TERM "PERSON" SHALL INCLUDE THE OFFICERS
23 AND DIRECTORS OF ANY CORPORATION OR OTHER LEGAL ENTITY HAVING
24 OFFICERS AND DIRECTORS.

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

27 "PROCESS VESSEL." A VESSEL IN INDUSTRIAL OR COMMERCIAL
28 OPERATION IN WHICH, DURING USE, THERE IS A MECHANICAL, PHYSICAL
29 OR CHEMICAL CHANGE OF THE CONTAINED SUBSTANCES TAKING PLACE. THE
30 INDUSTRIAL OR COMMERCIAL PROCESS MAY INCLUDE, BUT IS NOT LIMITED

1 TO, MIXING, SEPARATING, CHEMICALLY ALTERING, DEHYDRATING,
2 EXTRACTING, REFINING OR POLISHING OF THE SUBSTANCES IN THE TANK.
3 THE TERM DOES NOT INCLUDE TANKS USED ONLY TO STORE SUBSTANCES
4 PRIOR TO SALE OR TO STORE FEEDSTOCK PRIOR TO ADDITIONAL
5 PROCESSING.

6 "REGULATED SUBSTANCE." AN ELEMENT, COMPOUND, MIXTURE,
7 SOLUTION OR SUBSTANCE THAT, WHEN RELEASED INTO THE ENVIRONMENT,
8 MAY PRESENT SUBSTANTIAL DANGER TO THE PUBLIC HEALTH, WELFARE OR
9 THE ENVIRONMENT. ~~THE TERM INCLUDES:~~ WHICH IS: <—

10 (1) ~~ANY~~ ANY SUBSTANCE DEFINED AS A HAZARDOUS SUBSTANCE <—
11 IN SECTION 101(14) OF THE COMPREHENSIVE ENVIRONMENTAL
12 RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (PUBLIC LAW
13 96-510, 94 STAT. 2767), BUT NOT INCLUDING ANY SUBSTANCE
14 REGULATED AS A HAZARDOUS WASTE UNDER SUBTITLE C OF THE
15 RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (PUBLIC LAW
16 94-580, 42 U.S.C. § 6901 ET SEQ.); <—

17 (2) ~~PETROLEUM~~ PETROLEUM, INCLUDING CRUDE OIL OR ANY <—
18 FRACTION THEREOF AND HYDROCARBONS WHICH ARE LIQUID AT
19 STANDARD CONDITIONS OF TEMPERATURE AND PRESSURE (60 DEGREES
20 FAHRENHEIT AND 14.7 POUNDS PER SQUARE INCH ABSOLUTE),
21 INCLUDING, BUT NOT LIMITED TO, OIL, PETROLEUM, FUEL OIL, OIL
22 SLUDGE, OIL REFUSE, OIL MIXED WITH OTHER NONHAZARDOUS WASTES
23 AND CRUDE OILS, GASOLINE AND KEROSENE; AND <—

24 (3) ~~ANY~~ ANY OTHER SUBSTANCE DETERMINED BY THE DEPARTMENT <—
25 BY REGULATION WHOSE CONTAINMENT, STORAGE, USE OR DISPENSING
26 MAY PRESENT A HAZARD TO THE PUBLIC HEALTH AND SAFETY OR THE
27 ENVIRONMENT, BUT NOT INCLUDING GASEOUS SUBSTANCES USED <—
28 EXCLUSIVELY FOR THE ADMINISTRATION OF MEDICAL CARE.

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

1 "RELEASE." ANY SPILLING, LEAKING, EMITTING, DISCHARGING,
2 ESCAPING, LEACHING OR DISPOSING FROM A STORAGE TANK INTO SURFACE
3 WATERS AND GROUNDWATERS OF THIS COMMONWEALTH OR SOILS OR
4 SUBSURFACE SOILS ~~OR CONTAINMENT STRUCTURES OR FACILITIES~~ IN AN <—
5 AMOUNT EQUAL TO OR GREATER THAN THE REPORTABLE RELEASED QUANTITY
6 DETERMINED UNDER SECTION 102 OF THE COMPREHENSIVE ENVIRONMENTAL
7 RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AND
8 REGULATIONS PROMULGATED THEREUNDER, OR AN AMOUNT EQUAL TO OR
9 GREATER THAN A DISCHARGE AS DEFINED IN SECTION 311 OF THE
10 FEDERAL WATER POLLUTION CONTROL ACT (62 STAT. 1155, 33 U.S.C. §
11 1321) AND REGULATIONS PROMULGATED THEREUNDER. THE TERM SHALL <—
12 ALSO INCLUDE SPILLING, LEAKING, EMITTING, DISCHARGING, ESCAPING,
13 LEACHING OR DISPOSING FROM A STORAGE TANK INTO A CONTAINMENT
14 STRUCTURE OR FACILITY THAT POSES AN IMMEDIATE THREAT OF
15 CONTAMINATION OF THE SOILS, SUBSURFACE SOILS, SURFACEWATER OR
16 GROUNDWATER.

17 "RESOURCE CONSERVATION AND RECOVERY ACT OF 1976." PUBLIC LAW
18 94-580, 42 U.S.C. § 6901 ET SEQ.

19 "SECONDARY CONTAINMENT." AN ADDITIONAL LAYER OF IMPERVIOUS
20 MATERIAL CREATING A SPACE IN WHICH A RELEASE OF A REGULATED
21 SUBSTANCE FROM A STORAGE TANK MAY BE DETECTED BEFORE IT ENTERS
22 THE ENVIRONMENT.

23 "SECRETARY." THE SECRETARY OF ENVIRONMENTAL RESOURCES OF THE
24 COMMONWEALTH.

25 "SMALL ABOVEGROUND STORAGE TANK." ANY ABOVEGROUND STORAGE <—
26 TANK HAVING A CAPACITY EQUAL TO OR LESS THAN 21,000 GALLONS.

27 "SPILL PREVENTION RESPONSE PLAN." EMERGENCY PLANS AND
28 PROCEDURES DEVELOPED BY AN ABOVEGROUND STORAGE TANK OR TANK
29 FACILITY OWNER AND/OR OPERATOR FOR RESPONSE TO AN ACCIDENT OR
30 SPILL ON THE FACILITY BY FACILITY PERSONNEL OR CONTRACTORS.

1 "STATIONARY TANK." ANY ABOVEGROUND STORAGE TANK THAT IS ←
2 PERMANENTLY AFFIXED TO THE REAL PROPERTY ON WHICH SUCH TANK IS
3 LOCATED.

4 "STORAGE TANK." ANY ABOVEGROUND OR UNDERGROUND STORAGE TANK, ←
5 ~~VESSEL OR CONTAINMENT STRUCTURE MADE OF NON-EARTHEN MATERIALS~~
6 WHICH IS USED FOR THE STORAGE OF ANY REGULATED SUBSTANCE.

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

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

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

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

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

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

28 (4) A PIPELINE FACILITY (INCLUDING GATHERING LINES)
29 REGULATED UNDER:

30 (I) THE NATURAL GAS PIPELINE SAFETY ACT OF 1968

1 (PUBLIC LAW 90-481, 82 STAT. 720, 49 U.S.C. APP. § 1671
2 ET SEQ.).

3 (II) THE HAZARDOUS LIQUID PIPELINE SAFETY ACT OF
4 1979 (PUBLIC LAW 96-129, 93 STAT. 989, 49 U.S.C. § 2001
5 ET SEQ.).

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

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

10 (7) STORM WATER OR WASTEWATER COLLECTION SYSTEMS.

11 (8) FLOW-THROUGH PROCESS TANKS.

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

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

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

23 (12) ANY UNDERGROUND STORAGE TANK SYSTEM WHOSE CAPACITY <—
24 IS 110 GALLONS OR LESS.

25 ~~(12)~~ (13) ANY OTHER TANK EXCLUDED BY POLICY OR <—
26 REGULATIONS 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 (B) REVIEW OF REGULATIONS.--THE DEPARTMENT SHALL CONSULT <—
6 WITH THE ADVISORY COMMITTEE IN THE FORMULATION, DRAFTING AND
7 PRESENTATION OF ALL REGULATIONS PROMULGATED UNDER THIS ACT. THE
8 ADVISORY COMMITTEE SHALL BE GIVEN A REASONABLE OPPORTUNITY TO
9 REVIEW AND COMMENT ON ALL REGULATIONS PRIOR TO THEIR SUBMISSION
10 TO THE ENVIRONMENTAL QUALITY BOARD FOR CONSIDERATION. THE
11 WRITTEN REPORT OF THE COMMITTEE SHALL BE PRESENTED TO THE
12 ENVIRONMENTAL QUALITY BOARD WITH ANY REGULATORY PROPOSAL. THE
13 CHAIRMAN OF THE COMMITTEE SHALL BE INVITED TO PARTICIPATE IN THE
14 PRESENTATION OF ALL REGULATIONS BEFORE THE ENVIRONMENTAL QUALITY
15 BOARD. NOTHING HEREIN SHALL PRECLUDE ANY MEMBER OF THE COMMITTEE
16 FROM FILING A PETITION FOR RULEMAKING WITH THE ENVIRONMENTAL
17 QUALITY BOARD IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE
18 ENVIRONMENTAL QUALITY BOARD.

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

20 THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND ITS
21 DUTY SHALL BE TO ADOPT RULES AND REGULATIONS OF THE DEPARTMENT
22 GOVERNING ABOVEGROUND AND UNDERGROUND STORAGE TANKS TO
23 ACCOMPLISH THE PURPOSES AND CARRY OUT THE PROVISIONS OF THIS
24 ACT.

25 SECTION 107. POWERS AND DUTIES OF DEPARTMENT.

26 (A) COOPERATIVE AGREEMENTS.--THE DEPARTMENT IS AUTHORIZED TO
27 ENTER INTO AGREEMENTS, CONTRACTS OR COOPERATIVE ARRANGEMENTS
28 UNDER SUCH TERMS AND CONDITIONS AS MAY BE DEEMED APPROPRIATE,
29 WITH OTHER STATE AGENCIES, FEDERAL AGENCIES, ~~COUNTIES, JOINT~~ <—
30 ~~COUNTY AUTHORITIES OR MULTIMUNICIPAL AUTHORITIES~~ AND CITIES AND <—

1 COUNTIES OF THE FIRST AND SECOND CLASS TO DELEGATE ANY OR ALL OF
2 ITS REGULATORY AUTHORITY TO PERMIT, INSPECT, MONITOR AND ENFORCE
3 THIS ACT AND THE UNDERGROUND AND ABOVEGROUND STORAGE TANK
4 PROGRAMS, PROVIDED THAT THE COUNTIES AND CITIES OF THE FIRST AND ←
5 SECOND CLASS HAVE A STORAGE TANK PROGRAM IN EFFECT THAT IS AT
6 LEAST AS STRINGENT AS THIS ACT.

7 (B) COMPLIANCE POLICY AND PROCEDURE.--THE DEPARTMENT SHALL
8 DEVELOP AND IMPLEMENT POLICIES, PROCEDURES AND FORMS AS MAY BE
9 NECESSARY AND APPROPRIATE IN ORDER TO ADMINISTER AND OBTAIN
10 COMPLIANCE WITH THIS ACT, OR THE RULES AND REGULATIONS
11 PROMULGATED PURSUANT TO THIS ACT, AND PERMITS ISSUED HEREUNDER.

12 (C) PRODUCTION OF MATERIALS, RECORDKEEPING REQUIREMENTS AND
13 RIGHTS OF ENTRY.--

14 (1) THE DEPARTMENT, ITS AGENTS AND EMPLOYEES ARE
15 AUTHORIZED TO REQUIRE ANY PERSON REGULATED BY THIS ACT TO
16 ESTABLISH AND MAINTAIN SUCH RECORDS AND MAKE SUCH REPORTS AND
17 FURNISH SUCH INFORMATION AS THE DEPARTMENT MAY PRESCRIBE
18 REGARDING ANY MATTER REGULATED BY THIS ACT.

19 (2) THE DEPARTMENT IS AUTHORIZED TO MAKE SUCH
20 INSPECTIONS, CONDUCT SUCH TESTS OR SAMPLING, OR EXAMINE OR
21 REQUIRE PRODUCTION OF BOOKS, PAPERS AND RECORDS, AND PHYSICAL
22 EVIDENCE PERTINENT TO ANY MATTER UNDER INVESTIGATION PURSUANT
23 TO THIS ACT AS IT DEEMS NECESSARY TO DETERMINE COMPLIANCE
24 WITH THIS ACT AND, FOR THIS PURPOSE, THE DULY AUTHORIZED
25 AGENTS AND EMPLOYEES OF THE DEPARTMENT ARE AUTHORIZED TO
26 ENTER AND EXAMINE ANY PROPERTY, FACILITY, OPERATION OR
27 ACTIVITY GOVERNED BY THIS ACT, UPON PRESENTATION OF
28 APPROPRIATE CREDENTIALS, WITHOUT PRIOR NOTICE AT ALL
29 REASONABLE TIMES, DURING REGULAR BUSINESS HOURS OF THE
30 OPERATION AND TIMES WHEN ACTIVITY IS BEING CONDUCTED AT THE

1 SITE.

2 (3) THE OWNER, OPERATOR OR OTHER PERSON IN CHARGE OF
3 SUCH PROPERTY, FACILITY, OPERATION OR ACTIVITY, UPON
4 PRESENTATION OF PROPER IDENTIFICATION AND PURPOSE FOR
5 INSPECTION BY THE AGENTS OR EMPLOYEES OF THE DEPARTMENT,
6 SHALL GIVE SUCH AGENTS AND EMPLOYEES FREE AND UNRESTRICTED
7 ENTRY AND ACCESS AND, UPON REFUSAL TO GRANT SUCH ENTRY OR
8 ACCESS, THE AGENT OR EMPLOYEE MAY OBTAIN A SEARCH WARRANT OR
9 OTHER SUITABLE ORDER FOR THE PURPOSES OF INSPECTING,
10 EXAMINING AND SEIZING ANY PROPERTY, BUILDING, PREMISES,
11 PLACE, BOOK, RECORD OR OTHER PHYSICAL EVIDENCE, AND FOR THE
12 PURPOSES OF CONDUCTING TESTS AND TAKING SAMPLES. SUCH
13 WARRANTS SHALL BE ISSUED UPON PROBABLE CAUSE. IT SHALL BE
14 SUFFICIENT PROBABLE CAUSE TO SHOW ANY ONE OF THE FOLLOWING:

15 (I) THE INSPECTION, EXAMINATION, TEST OR SAMPLING IS
16 PURSUANT TO A GENERAL ADMINISTRATIVE PLAN TO DETERMINE
17 COMPLIANCE WITH THIS ACT.

18 (II) THE AGENT OR EMPLOYEE HAS REASON TO BELIEVE
19 THAT A VIOLATION OF THIS ACT HAS OCCURRED OR IS LIKELY TO
20 OCCUR.

21 (III) THE AGENT OR EMPLOYEE HAS BEEN REFUSED ACCESS
22 TO THE PROPERTY, BUILDING, PREMISES, PLACE, BOOK, RECORD
23 OR OTHER PHYSICAL EVIDENCE ON SITES OR PERTAINING TO
24 MATTERS GOVERNED BY THIS ACT OR HAS BEEN PREVENTED FROM
25 CONDUCTING TESTS OR OBTAINING PHYSICAL EVIDENCE WHICH
26 ACTIVITIES ARE NECESSARY TO DETERMINE COMPLIANCE OR TO
27 RESPOND TO A VIOLATION OF THIS ACT.

28 (IV) THE OBJECT OF THE INVESTIGATION IS SUBJECT TO
29 REGULATION UNDER THIS ACT AND ACCESS, EXAMINATION,
30 INSPECTION OR TESTING IS NECESSARY TO ENFORCE THE

1 PROVISIONS OF THIS ACT.

2 (D) CERTIFICATION PROGRAM.--THE DEPARTMENT SHALL HAVE THE
3 AUTHORITY TO ESTABLISH, BY REGULATION, A CERTIFICATION AND
4 LICENSING PROGRAM FOR INSTALLERS AND INSPECTORS OF STORAGE TANKS
5 AND STORAGE TANK FACILITIES, INCLUDING PROCEDURES FOR THE
6 SUSPENSION AND REVOCATION OF CERTIFICATIONS.

7 (E) REVOCATION.--THE DEPARTMENT SHALL HAVE THE POWER TO
8 REVOKE ANY PERMIT, CERTIFICATION OR REGISTRATION PROVIDED FOR IN
9 THIS ACT FOR ANY VIOLATION OF THIS ACT OR THE REGULATIONS
10 PROMULGATED HEREUNDER.

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

15 (G) CORRECTIVE ACTION.--THE DEPARTMENT SHALL HAVE THE
16 AUTHORITY TO ORDER CORRECTIVE ACTION TO BE UNDERTAKEN, TO TAKE
17 CORRECTIVE ACTION OR TO AUTHORIZE A THIRD PARTY TO TAKE
18 CORRECTIVE ACTION.

19 (H) COST RECOVERY.--THE DEPARTMENT SHALL HAVE THE AUTHORITY
20 TO RECOVER THE COSTS OF TAKING OR AUTHORIZING THIRD PARTIES TO
21 TAKE CORRECTIVE ACTION. COST RECOVERY SHALL NOT INCLUDE THE COST
22 OF ROUTINE INSPECTION AND PERMITTING ACTIVITIES NOT ASSOCIATED
23 WITH A RELEASE.

24 SECTION 108. INTERIM CERTIFICATION OF INSTALLERS AND
25 INSPECTORS.

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

30 (1) THE PERSON MUST FILE A COMPLETE APPLICATION FOR AN

1 INTERIM CERTIFICATION WITH THE DEPARTMENT, WITH THE
2 APPROPRIATE REQUIRED INFORMATION.

3 (2) THE PERSON MUST DEMONSTRATE THAT HE OR SHE HAS BEEN
4 SUCCESSFULLY TRAINED BY THE MANUFACTURER IN THE INSTALLATION
5 OF ALL THE EQUIPMENT, DEVICES AND OTHER RELATED PRODUCTS USED
6 IN THE INSTALLATION OF A STORAGE TANK FACILITY AND/OR HAS
7 EQUIVALENT EXPERTISE THROUGH EDUCATION.

8 (3) THE PERSON HAS SUCCESSFULLY COMPLETED A FORMALIZED
9 TRAINING PROGRAM CONDUCTED BY THE MANUFACTURER FOR ALL
10 INSTALLERS AND INSPECTORS.

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

14 (5) THE PERSON MAINTAINS ALL APPLICABLE TECHNICAL
15 SPECIFICATIONS AND MANUALS WHICH GOVERN THE INSTALLATION AND
16 OPERATION OF TANK FACILITIES. THE PERSON SHALL MAKE THIS
17 INFORMATION AVAILABLE TO THE DEPARTMENT UPON REQUEST.

18 (6) THE PERSON FILES COMPLETED DOCUMENTATION WITH THE
19 DEPARTMENT FOR ALL CERTIFIED INSTALLATIONS AND INSPECTIONS OF
20 TANK FACILITIES ATTESTING TO COMPLIANCE WITH REQUIREMENTS OF
21 THE ACT.

22 (7) THE PERSON REPORTS TO THE DEPARTMENT THE EXTENT OF
23 VISIBLE CONTAMINATION FROM REGULATED SUBSTANCES AT THE SITE
24 OF THE TANK INSTALLATION, ON A FORM PROVIDED BY THE
25 DEPARTMENT.

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

29 (1) THE INSTALLATION OF A TANK AND RELATED EQUIPMENT IS
30 NOT IN ACCORDANCE WITH ALL APPLICABLE TECHNICAL

1 SPECIFICATIONS AND PROCEDURES OF THE MANUFACTURER.

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

5 (3) THE CERTIFIED INSTALLER OR INSPECTOR HAS FALSIFIED
6 INFORMATION IN SUBSECTION (A) OR HAS FAILED TO COMPLY WITH
7 THE REQUIREMENTS OF SUBSECTION (A).

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

10 (I) THAT IS NOT IN ACCORDANCE WITH THE
11 MANUFACTURER'S TECHNICAL AND PROCEDURAL SPECIFICATIONS
12 FOR THE INSTALLATION, CONSTRUCTION OR OPERATION OF A TANK
13 OR TANK FACILITY.

14 (II) THAT IS NOT IN ACCORDANCE WITH THE PROVISIONS
15 OF THIS ACT AND ANY REGULATIONS ADOPTED PURSUANT TO THIS
16 ACT.

17 (III) THAT PRESENTS A POLLUTION, THREAT OF
18 POLLUTION, OR HARM TO THE PUBLIC HEALTH, SAFETY AND
19 WELFARE.

20 (C) GUIDELINES.--THE DEPARTMENT SHALL DEVELOP THE INTERIM
21 CERTIFICATION PROGRAM WHICH SHALL EXPIRE 24 MONTHS AFTER THE
22 EFFECTIVE DATE OF THIS ACT.

23 SECTION 109. CONSTRUCTION.

24 THIS ACT AND THE REGULATIONS PROMULGATED UNDER THIS ACT SHALL
25 BE LIBERALLY CONSTRUED IN ORDER TO FULLY PROTECT THE PUBLIC
26 HEALTH, WELFARE AND SAFETY OF THE RESIDENTS OF THIS
27 COMMONWEALTH.

28 SECTION 110. APPLICABILITY OF CERTAIN PROVISIONS TO THE
29 COMMONWEALTH.

30 A COMMONWEALTH DEPARTMENT, AGENCY, BOARD, COMMISSION OR

1 AUTHORITY SHALL NOT BE REQUIRED TO PARTICIPATE IN THE
2 UNDERGROUND STORAGE TANK INDEMNIFICATION FUND OR TO PAY
3 REGISTRATION OR PERMIT FEES REQUIRED UNDER THIS ACT, UNTIL AND
4 UNLESS REGULATIONS ARE PROMULGATED THAT DIRECT OTHERWISE.

5 CHAPTER 3

6 ABOVEGROUND STORAGE TANKS

7 SECTION 301. ABOVEGROUND STORAGE TANK REQUIREMENTS.

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

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

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

29 (3) METHODS AND PROCEDURES FOR INVENTORY CONTROL
30 MEASURES BY OWNERS AND OPERATORS, IF APPROPRIATE.

<—

1 (4) THE PERIODIC INSPECTION OF THE LEAK DETECTION
2 SYSTEMS, THE STRUCTURAL INTEGRITY OF THE ABOVEGROUND STORAGE
3 TANK AND ASSOCIATED EQUIPMENT, AND RELEASE PREVENTION
4 MEASURES.

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

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

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

17 (8) MINIMUM STANDARDS FOR THE CONSTRUCTION, TESTING,
18 CORROSION PROTECTION, OPERATION, RELEASE PREVENTION, AND
19 REPAIR AND REUSE OF ABOVEGROUND STORAGE TANKS.

20 (9) A PERMIT, BY RULE, FOR CERTAIN CLASSIFICATIONS OF
21 ABOVEGROUND STORAGE TANKS, INCLUDING SMALL ABOVEGROUND
22 STORAGE TANKS.

23 (10) METHODS AND PROCEDURES FOR THE REMOVAL OF
24 ABOVEGROUND STORAGE TANKS FROM SERVICE BY THE OWNER AND
25 OPERATOR.

26 (11) REQUIREMENTS FOR REPORTING, BY THE OWNER OR
27 OPERATOR, OF THE INTENDED AND COMPLETED CLOSURE OF ANY
28 ABOVEGROUND STORAGE TANK.

29 (B) TANK CLASSIFICATION.--THE DEPARTMENT SHALL HAVE THE
30 AUTHORITY TO ESTABLISH CLASSES AND CATEGORIES OF ABOVEGROUND

1 STORAGE TANKS BY REGULATION, WHICH CLASSES MAY BE REGULATED IN
2 CONSIDERATION OF, AMONG OTHER FACTORS, SIZE, INTENDED USE,
3 CONTENTS AND POTENTIAL RISK OF HARM TO PUBLIC HEALTH AND THE
4 ENVIRONMENT.

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

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

13 (2) ABOVEGROUND STORAGE TANKS SHALL ONLY BE INSTALLED BY
14 A CERTIFIED INSTALLER AS PROVIDED BY REGULATIONS OF THE
15 DEPARTMENT.

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

20 (D) REQUIREMENTS FOR SMALL ABOVEGROUND STORAGE TANKS.--THE ←
21 DEPARTMENT SHALL DEVELOP A SIMPLIFIED PROGRAM TO REGULATE SMALL
22 ABOVEGROUND STORAGE TANKS. THE PROGRAM SHALL INCLUDE, BUT NOT BE
23 LIMITED TO:

24 (1) TESTING REQUIREMENTS FOR NEW AND SUBSTANTIALLY
25 MODIFIED SMALL ABOVEGROUND STORAGE TANKS, EXCEPT AS PROVIDED
26 IN SECTION 301(A)(2).

27 (2) PERFORMANCE AND DESIGN STANDARDS CONSISTENT WITH THE
28 MANUFACTURER'S SPECIFICATIONS FOR SMALL ABOVEGROUND STORAGE
29 TANKS.

30 (3) MONITORING STANDARDS CONSISTENT WITH THE

1 MANUFACTURER'S SPECIFICATIONS FOR A SMALL ABOVEGROUND STORAGE
2 TANK.

3 (4) REQUIREMENTS FOR CLOSURE.

4 (5) RECORDKEEPING REQUIREMENTS.

5 (6) INSPECTION REQUIREMENTS FOR EXISTING SMALL
6 ABOVEGROUND STORAGE TANKS.

7 SECTION 302. INTERIM REQUIREMENTS.

8 (A) REGISTRATION FEES AND REQUIREMENTS.--

9 (1) UNTIL ALTERNATIVE FEES ARE ESTABLISHED BY THE
10 DEPARTMENT BY REGULATION, ANNUAL REGISTRATION FEES TO BE PAID
11 BY OWNERS OF ABOVEGROUND STORAGE TANKS ARE HEREBY ESTABLISHED
12 AS FOLLOWS:

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

15 (II) ONE HUNDRED TWENTY-FIVE DOLLARS FOR EACH
16 ABOVEGROUND STORAGE TANK WITH A CAPACITY OF MORE THAN
17 5,000 GALLONS AND LESS THAN OR EQUAL TO 50,000 GALLONS.

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

20 (2) THE OWNER OF ANY ABOVEGROUND STORAGE TANK WITH A
21 CAPACITY GREATER THAN 5,000 GALLONS SHALL, ALONG WITH THE
22 REGISTRATION FEE, SUBMIT TO THE DEPARTMENT ALL INFORMATION
23 REQUIRED ON THE DATA PLATE REQUIRED BY SECTION 8.1 OF API 650
24 LARGE WELDED STORAGE TANKS (ATMOSPHERIC) AND SUCH OTHER
25 INFORMATION AS IS REQUIRED BY THE DEPARTMENT.

26 (B) INTERIM INSTALLATION REQUIREMENTS.--

27 (1) UNTIL SUCH TIME AS THE DEPARTMENT ADOPTS
28 INSTALLATION REQUIREMENTS BY REGULATION, NO PERSON SHALL
29 INSTALL A NEW OR RECONSTRUCTED ABOVEGROUND STORAGE TANK OR
30 MAKE A SUBSTANTIAL MODIFICATION TO AN ABOVEGROUND STORAGE

1 TANK UNLESS THE TANK MEETS THE APPLICABLE TECHNICAL STANDARDS
2 FOR THE SPECIFIC TYPE AND CLASS OF TANK AS SET FORTH IN THE
3 APPLICABLE UNDERWRITERS LABORATORY STANDARDS NO. 142 AND BY
4 THE AMERICAN PETROLEUM INSTITUTE IN EACH OF THE FOLLOWING
5 (INCLUDING ANY APPENDICES):

6 (I) API-12B - BOLTED TANKS FOR STORAGE OF PRODUCTION
7 LIQUIDS.

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

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

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

13 (V) API-12P - FIBERGLASS TANKS FOR STORAGE OF
14 PRODUCTION LIQUIDS.

15 (VI) API-620 - LARGE WELDED LOW PRESSURE STORAGE
16 TANKS.

17 (VII) API-650 - LARGE WELDED STORAGE TANKS
18 (ATMOSPHERIC).

19 (VIII) API-RP 2000 - GUIDE FOR VENTING ATMOSPHERIC
20 AND LOW PRESSURE STORAGE TANKS. ←

21 (2) UNLESS MODIFIED BY THE RULES AND REGULATIONS OF THE
22 DEPARTMENT, THE OWNER, SUBJECT TO PARAGRAPH (1), SHALL, ALONG
23 WITH THE REGISTRATION FORM REQUIRED BY THIS ACT, SUBMIT A
24 CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER QUALIFIED
25 IN TANK CONSTRUCTION THAT THE REQUIREMENTS OF PARAGRAPH (1)
26 HAVE BEEN MET.

27 SECTION 303. REGISTRATION.

28 (A) REGISTRATION REQUIREMENTS.--EVERY OWNER OF AN
29 ABOVEGROUND STORAGE TANK, EXCEPT AS SPECIFICALLY EXCLUDED BY
30 POLICY OR REGULATION OF THE DEPARTMENT, SHALL REGISTER EACH

1 ABOVEGROUND STORAGE TANK BY COMPLETING AND SUBMITTING THE FORM
2 PROVIDED BY THE DEPARTMENT, AND BY PAYING THE YEARLY
3 REGISTRATION FEE PRESCRIBED BY THE DEPARTMENT FOR EACH
4 ABOVEGROUND STORAGE TANK. IT SHALL BE UNLAWFUL FOR ANY OWNER OR
5 OPERATOR TO OPERATE OR USE, IN ANY WAY, ANY ABOVEGROUND STORAGE
6 TANK THAT HAS NOT BEEN CURRENTLY REGISTERED AS REQUIRED BY THIS
7 SECTION.

8 ~~(B) PROHIBITIONS. AFTER 12 MONTHS FROM THE EFFECTIVE DATE~~ <—
9 ~~OF THIS ACT, IT SHALL BE UNLAWFUL TO SELL, DISTRIBUTE, DEPOSIT~~
10 ~~OR OTHERWISE SUPPLY ANY REGULATED SUBSTANCE FOR STORAGE IN AN~~
11 ~~ABOVEGROUND STORAGE TANK UNLESS SAID ABOVEGROUND STORAGE TANK~~
12 ~~HAS BEEN CURRENTLY REGISTERED AS REQUIRED BY THIS SECTION. ANY~~
13 ~~PERSON WHO KNOWINGLY SELLS, DISTRIBUTES, DEPOSITS OR OTHERWISE~~
14 ~~SUPPLIES ANY REGULATED SUBSTANCE IN VIOLATION OF THIS SUBSECTION~~
15 ~~SHALL BE LIABLE FOR ANY RELEASE FROM THE ABOVEGROUND STORAGE~~
16 ~~TANK.~~

17 (B) PROHIBITIONS.--AFTER 12 MONTHS FROM THE EFFECTIVE DATE <—
18 OF THIS ACT, IT SHALL BE UNLAWFUL TO SELL, DISTRIBUTE, DEPOSIT
19 OR FILL AN ABOVEGROUND STORAGE TANK WITH ANY REGULATED SUBSTANCE
20 UNLESS THE ABOVEGROUND STORAGE TANK IS REGISTERED AS REQUIRED BY
21 THIS SECTION. ANY PERSON WHO, ON OR AFTER THE EFFECTIVE DATE OF
22 THIS SUBSECTION, KNOWINGLY SELLS, DISTRIBUTES, DEPOSITS OR FILLS
23 ANY ABOVEGROUND STORAGE TANK IN VIOLATION OF THIS SUBSECTION
24 PRIOR TO THE DISCOVERY OF A RELEASE SHALL BE LIABLE FOR ANY
25 RELEASE FROM THE ABOVEGROUND STORAGE TANK, IN ADDITION TO THE
26 REMEDIES PROVIDED IN SECTION 1302. WITHIN 12 MONTHS OF THE
27 EFFECTIVE DATE OF THIS ACT, THE DEPARTMENT SHALL HAVE AVAILABLE
28 FOR THE GENERAL PUBLIC AN EASILY DISTINGUISHABLE VISUAL SYSTEM,
29 SUCH AS A STICKER, TO IDENTIFY TANKS WITH A CURRENT REGISTRATION
30 AS PART OF ENFORCEMENT BY THE DEPARTMENT.

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 FOR A NEWLY INSTALLED, <—
22 CONSTRUCTED OR ERECTED ABOVEGROUND TANK SHALL BE ACCOMPANIED BY
23 A FEE OF \$20 PER WHOLE 10,000 GALLON UNITS OF STORAGE CAPACITY.
24 THIS FEE MAY BE MODIFIED BY REGULATION. THE DEPARTMENT SHALL <—
25 DEVELOP BY REGULATION A SCHEDULE OF FEES FOR PERMIT AMENDMENTS
26 AND MODIFICATIONS AND FOR THOSE ABOVEGROUND TANKS BEING
27 REPERMITTED.

28 (D) PRIOR PERMITS.--ANY PERSON WHO HAS OBTAINED A PERMIT FOR
29 THE ABOVEGROUND STORAGE TANK FACILITY, PRIOR TO THE EFFECTIVE
30 DATE OF THIS ACT, PURSUANT TO THE ACT OF JUNE 8, 1911 (P.L.705,

1 NO.281), ENTITLED "AN ACT CREATING THE OFFICE OF FIRE MARSHAL,
2 TO BE ATTACHED TO THE DEPARTMENT OF PUBLIC SAFETY IN CITIES OF
3 THE FIRST CLASS; PRESCRIBING HIS DUTIES AND POWERS; AND
4 PROVIDING PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THE ACT;
5 AND PROVIDING FOR THE METHOD OF APPOINTMENT, COMPENSATION, AND
6 FOR THE MAINTENANCE OF HIS OFFICE," THE ACT OF APRIL 27, 1927
7 (P.L.450, NO.291), REFERRED TO AS THE STATE FIRE MARSHAL LAW, OR
8 THE ACT OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND
9 CLASS COUNTY CODE, SHALL BE DEEMED TO HAVE AN OPERATING PERMIT
10 UNDER THIS ACT SO LONG AS THAT PERSON COMPLIES WITH SUBSECTION <—
11 (E) AND WITH THE REGISTRATION PROVISIONS AND OPERATIONAL
12 STANDARDS AND REQUIREMENTS FOR REMOVAL FROM SERVICE ESTABLISHED
13 THROUGH REGULATION PROMULGATED BY THE DEPARTMENT UNDER THIS ACT
14 AND ALL OTHER APPLICABLE LAWS AND UNTIL THE DEPARTMENT MAKES A <—
15 DETERMINATION ON THE APPLICATION FOR REPERMITTING.

16 (E) REPERMITTING.-- <—

17 (1) WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS ACT
18 EVERY PERSON CONSIDERED TO HAVE A PERMIT UNDER SUBSECTION (D)
19 FOR ANY ABOVEGROUND STORAGE TANK WHICH IS CERTIFIED BY THAT
20 PERSON TO BE TEN YEARS OF AGE OR OLDER SHALL APPLY TO THE
21 DEPARTMENT FOR A PERMIT.

22 (2) WITHIN THREE YEARS OF THE EFFECTIVE DATE OF THIS
23 ACT, EVERY PERSON CONSIDERED TO HAVE A PERMIT UNDER
24 SUBSECTION (D) FOR ANY ABOVEGROUND STORAGE TANK WHICH IS
25 CERTIFIED BY THAT PERSON TO BE LESS THAN TEN YEARS OF AGE
26 SHALL APPLY TO THE DEPARTMENT FOR A NEW PERMIT.

27 (3) THE PROVISIONS OF CHAPTER 11 SHALL NOT APPLY TO THE
28 REPERMITTING OF ABOVEGROUND STORAGE TANKS.

29 ~~(E)~~ (F) INTERIM PERMIT REQUIREMENTS.--PRIOR TO THE EFFECTIVE <—
30 DATE OF A REGULATION OF THE DEPARTMENT CONCERNING INSTALLATION,

1 CONSTRUCTION, ERECTION, MODIFICATION, OPERATION OR REMOVAL FROM
2 SERVICE OF AN ABOVEGROUND STORAGE TANK FACILITY, ANY OWNER OR
3 OPERATOR WHO MEETS THE INTERIM INSTALLATION REQUIREMENTS OF
4 SECTION 302(B) OF THIS ACT AND OTHER APPLICABLE PROVISIONS SHALL
5 BE DEEMED TO MEET THE PERMIT REQUIREMENTS FOR INSTALLATION AND
6 OPERATION OF AN ABOVEGROUND STORAGE TANK FACILITY.

7 ~~(F)~~ (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 ~~(G)~~ (H) RENEWAL OF PERMIT.-- IN ORDER TO CONTINUE TO OPERATE ←
22 AN ABOVEGROUND STORAGE TANK FACILITY, THE OWNER OR OPERATOR MUST
23 OBTAIN A NEW PERMIT OR A RENEWED PERMIT AT LEAST EVERY TEN
24 YEARS.

25 ~~(H)~~ (I) UNLAWFUL CONDUCT.--IT SHALL BE UNLAWFUL TO INSTALL, ←
26 CONSTRUCT, ERECT, MODIFY, OPERATE OR REMOVE FROM SERVICE AN
27 ABOVEGROUND STORAGE TANK FACILITY UNLESS AUTHORIZED BY THE
28 POLICIES, RULES OR REGULATIONS OF THE DEPARTMENT OR UNLESS THE
29 OWNER OR OPERATOR HAS FIRST OBTAINED A PERMIT FROM THE
30 DEPARTMENT. HOWEVER, ANY PERSON WHO HAS INSTALLED, CONSTRUCTED

1 OR ERECTED AN ABOVEGROUND STORAGE TANK PRIOR TO THE EFFECTIVE
2 DATE OF THIS ACT WHO WAS NOT REQUIRED TO OBTAIN A PERMIT UNDER
3 ONE OF THE AUTHORITIES LISTED IN SUBSECTION (D) SHALL HAVE 12
4 MONTHS FROM THE EFFECTIVE DATE OF THIS ACT TO OBTAIN AN
5 OPERATING PERMIT FROM THE DEPARTMENT.

6 CHAPTER 5

7 UNDERGROUND STORAGE TANKS

8 SECTION 501. UNDERGROUND STORAGE TANK REQUIREMENTS.

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

12 (1) THE PAYMENT OF AN ANNUAL REGISTRATION FEE TO THE
13 DEPARTMENT BY OWNERS OF UNDERGROUND STORAGE TANKS AND
14 COMMERCIAL HEATING OIL STORAGE TANKS.

15 (2) METHODS AND PROCEDURES FOR THE OPERATION OF
16 UNDERGROUND STORAGE TANK FACILITIES AND FOR THE OPERATOR'S
17 AND OWNER'S MAINTENANCE OF A LEAK DETECTION SYSTEM, AN
18 INVENTORY CONTROL SYSTEM TOGETHER WITH TANK TESTING OR A
19 COMPARABLE SYSTEM OR METHOD DESIGNED TO IDENTIFY RELEASES OR
20 POTENTIAL RELEASES IN A MANNER CONSISTENT WITH THE PROTECTION
21 OF HUMAN HEALTH AND THE ENVIRONMENT.

22 (3) THE MAINTENANCE OF RECORDS BY THE OWNER OR OPERATOR
23 OF ANY MONITORING OR LEAK DETECTION SYSTEM OR INVENTORY
24 CONTROL SYSTEM OR TANK TESTING SYSTEM.

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

28 (5) CORRECTIVE ACTIONS BY OWNERS, OPERATORS, LANDOWNERS
29 AND OCCUPIERS, OR OTHER RESPONSIBLE PARTIES, ON AN EMERGENCY
30 BASIS IF NECESSARY, IN RESPONSE TO A RELEASE FROM AN

1 UNDERGROUND STORAGE TANK.

2 (6) REQUIREMENTS FOR CLOSURE OF TANKS BY OWNERS AND
3 OPERATORS TO PREVENT FUTURE RELEASES OF REGULATED SUBSTANCES
4 INTO THE ENVIRONMENT.

5 (7) STANDARDS FOR INSTALLATION AND PERFORMANCE FOR NEW
6 AND EXISTING UNDERGROUND STORAGE TANKS, INCLUDING MINIMUM
7 STANDARDS FOR THE CONSTRUCTION, TESTING, CORROSION,
8 PROTECTION, OPERATION, RELEASE PREVENTION AND REPAIR AND
9 REUSE OF UNDERGROUND STORAGE TANKS.

10 (8) STANDARDS AND PROCEDURES FOR PERMITTING ,
11 INSTALLATION, CONSTRUCTION, MODIFICATION , OPERATION AND
12 REMOVAL OF TANKS AND INTENDED AND COMPLETED CLOSURE OF AN
13 UNDERGROUND STORAGE TANK.

14 (9) METHODS AND PROCEDURES FOR THE REMOVAL OF
15 UNDERGROUND STORAGE TANKS FROM SERVICE BY THE OWNER OR
16 OPERATOR.

17 (10) REQUIREMENTS FOR REPORTING BY THE OWNER OR OPERATOR
18 OF INTENDED AND COMPLETED CLOSURE OF ANY UNDERGROUND STORAGE
19 TANK FACILITIES.

20 (11) THE PERIODIC INSPECTION OF THE LEAK DETECTION
21 SYSTEMS, STRUCTURAL INTEGRITY OF THE UNDERGROUND STORAGE
22 TANKS AND ASSOCIATED EQUIPMENT, AND RELEASE PREVENTION
23 MEASURES.

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

26 (B) TANK CLASSIFICATION.--THE DEPARTMENT SHALL HAVE THE
27 AUTHORITY TO ESTABLISH CLASSES AND CATEGORIES OF UNDERGROUND
28 STORAGE TANKS BY REGULATION, WHICH CLASSES MAY BE REGULATED IN
29 CONSIDERATION OF, AMONG OTHER FACTORS, SIZE, COMPOSITION,
30 INTENDED USE, CONTENTS AND POTENTIAL RISK OF HARM TO PUBLIC

1 HEALTH AND THE ENVIRONMENT.

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

3 (1) THE DEPARTMENT SHALL ESTABLISH, BY REGULATION, A
4 CERTIFICATION PROGRAM FOR INSTALLERS AND INSPECTORS OF
5 UNDERGROUND STORAGE TANKS AND FACILITIES. THIS PROGRAM SHALL
6 INCLUDE PROVISIONS FOR QUALIFICATIONS AND STANDARDS,
7 PROCEDURES FOR TRAINING AND TESTING AND FOR THE REVOCATION
8 AND SUSPENSION OF CERTIFICATION. ALL DEPARTMENT EMPLOYEES
9 ADMINISTERING THIS PROGRAM SHALL BE DEEMED CERTIFIED WHILE IN
10 THE EMPLOYMENT OF THE DEPARTMENT.

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

14 (3) UNDERGROUND STORAGE TANKS SHALL BE INSPECTED BY
15 CERTIFIED INSPECTORS PRIOR TO PERMITTING AND AT A FREQUENCY
16 THEREAFTER ESTABLISHED BY THE DEPARTMENT AS PROVIDED BY
17 REGULATIONS OF THE DEPARTMENT.

18 SECTION 502. INTERIM REQUIREMENTS AND DISCONTINUED USE.

19 (A) REGISTRATION FEES AND REQUIREMENTS.--UNTIL ALTERNATIVE
20 FEES ARE ESTABLISHED BY THE DEPARTMENT BY REGULATION, AN ANNUAL
21 FEE OF \$50 FOR EACH UNDERGROUND STORAGE TANK AND EACH COMMERCIAL
22 HEATING OIL STORAGE TANK TO BE PAID BY OWNERS OF THE UNDERGROUND
23 STORAGE TANK IS HEREBY ESTABLISHED.

24 (B) INTERIM INSTALLATION AND OPERATION REQUIREMENTS.--UNTIL
25 SUCH TIME AS THE DEPARTMENT ADOPTS INSTALLATION AND OPERATIONAL
26 REQUIREMENTS BY REGULATION, NO PERSON SHALL INSTALL OR MAKE A
27 SUBSTANTIAL MODIFICATION TO AN UNDERGROUND STORAGE TANK OR
28 FACILITY UNLESS THAT TANK OR FACILITY MEETS ALL OF THE FOLLOWING
29 REQUIREMENTS:

30 (1) THE TANK PREVENTS RELEASES DUE TO CORROSION OR

1 STRUCTURAL FAILURE FOR THE OPERATIONAL LIFE OF THE TANK.

2 (2) THE TANK IS CATHODICALLY PROTECTED AGAINST
3 CORROSION, CONSTRUCTED OF NONCORROSIVE MATERIAL, STEEL CLAD
4 WITH A NONCORROSIVE MATERIAL, OR DESIGNED IN A MANNER TO
5 PREVENT THE RELEASE OR THREATENED RELEASE OF ANY STORED
6 SUBSTANCE.

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

9 (4) THE TANK IS EQUIPPED WITH SPILL AND OVERFILL
10 PREVENTION EQUIPMENT.

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

12 (C) DISCONTINUED USE.--UPON ABANDONMENT OR DISCONTINUANCE OF
13 THE USE OR ACTIVE OPERATION OF AN UNDERGROUND STORAGE TANK, THE
14 OWNER AND OPERATOR SHALL REMOVE THE TANK AND ITS CONTENTS OR
15 SHALL SEAL THE TANK, AND RESTORE THE AREA IN A MANNER THAT
16 PREVENTS ANY FUTURE RELEASE, AND SHALL REMEDY ANY ADVERSE
17 IMPACTS FROM ANY PRIOR RELEASE IN A MANNER DEEMED SATISFACTORY
18 TO THE DEPARTMENT.

19 SECTION 503. REGISTRATION.

20 (A) REQUIREMENTS.--EVERY OWNER OF AN UNDERGROUND STORAGE
21 TANK, EXCEPT AS SPECIFICALLY EXCLUDED BY POLICY OR REGULATION OF
22 THE DEPARTMENT, SHALL REGISTER WITH THE DEPARTMENT EACH
23 UNDERGROUND STORAGE TANK BY COMPLETING AND SUBMITTING THE FORM
24 PROVIDED BY THE DEPARTMENT AND BY PAYING THE REGISTRATION FEE
25 PRESCRIBED BY THE DEPARTMENT FOR EACH UNDERGROUND STORAGE TANK
26 WITHIN THREE MONTHS OF THE EFFECTIVE DATE OF THIS ACT. IT SHALL
27 BE UNLAWFUL FOR ANY OWNER OR OPERATOR TO OPERATE OR USE, IN ANY
28 WAY, ANY UNDERGROUND STORAGE TANK THAT HAS NOT BEEN REGISTERED
29 AS REQUIRED BY THIS SECTION.

30 ~~(B) PROHIBITIONS. AFTER 12 MONTHS FROM THE EFFECTIVE DATE~~ <—

1 ~~OF THIS ACT, IT SHALL BE UNLAWFUL TO SELL, DISTRIBUTE, DEPOSIT~~
2 ~~OR OTHERWISE SUPPLY ANY REGULATED SUBSTANCE FOR STORAGE IN AN~~
3 ~~UNDERGROUND STORAGE TANK UNLESS THE UNDERGROUND STORAGE TANK HAS~~
4 ~~BEEN REGISTERED AS REQUIRED BY THIS SECTION. ANY PERSON WHO~~
5 ~~KNOWINGLY SELLS, DISTRIBUTES, DEPOSITS OR OTHERWISE SUPPLIES ANY~~
6 ~~REGULATED SUBSTANCE IN VIOLATION OF THIS SECTION SHALL BE LIABLE~~
7 ~~FOR ANY RELEASE FROM THE UNDERGROUND STORAGE TANK.~~

8 (B) PROHIBITIONS.--AFTER 12 MONTHS FROM THE EFFECTIVE DATE <—
9 OF THIS ACT, IT SHALL BE UNLAWFUL TO SELL, DISTRIBUTE, DEPOSIT
10 OR FILL AN UNDERGROUND STORAGE TANK WITH ANY REGULATED SUBSTANCE
11 UNLESS THE UNDERGROUND STORAGE TANK IS REGISTERED AS REQUIRED BY
12 THIS SECTION. ANY PERSON WHO, ON OR AFTER THE EFFECTIVE DATE OF
13 THIS SUBSECTION, KNOWINGLY SELLS, DISTRIBUTES, DEPOSITS OR FILLS
14 ANY UNDERGROUND STORAGE TANK IN VIOLATION OF THIS SUBSECTION
15 PRIOR TO THE DISCOVERY OF A RELEASE SHALL BE LIABLE FOR ANY
16 RELEASE FROM THE UNDERGROUND STORAGE TANK, IN ADDITION TO THE
17 REMEDIES PROVIDED IN SECTION 1302. WITHIN 12 MONTHS OF THE
18 EFFECTIVE DATE OF THIS ACT, THE DEPARTMENT SHALL HAVE AVAILABLE
19 FOR THE GENERAL PUBLIC AN EASILY DISTINGUISHABLE VISUAL SYSTEM,
20 SUCH AS A STICKER, TO IDENTIFY TANKS WITH A CURRENT STICKER AS
21 PART OF ENFORCEMENT BY THE DEPARTMENT.

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

26 SECTION 504. PERMITS AND PLANS.

27 (A) PERMIT REQUIREMENTS.--NO PERSON SHALL INSTALL,
28 CONSTRUCT, MODIFY, OPERATE OR REMOVE FROM SERVICE ALL OR PART OF
29 AN UNDERGROUND STORAGE TANK FACILITY UNLESS SUCH INSTALLATION,
30 CONSTRUCTION, MODIFICATION, OPERATION OR REMOVAL FROM SERVICE IS

1 AUTHORIZED BY THE RULES AND REGULATIONS OF THE DEPARTMENT OR THE
2 PERSON HAS FIRST OBTAINED A PERMIT FROM THE DEPARTMENT.

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

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

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

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

1 (F) INTERIM OPERATING PERMIT REQUIREMENTS.--PRIOR TO THE
2 EFFECTIVE DATE OF A REGULATION OF THE DEPARTMENT CONCERNING
3 INSTALLATION, SUBSTANTIAL MODIFICATION OR OPERATION OF
4 UNDERGROUND STORAGE TANKS AT A TANK FACILITY, ANY OWNER OR
5 OPERATOR WHO SUBMITS AN APPLICATION DEMONSTRATING THAT HE MEETS
6 THE INTERIM INSTALLATION AND OPERATION REQUIREMENTS OF SECTIONS
7 502 AND 503 OF THIS ACT SHALL MEET THE OPERATING PERMIT
8 REQUIREMENTS OF THIS SECTION.

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

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

1 IN SUBSECTION (D) SHALL HAVE 12 MONTHS FROM THE EFFECTIVE DATE
2 OF THIS ACT TO OBTAIN A PERMIT FROM THE DEPARTMENT.

3 SECTION 505. COMMERCIAL HEATING OIL STORAGE TANKS.

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

9 SECTION 506. SMALL OPERATOR ASSISTANCE PROGRAM FOR UNDERGROUND
10 STORAGE TANKS.

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

17 CHAPTER 7

18 FINANCIAL PROVISIONS

19 SECTION 701. FINANCIAL RESPONSIBILITY.

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

29 (B) METHODS OF OBTAINING FINANCIAL RESPONSIBILITY.--
30 FINANCIAL RESPONSIBILITY REQUIRED BY THIS SECTION MAY BE

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

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

28 (D) GUARANTOR LIABILITY.--THE TOTAL LIABILITY OF ANY
29 GUARANTOR SHALL BE LIMITED TO THE AGGREGATE AMOUNT WHICH THE
30 GUARANTOR HAS PROVIDED AS EVIDENCE OF FINANCIAL RESPONSIBILITY

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

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

15 SECTION 702. STORAGE TANK FUND.

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

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

1 (C) LIABILITY FOR COSTS.--WHENEVER COSTS HAVE BEEN INCURRED
2 BY THE COMMONWEALTH FOR TAKING CORRECTIVE ACTION ~~OR ENFORCEMENT~~ <—
3 ~~ACTION~~ IN RESPONSE TO A RELEASE FROM A STORAGE TANK REGULATED BY
4 THIS ACT, THE OWNER OR OPERATOR, AS MAY BE APPROPRIATE, OF SUCH
5 TANK SHALL BE LIABLE TO THE COMMONWEALTH FOR SUCH COSTS.

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

27 (E) STATUS OF FUND.--THE STORAGE TANK FUND SHALL NOT BE <—
28 SUBJECT TO 42 PA.C.S. CH.37 SUBCH. C (RELATING TO JUDICIAL
29 COMPUTER SYSTEM).
30 SECTION 703. UNDERGROUND STORAGE TANK INDEMNIFICATION BOARD.

1 (A) ESTABLISHMENT OF BOARD, APPOINTMENT AND TERMS.--THERE IS
2 HEREBY CREATED THE UNDERGROUND STORAGE TANK INDEMNIFICATION
3 BOARD WHICH SHALL CONSIST OF SEVEN MEMBERS. THE INSURANCE
4 COMMISSIONER AND THE SECRETARY OF THE DEPARTMENT OF
5 ENVIRONMENTAL RESOURCES SHALL BE EX OFFICIO MEMBERS. FIVE
6 MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, AS FOLLOWS:

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

13 (I) THE ASSOCIATED PETROLEUM INDUSTRIES OF
14 PENNSYLVANIA.

15 (II) THE PENNSYLVANIA PETROLEUM ASSOCIATION.

16 (III) THE SERVICE STATION DEALERS AND AUTOMOTIVE
17 REPAIR ASSOCIATION OF PENNSYLVANIA AND DELAWARE AND THE
18 PETROLEUM RETAILERS AND AUTO REPAIR ASSOCIATION, INC.

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

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

26 (B) CHAIRMAN.--THE BOARD SHALL SELECT A CHAIRMAN FROM ITS
27 MEMBERS ANNUALLY.

28 (C) VACANCIES.--VACANCIES IN APPOINTED POSITIONS SHALL BE
29 FILLED BY THE GOVERNOR IN THE SAME MANNER AS THE ORIGINAL
30 APPOINTMENT. MEMBERS SHALL SERVE UNTIL THEIR SUCCESSORS ARE

1 APPOINTED AND QUALIFIED.

2 (D) COMPENSATION.--MEMBERS SHALL RECEIVE NO COMPENSATION FOR
3 THEIR SERVICE OTHER THAN REIMBURSEMENT FOR NECESSARY EXPENSES IN
4 ACCORDANCE WITH COMMONWEALTH REGULATIONS.

5 (E) CONFLICTS.--NO MEMBER SHALL PARTICIPATE IN MAKING ANY
6 DECISION IN A MATTER INVOLVING ANY PAYMENT FROM WHICH HE OR HIS
7 EMPLOYER MAY BENEFIT OR WHICH MAY BENEFIT A MEMBER OF HIS
8 IMMEDIATE FAMILY.

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

15 SECTION 704. UNDERGROUND STORAGE TANK INDEMNIFICATION FUND.

16 (A) ESTABLISHMENT OF FUND.--THERE IS HEREBY CREATED A
17 SPECIAL FUND IN THE STATE TREASURY TO BE KNOWN AS THE
18 UNDERGROUND STORAGE TANK INDEMNIFICATION FUND. THIS FUND SHALL
19 CONSIST OF THE FEES ASSESSED BY THE BOARD UNDER SECTION 705(D),
20 AMOUNTS RECOVERED BY THE BOARD DUE TO FRAUDULENT OR IMPROPER
21 CLAIMS OR AS PENALTIES FOR FAILURE TO PAY FEES WHEN DUE, AND
22 FUNDS EARNED BY THE INVESTMENT AND REINVESTMENT OF THE MONEYS
23 COLLECTED. MONEYS IN THE FUND ARE HEREBY APPROPRIATED TO THE
24 BOARD FOR THE PURPOSE OF MAKING PAYMENTS TO OWNERS AND OPERATORS
25 OF UNDERGROUND STORAGE TANKS WHO INCUR LIABILITY FOR TAKING
26 CORRECTIVE ACTION OR FOR BODILY INJURY OR PROPERTY DAMAGE CAUSED
27 BY A SUDDEN OR NONSUDDEN RELEASE FROM UNDERGROUND STORAGE TANKS.
28 THE FUND SHALL BE THE SOLE SOURCE OF PAYMENTS UNDER THIS ACT,
29 AND THE COMMONWEALTH SHALL HAVE NO LIABILITY BEYOND THE AMOUNT
30 OF THE FUND. EVERY OWNER OF AN UNDERGROUND STORAGE TANK SHALL

1 DEMONSTRATE FINANCIAL RESPONSIBILITY BY PARTICIPATING IN THE
2 UNDERGROUND STORAGE TANK INDEMNIFICATION FUND. THE OWNER OR
3 OPERATOR MAY OBTAIN COVERAGE FOR LIABILITY NOT INSURED BY THE
4 FUND THROUGH ANY OF THE METHODS APPROVED IN ACCORDANCE WITH
5 SECTION 701(B).

6 (B) LIMIT OF PAYMENTS.--PAYMENTS TO ELIGIBLE OWNERS OR
7 OPERATORS SHALL BE LIMITED TO THE ACTUAL COSTS OF CORRECTIVE
8 ACTION AND THE AMOUNT OF AN AWARD OF DAMAGES BY A COURT OF
9 COMPETENT JURISDICTION FOR BODILY INJURY, PROPERTY DAMAGE, OR
10 BOTH, NOT TO EXCEED A TOTAL OF \$1,000,000 PER TANK PER
11 OCCURRENCE. PAYMENTS OF CLAIMS AGAINST THE FUND SHALL BE SUBJECT
12 TO A DEDUCTIBLE AS PROVIDED IN SECTION 705. PAYMENTS SHALL BE
13 MADE ONLY FOR RELEASES RESULTING FROM STORAGE TANKS THAT ARE
14 LOCATED WITHIN THIS COMMONWEALTH. PAYMENTS SHALL NOT EXCEED AN
15 ANNUAL AGGREGATE OF \$1,000,000 FOR EACH OWNER AND OPERATOR OF
16 100 OR LESS UNDERGROUND STORAGE TANKS OR AN ANNUAL AGGREGATE OF
17 \$2,000,000 FOR EACH OWNER AND OPERATOR OF 101 OR MORE
18 UNDERGROUND STORAGE TANKS, UP TO THE TOTAL OF \$1,000,000 PER <—
19 TANK PER OCCURRENCE OR THE TOTAL ELIGIBLE COSTS OR DAMAGES.

20 (C) PROHIBITED USES.--MONEYS IN THE FUND SHALL NOT BE USED
21 FOR THE REPAIR, REPLACEMENT OR MAINTENANCE OF UNDERGROUND
22 STORAGE TANKS OR IMPROVEMENT OF PROPERTY ON WHICH THE TANKS ARE
23 LOCATED.

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

28 SECTION 705. POWERS AND DUTIES OF UNDERGROUND STORAGE TANK
29 INDEMNIFICATION BOARD.

30 (A) SUPPORT.--THE BOARD MAY EMPLOY THE PERSONNEL NECESSARY

1 TO PROCESS FEE PAYMENTS, TO ADMINISTER CLAIMS MADE AGAINST THE
2 UNDERGROUND STORAGE TANK INDEMNIFICATION FUND AND TO CARRY OUT
3 THE PURPOSES OF THE BOARD. THE BOARD MAY ALSO CONTRACT FOR THE
4 SERVICES OF ATTORNEYS, CONSULTANTS AND ACTUARIES NECESSARY TO
5 ADVISE THE BOARD IN ESTABLISHING FEES UNDER SUBSECTION (D) AND
6 DEDUCTIBLE AMOUNTS UNDER SUBSECTION (C).

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

16 (C) DEDUCTIBLE.--

17 (1) CLAIMS SHALL BE SUBJECT TO A DEDUCTIBLE AMOUNT WHICH
18 THE BOARD SHALL SET ANNUALLY. THE BOARD SHALL GIVE AT LEAST
19 30 DAYS' NOTICE OF A PROPOSED CHANGE IN DEDUCTIBLE AMOUNTS BY
20 PUBLICATION IN THE PENNSYLVANIA BULLETIN, AND THE CHANGE
21 SHALL TAKE EFFECT ON THE DATE SPECIFIED IN THE NOTICE. EACH
22 OWNER OR OPERATOR SHALL BE RESPONSIBLE FOR THE AMOUNT OF THE
23 DEDUCTIBLE AS PROVIDED IN SECTION 705.

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

1 (3) THE BOARD SHALL SET THE INITIAL DEDUCTIBLE FOR
2 CLAIMS DUE TO BODILY INJURY, PROPERTY DAMAGE, OR BOTH, AT
3 \$150,000 PER TANK PER OCCURRENCE. THEREAFTER, THE DEDUCTIBLE
4 SHALL BE BASED ON AN ESTIMATE OF THE AVERAGE AWARD FOR
5 SETTLEMENT OF THIRD-PARTY CLAIMS INVOLVING BODILY INJURY,
6 PROPERTY DAMAGE, OR BOTH, CAUSED BY A SUDDEN OR NONSUDDEN
7 RELEASE FROM UNDERGROUND STORAGE TANKS IN THIS COMMONWEALTH.
8 THE BOARD SHALL NOT SET A DEDUCTIBLE IN AN AMOUNT LOWER THAN
9 \$100,000 PER TANK PER OCCURRENCE.

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

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

29 (F) ADDITIONAL POWERS.--THE BOARD SHALL HAVE ADDITIONAL
30 POWERS AS MAY BE NECESSARY TO CARRY OUT ITS DUTIES UNDER THIS

1 ACT, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

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

4 (2) TO MAKE BYLAWS FOR THE MANAGEMENT AND REGULATION OF
5 ITS AFFAIRS AND TO ADOPT, AMEND AND REPEAL RULES, REGULATIONS
6 AND GUIDELINES GOVERNING THE ADMINISTRATIVE PROCEDURES AND
7 BUSINESS OF THE BOARD AND OPERATION AND ADMINISTRATION OF THE
8 FUND. REGULATIONS OF THE BOARD SHALL BE SUBJECT TO REVIEW
9 UNDER THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS
10 THE REGULATORY REVIEW ACT.

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

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

17 SECTION 706. ELIGIBILITY OF CLAIMANTS.

18 IN ORDER TO RECEIVE A PAYMENT FROM THE UNDERGROUND STORAGE
19 TANK INDEMNIFICATION FUND, A CLAIMANT SHALL MEET THE FOLLOWING
20 ELIGIBILITY REQUIREMENTS:

21 (1) THE CLAIMANT IS THE OWNER OR OPERATOR OF THE TANK
22 WHICH IS THE SUBJECT OF THE CLAIM.

23 (2) THE CURRENT FEE REQUIRED UNDER SECTION 705 HAS BEEN
24 PAID.

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

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

29 (5) THE CLAIMANT DEMONSTRATES TO THE SATISFACTION OF THE
30 BOARD THAT THE RELEASE THAT IS THE SUBJECT OF THE CLAIM

1 OCCURRED AFTER THE DATE ESTABLISHED BY THE BOARD FOR PAYMENT
2 OF THE FEE REQUIRED BY SECTION 705(D).

3 (6) ADDITIONAL ELIGIBILITY REQUIREMENTS WHICH THE BOARD
4 MAY ADOPT BY REGULATION.

5 SECTION 707. AUDIT.

6 THE BOARD SHALL CONTRACT FOR AN ANNUAL INDEPENDENT AUDIT OF
7 THE UNDERGROUND STORAGE TANK INDEMNIFICATION FUND.

8 SECTION 708. SUNSET REVIEW.

9 THE UNDERGROUND STORAGE TANK INDEMNIFICATION FUND AND THE
10 BOARD SHALL BE SUBJECT TO PERIODIC EVALUATION, REVIEW AND
11 TERMINATION OR CONTINUATION UNDER THE ACT OF DECEMBER 22, 1981
12 (P.L.508, NO.142), KNOWN AS THE SUNSET ACT, EVERY FIVE YEARS
13 COMMENCING WITH AN INITIAL TERMINATION DATE OF DECEMBER 31,
14 1993. NOTHING IN THE SUNSET ACT OR THIS SECTION SHALL BE
15 CONSTRUED TO INVALIDATE ANY CLAIM SUBMITTED PRIOR TO THE DATE OF
16 TERMINATION.

17 SECTION 709. LOAN FUND.

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

22 (B) PURPOSE.--IN A CASE WHEN THE DEPARTMENT HAS IDENTIFIED
23 NO MORE THAN TWO ~~PERSONS~~ OWNERS OR OPERATORS THAT INDIVIDUALLY ←
24 OWN NO MORE THAN 20 STORAGE TANKS AS POTENTIALLY LIABLE TO TAKE
25 CORRECTIVE ACTION UNDER SECTION 1302, SUCH PERSONS MAY BE
26 ELIGIBLE, UPON WRITTEN APPLICATION TO THE DEPARTMENT OF
27 COMMERCE, TO RECEIVE LONG-TERM, LOW-INTEREST LOANS IN AN AMOUNT
28 UP TO \$15,000 AT AN INTEREST RATE NOT TO EXCEED 2%. THE
29 DEPARTMENT OF COMMERCE SHALL PROMULGATE REGULATIONS ESTABLISHING
30 ELIGIBILITY CRITERIA FOR THE LOANS. AS PART OF THIS EFFORT, THE

1 DEPARTMENT OF COMMERCE SHALL INCLUDE A DETERMINATION OF THE
2 AVAILABILITY OF OTHER SOURCES OF FUNDS AT REASONABLE RATES TO
3 FINANCE ALL OR A PORTION OF THE RESPONSE ACTION AND THE NEED FOR
4 DEPARTMENT OF COMMERCE ASSISTANCE TO FINANCE THE RESPONSE
5 ACTION.

6 (C) FUNDS.--IN ADDITION TO ANY FUNDS AS MAY BE APPROPRIATED
7 BY THE GENERAL ASSEMBLY, AT LEAST 2% OF THE FUNDS RAISED
8 ANNUALLY BY THE ASSESSMENTS IMPOSED BY SECTIONS 303 AND 502
9 SHALL BE DEPOSITED INTO THE LOAN FUND.

10 (D) ANNUAL REPORT.--BEGINNING JANUARY 1, 1990, AND ANNUALLY
11 THEREAFTER, THE DEPARTMENT OF COMMERCE SHALL TRANSMIT TO THE
12 GENERAL ASSEMBLY A REPORT CONCERNING ACTIVITIES AND EXPENDITURES
13 MADE PURSUANT TO THIS SECTION FOR THE PRECEDING STATE FISCAL
14 YEAR. INCLUDED IN THIS REPORT SHALL BE INFORMATION CONCERNING
15 ALL REVENUES AND RECEIPTS DEPOSITED INTO THE LOAN FUND AND ALL
16 LOANS EXTENDED TO ELIGIBLE APPLICANTS.

17 (E) SUNSET.--THE LOAN FUND SHALL CEASE TO EXIST ON JUNE 30,
18 ~~1993~~ 1995, UNLESS IT IS REESTABLISHED BY ACTION OF THE GENERAL <—
19 ASSEMBLY. ANY FUNDS REMAINING IN THE LOAN FUND ON JUNE 30, ~~1993~~ <—
20 1995, SHALL LAPSE TO THE STORAGE TANK FUND. MONEY RECEIVED BY
21 THE DEPARTMENT OF COMMERCE AS REPAYMENT OF OUTSTANDING LOANS
22 AFTER JUNE 30, ~~1993~~ 1995, SHALL LAPSE TO THE STORAGE TANK FUND. <—

23 CHAPTER 9

24 SPILL PREVENTION RESPONSE PLAN

25 SECTION 901. SUBMISSION OF SPILL PREVENTION RESPONSE PLAN.

26 (A) SCHEDULE.--~~ACCOMPANYING THE REGISTRATION FORM AS SET~~ <—
27 ~~FORTH IN SECTION 303, EACH~~ EACH OWNER OF AN ABOVEGROUND STORAGE <—
28 TANK OR TANK FACILITY SHALL SUBMIT TO THE DEPARTMENT WITHIN ONE
29 YEAR OF THE EFFECTIVE DATE OF THIS ACT A PLAN FOR EACH
30 ABOVEGROUND STORAGE TANK OR TANK FACILITY. EACH PLAN SHALL BE

1 SITE-SPECIFIC AND BE CONSISTENT WITH THE REQUIREMENTS OF THIS
2 ACT AND SHALL BE DEVELOPED IN CONSULTATION WITH COUNTY AND <—
3 MUNICIPAL EMERGENCY MANAGEMENT AGENCIES. THIS CHAPTER SHALL NOT
4 APPLY TO ABOVEGROUND STORAGE TANK FACILITIES WITH A CAPACITY
5 EQUAL TO OR LESS THAN 21,000 GALLONS.

6 (B) PLAN REVISIONS.--EACH OWNER OF AN ABOVEGROUND STORAGE
7 TANK OR TANK FACILITY WITH AN APPROVED SPILL PREVENTION RESPONSE
8 PLAN SHALL SUBMIT A REVISED PLAN OR ADDENDUM TO THE PLAN TO THE
9 DEPARTMENT IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ACT IF
10 ANY OF THE FOLLOWING OCCUR:

11 (1) THERE IS A SUBSTANTIAL MODIFICATION IN DESIGN,
12 CONSTRUCTION, OPERATION, MAINTENANCE OF THE STORAGE TANK OR
13 TANK FACILITY OR ASSOCIATED EQUIPMENT OR OTHER CIRCUMSTANCES
14 THAT INCREASE THE POTENTIAL FOR FIRES, EXPLOSIONS OR RELEASES
15 OF REGULATED SUBSTANCES.

16 (2) THERE IS A SUBSTANTIAL MODIFICATION IN EMERGENCY
17 EQUIPMENT AT THE FACILITY.

18 (3) THERE ARE SUBSTANTIAL CHANGES IN TANK FACILITY
19 EMERGENCY ORGANIZATION.

20 (4) APPLICABLE DEPARTMENT REGULATIONS ARE REVISED.

21 (5) THE PLAN FAILS IN AN EMERGENCY.

22 (6) THE REMOVAL OR THE ADDITION OF ANY STORAGE TANK OR
23 STORAGE TANKS.

24 (7) OTHER CIRCUMSTANCES OCCUR OF WHICH THE DEPARTMENT
25 REQUESTS AN UPDATE.

26 (C) EXISTING PLANS.--ALL EXISTING PLANS REGARDING STORAGE
27 TANK FACILITIES REQUIRED BY THE DEPARTMENT PURSUANT TO THE ACT
28 OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS
29 LAW, AND KNOWN AS PREPAREDNESS, PREVENTION AND CONTINGENCY PLANS
30 MUST BE REVISED WITHIN ~~TWO YEARS~~ ONE YEAR OF THE EFFECTIVE DATE <—

1 OF THIS ACT. THEREAFTER, ALL PLANS SUBMITTED IN ACCORDANCE WITH
2 THIS CHAPTER SHALL BE DEEMED TO HAVE SATISFIED THE REQUIREMENTS
3 OF THE CLEAN STREAMS LAW, RELATING TO PREPAREDNESS, PREVENTION
4 AND CONTINGENCY PLANS.

5 SECTION 902. CONTENT OF SPILL PREVENTION RESPONSE PLAN.

6 (A) DESCRIPTION OF FACILITY.--THE PLAN SHALL IDENTIFY AND
7 DESCRIBE THE INDUSTRIAL OR COMMERCIAL ACTIVITY WHICH OCCURS AT
8 THE SITE, INCLUDING A SPECIFIC LISTING AND INVENTORY OF ALL
9 TYPES OF PRODUCTS STORED, AMOUNT OF PRODUCTS STORED AND WASTES
10 GENERATED WHICH ARE STORED AT THE ABOVEGROUND STORAGE TANK OR
11 TANK FACILITY. THE PLAN SHALL INCLUDE DRAWINGS OF THE
12 ABOVEGROUND STORAGE TANK FACILITY, INCLUDING LOCATION OF ALL
13 DRAINAGE PIPES AND WATER OUTLETS.

14 (B) DESCRIPTION OF THE ORGANIZATION STRUCTURE FOR PLAN
15 IMPLEMENTATION.--THE PLAN SHALL IDENTIFY ALL FACILITY RELATED
16 INDIVIDUALS AND THEIR DUTIES AND RESPONSIBILITIES FOR
17 DEVELOPING, IMPLEMENTING AND MAINTAINING THE FACILITIES' PLAN.
18 THE PLAN SHALL DESCRIBE IN DETAIL THE CHAIN OF COMMAND AT THE
19 ABOVEGROUND STORAGE TANK OR STORAGE TANK FACILITY AND LIST ALL
20 FACILITY EMERGENCY COORDINATORS, AND EMERGENCY RESPONSE
21 CONTRACTORS.

22 (C) SPILL LEAK PREVENTION AND RESPONSE.--THE PLAN SHALL
23 PROVIDE A PREVENTIVE MAINTENANCE PROGRAM THAT INCLUDES
24 MONITORING AND INSPECTION PROCEDURES, INCLUDING IDENTIFICATION
25 OF STRESS POINTS, EMPLOYEE TRAINING PROGRAM AND SECURITY SYSTEM.
26 THE PLAN SHALL INCLUDE A DESCRIPTION OF POTENTIAL SOURCES AND
27 AREAS WHERE SPILLS AND LEAKS MAY OCCUR BY DRAWINGS AND PLOT
28 PLANS AND SHALL IDENTIFY SPECIFIC SPILL PREVENTION MEASURES FOR
29 THOSE IDENTIFIED AREAS.

30 (D) COUNTERMEASURE.--THE PLAN SHALL EXPLAIN IN DETAIL THE

1 SPECIFIC RESPONSE THAT STORAGE TANK FACILITY AND CONTRACT
2 EMERGENCY PERSONNEL SHALL TAKE UPON THE OCCURRENCE OF ANY
3 RELEASE AT THE FACILITY.

4 (E) EMERGENCY SPILL CONTROL NETWORK.--THE PLAN SHALL INCLUDE
5 INFORMATION OBTAINED BY THE OWNER OF THE ABOVEGROUND STORAGE
6 TANK FACILITY FROM THE COUNTY AND MUNICIPAL EMERGENCY MANAGEMENT
7 AGENCIES. THE PLAN SHALL ALSO CONTAIN INFORMATION RELATING TO
8 PERSONS TO BE NOTIFIED IN THE EVENT OF A SPILL.

9 (F) OTHER INFORMATION.--THE OWNER SHALL PROVIDE THE
10 DEPARTMENT WITH ALL OTHER INFORMATION REQUIRED BY THE DEPARTMENT
11 TO CARRY OUT ITS DUTIES UNDER THIS ACT.

12 ~~SECTION 903. ABOVEGROUND STORAGE TANK FACILITY EMERGENCY~~ <—
13 ~~RESPONSE PLAN.~~

14 ~~(A) COUNTY EMERGENCY RESPONSE PLAN. THE COUNTY EMERGENCY~~
15 ~~MANAGEMENT AGENCY, AS DEFINED IN REGULATION FOR PLANNING~~
16 ~~THRESHOLD, SHALL DEVELOP A COMPREHENSIVE ABOVEGROUND STORAGE~~
17 ~~TANK EMERGENCY RESPONSE PLAN WHICH IS SITE SPECIFIC TO THOSE~~
18 ~~ABOVEGROUND STORAGE TANK FACILITIES WHICH REQUIRE ONSITE~~
19 ~~EMERGENCY RESPONSE PLANS UNDER SECTION 901. ALL PLANS SHALL BE~~
20 ~~COMPLETED WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS~~
21 ~~SECTION. THE PLAN SHALL BE CONSISTENT WITH ESTABLISHED EMERGENCY~~
22 ~~RESPONSE PLANNING PROCEDURES AS ESTABLISHED BY THE PENNSYLVANIA~~
23 ~~EMERGENCY MANAGEMENT COUNCIL AND THE PENNSYLVANIA EMERGENCY~~
24 ~~MANAGEMENT AGENCY AND SHALL INCLUDE THE TIMELY NOTIFICATION OF~~
25 ~~ALL DOWNSTREAM WATER COMPANIES AND DOWNSTREAM INDUSTRIAL~~
26 ~~FACILITIES WHICH INTAKE WATER FROM POTENTIALLY CONTAMINATED~~
27 ~~RIVERS, STREAMS AND CREEKS WITHIN 20 MILES OF THE ABOVEGROUND~~
28 ~~STORAGE TANK FACILITY. THE COUNTY SHALL COORDINATE THE~~
29 ~~DEVELOPMENT OF EACH ABOVEGROUND STORAGE TANK FACILITY EMERGENCY~~
30 ~~RESPONSE PLAN WHICH SHALL BE CODEVELOPED WITH AFFECTED MUNICIPAL~~

1 ~~EMERGENCY MANAGEMENT AGENCIES AND THE FACILITY OPERATOR. THE~~
2 ~~COUNTY SHALL SUBMIT COMPLETED PLANS TO THE PENNSYLVANIA~~
3 ~~EMERGENCY MANAGEMENT AGENCY FOR REVIEW AND APPROVAL. AT LEAST~~
4 ~~BIENNIAL UPDATES WILL BE REQUIRED.~~

5 ~~(B) COUNTY PLANS REVIEW. UPON RECEIPT OF COUNTY ABOVEGROUND~~
6 ~~STORAGE TANK EMERGENCY RESPONSE PLANS, THE PENNSYLVANIA~~
7 ~~EMERGENCY MANAGEMENT AGENCY SHALL REVIEW EACH PLAN TO ENSURE~~
8 ~~CONSISTENCY AND COMPLIANCE WITH EXISTING FEDERAL AND STATE~~
9 ~~EMERGENCY PLANNING REQUIREMENTS. THE PENNSYLVANIA EMERGENCY~~
10 ~~MANAGEMENT AGENCY WILL NOTIFY THE COUNTY EMERGENCY MANAGEMENT~~
11 ~~AGENCY IF CORRECTIONS OR CHANGES ARE NECESSARY AND THE~~
12 ~~PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY SHALL REQUIRE~~
13 ~~CORRECTION OF THE PLANS BY THE COUNTY EMERGENCY MANAGEMENT~~
14 ~~AGENCY, AS DESCRIBED IN 35 PA.C. S. § 7313 (RELATING TO POWERS~~
15 ~~AND DUTIES).~~

16 ~~(C) RULES AND REGULATIONS. THE PENNSYLVANIA EMERGENCY~~
17 ~~MANAGEMENT AGENCY SHALL HAVE THE AUTHORITY TO DEVELOP~~
18 ~~REGULATIONS TO IMPLEMENT PROVISIONS OF THIS SECTION INCLUDING~~
19 ~~REQUIREMENTS TO DEVELOP COUNTY ABOVEGROUND STORAGE TANK PLANS~~
20 ~~BASED UPON A PLANNING THRESHOLD STANDARD AND TO EXERCISE COUNTY~~
21 ~~ABOVEGROUND STORAGE TANK EMERGENCY RESPONSE PLANS ON A REGULAR~~
22 ~~BASIS.~~

23 SECTION ~~904~~ 903. REVIEW OF SPILL PREVENTION RESPONSE PLANS. <—

24 (A) WRITTEN NOTICE.--THE OWNER OF THE ABOVEGROUND STORAGE
25 TANK FACILITY LOCATED ADJACENT TO SURFACE WATERS SHALL ANNUALLY
26 PROVIDE PUBLIC NOTICE TO ALL DOWNSTREAM MUNICIPALITIES,
27 DOWNSTREAM WATER COMPANIES AND DOWNSTREAM INDUSTRIAL USERS
28 WITHIN 20 MILES OF THE ABOVEGROUND STORAGE TANK FACILITY SITE
29 AND THE LOCAL MUNICIPALITY AND COUNTY IN WHICH THE FACILITY IS
30 LOCATED. THE NOTICE SHALL PROVIDE A DETAILED INVENTORY OF THE

1 TYPE AND QUANTITY OF MATERIAL IN STORAGE AT THE FACILITY. THE
2 FACILITY OPERATOR SHALL ~~BIENNIALY~~ ANNUALLY PROVIDE A COPY OF <—
3 THE ~~FACILITY EMERGENCY RESPONSE PLAN~~ SPILL PREVENTION RESPONSE <—
4 PLAN OR UPDATES TO THAT PLAN AFTER ITS INITIAL PREPARATION TO
5 THE COUNTY AND MUNICIPAL EMERGENCY MANAGEMENT AGENCY AND THE
6 DEPARTMENT.

7 (B) DEPARTMENT ACTION.--THE DEPARTMENT SHALL APPROVE THE
8 ~~FACILITY~~ SPILL PREVENTION RESPONSE PLAN OR DISAPPROVE THE PLAN <—
9 AND PROVIDE THE OWNER OF THE STORAGE TANK OR TANK FACILITY WITH
10 SPECIFIC REASONS FOR THE DISAPPROVAL. IF DISAPPROVED, THE OWNER
11 OF THE STORAGE TANK OR TANK FACILITY SHALL SUBMIT A REVISED PLAN
12 TO THE DEPARTMENT.

13 SECTION ~~905~~ 904. NOTIFICATION. <—

14 (A) PROCEDURE FOR ~~OFFSITE~~ SPILL NOTIFICATION.--UPON THE <—
15 OCCURRENCE OF ~~AN OFFSITE~~ A RELEASE AT THE ABOVEGROUND STORAGE <—
16 TANK, THE OWNER OR OPERATOR OF A STORAGE TANK SHALL IMMEDIATELY
17 NOTIFY THE COUNTY EMERGENCY MANAGEMENT AGENCY, THE PENNSYLVANIA
18 EMERGENCY MANAGEMENT AGENCY AND THE DEPARTMENT. ALL DOWNSTREAM
19 WATER COMPANIES, DOWNSTREAM MUNICIPALITIES AND DOWNSTREAM
20 INDUSTRIAL USERS WITHIN 20 MILES OF THE ABOVEGROUND STORAGE TANK
21 LOCATED ADJACENT TO SURFACE WATERS SHALL BE NOTIFIED ON A
22 PRIORITY BASIS BASED ON THE PROXIMITY OF THE RELEASE BY THE
23 OWNER OR OPERATOR OF THE AGENT OF THE OWNER OR OPERATOR OF THE
24 ABOVEGROUND STORAGE TANK WITHIN TWO HOURS OF ANY RELEASE WHICH
25 ENTERS A WATER SUPPLY OR WHICH THREATENS THE WATER SUPPLY OF
26 DOWNSTREAM USERS. WHERE THE OWNER OR OPERATOR OR HIS AGENT <—
27 FAILED TO NOTIFY OR IS INCAPABLE OF NOTIFYING DOWNSTREAM WATER
28 USERS, THE COUNTY EMERGENCY MANAGEMENT AGENCY SHALL MAKE THE
29 REQUIRED NOTIFICATIONS.

30 ~~(B) PROCEDURE FOR ONSITE SPILL NOTIFICATION. UPON THE~~ <—

1 OCCURRENCE OF AN ONSITE RELEASE WITH LIMITED POTENTIAL FOR
2 OFFSITE IMPACT AT THE ABOVEGROUND STORAGE TANK, THE OWNER OR
3 OPERATOR OF A STORAGE TANK SHALL IMMEDIATELY NOTIFY THE
4 DEPARTMENT. IF AN EMERGENCY RESPONSE IS REQUIRED, THE
5 ABOVEGROUND STORAGE TANK OWNER OR OPERATOR SHALL NOTIFY THE
6 COUNTY EMERGENCY MANAGEMENT AGENCY.

7 ~~(C)~~ (B) NOTIFICATION LIST.--THE OWNER OF THE ABOVEGROUND
8 STORAGE TANK OR TANK FACILITY LOCATED ADJACENT TO SURFACE WATERS
9 SHALL ANNUALLY OBTAIN AND ANNUALLY UPDATE A LIST FROM THE LOCAL
10 EMERGENCY MANAGEMENT AGENCY OF ALL DOWNSTREAM MUNICIPAL WATER
11 USERS, WATER COMPANIES AND INDUSTRIAL USERS WITHIN 20 MILES OF
12 THE TANK FACILITY.

13 ~~(D) COUNTY NOTIFICATION.~~ UPON NOTIFICATION OF AN OFFSITE <---
14 ACTUAL RELEASE OR POTENTIAL FAILURE OF AN ABOVEGROUND STORAGE
15 TANK, THE COUNTY EMERGENCY MANAGEMENT AGENCY SHALL NOTIFY THE
16 PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY AND SHALL THEN CONTACT
17 ALL DOWNSTREAM USERS WITHIN 20 MILES OF THE ABOVEGROUND STORAGE
18 TANK LOCATED ADJACENT TO SURFACE WATERS TO INITIATE APPROPRIATE
19 EMERGENCY RESPONSE ACTIONS.

20 ~~(E) STATE VERIFICATION.~~ UPON NOTIFICATION OF AN ACTUAL
21 RELEASE OR POTENTIAL FAILURE OF AN ABOVEGROUND STORAGE TANK, THE
22 DEPARTMENT SHALL VERIFY NOTIFICATION AND BE AVAILABLE TO RESPOND
23 TO REQUESTS FOR TECHNICAL ADVICE ON A PRIORITY BASIS BASED ON
24 THE PROXIMITY OF THE RELEASE WHICH THREATENS THE WATER SUPPLY OF
25 DOWNSTREAM USERS.

26 ~~(F)~~ (C) STATE AGENCY.--NOTWITHSTANDING ANY FEDERAL LAW TO
27 THE CONTRARY, THE DEPARTMENT IS HEREBY DESIGNATED AS THE STATE
28 AGENCY EMPOWERED TO DIRECT EMERGENCY CLEANUP EFFORTS ONSITE AT A
29 RELEASE SITE UPON THE OCCURRENCE OF A RELEASE.

30 ~~(G)~~ (D) OTHER EMERGENCY RESPONSE PLANS.--NOTWITHSTANDING <---

1 CHAPTER 9 TO THE CONTRARY, THE ABOVEGROUND STORAGE TANK FACILITY <—
2 ~~EMERGENCY~~ SPILL PREVENTION RESPONSE PLAN SHALL BE DEVELOPED <—
3 JOINTLY BY THE OWNER OF THE ABOVEGROUND STORAGE TANK ~~AND~~ IN <—
4 CONSULTATION WITH THE LOCAL AND COUNTY EMERGENCY MANAGEMENT
5 AGENCY ~~AND REVIEWED BY THE PENNSYLVANIA EMERGENCY MANAGEMENT~~ <—
6 ~~AGENCY~~ CONSISTENT WITH THE EMERGENCY MANAGEMENT PROCEDURES
7 DEVELOPED BY LOCAL EMERGENCY MANAGEMENT AGENCIES UNDER TITLE III
8 OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986
9 (PUBLIC LAW 99-499, 100 STAT. 1613).

10 CHAPTER 11

11 SITING OF NEW ABOVEGROUND STORAGE TANK FACILITY

12 AND REGULATIONS

13 SECTION 1101. NOTIFICATION.

14 (A) PROCEDURE.--THE OWNER OR OPERATOR OF AN EXISTING OR
15 PROPOSED ABOVEGROUND TANK FACILITY SHALL PROVIDE WRITTEN
16 NOTIFICATION TO THE LOCAL MUNICIPALITY AND COUNTY IN WHICH THE
17 ABOVEGROUND TANK FACILITY IS SITUATED OR TO BE LOCATED PRIOR TO
18 SUBMITTING AN APPLICATION FOR AN ABOVEGROUND STORAGE PERMIT TO
19 CONSTRUCT OR RECONSTRUCT AN ADDITIONAL ABOVEGROUND STORAGE TANK
20 AT THE ABOVEGROUND STORAGE TANK FACILITY OR CONSTRUCT A NEW
21 ABOVEGROUND STORAGE TANK FACILITY. THIS CHAPTER SHALL NOT APPLY
22 TO ABOVEGROUND STORAGE TANKS WITH A CAPACITY EQUAL TO OR LESS
23 THAN 21,000 GALLONS.

24 (B) PUBLIC HEARINGS.--UPON SUBMISSION TO THE DEPARTMENT OF
25 THE PERMIT APPLICATION TO CONSTRUCT ANY NEW ABOVEGROUND TANK
26 FACILITY, THE DEPARTMENT MAY HOLD A PUBLIC HEARING IN THE
27 MUNICIPALITY OR COUNTY IN WHICH THE ABOVEGROUND TANK FACILITY IS
28 PROPOSED TO BE LOCATED. THE DEPARTMENT SHALL PUBLISH THE PERMIT
29 APPLICATION IN THE PENNSYLVANIA BULLETIN UPON RECEIPT OF THE
30 PERMIT APPLICATION AND PROVIDE NOT MORE THAN A 60-DAY COMMENT

1 PERIOD.

2 (C) PUBLIC COMMENT ON ABOVEGROUND STORAGE TANK PERMIT.--THE
3 DEPARTMENT SHALL PUBLISH THE ABOVEGROUND STORAGE TANK FACILITY
4 PERMIT APPLICATION IN THE PENNSYLVANIA BULLETIN UPON RECEIPT OF
5 THE PERMIT APPLICATION AND PROVIDE A 30-DAY COMMENT PERIOD FOR
6 NEW ABOVEGROUND STORAGE TANK FACILITIES.

7 SECTION 1102. SITING REGULATIONS.

8 THE ENVIRONMENTAL QUALITY BOARD SHALL DEVELOP SITING
9 REGULATIONS FOR NEW ABOVEGROUND STORAGE TANK FACILITIES WHICH
10 SHALL CONTAIN DETAILED PROVISIONS WHICH AN APPLICANT SHALL USE
11 TO EVALUATE A POTENTIAL SITE. THE REGULATIONS SHALL INCLUDE, BUT
12 NOT BE LIMITED TO, CONSIDERATION FOR PUBLIC HEALTH AND SAFETY,
13 PROTECTION OF WATER SUPPLY SOURCES, WATER QUALITY, AIR QUALITY,
14 FLOODING, TOPOGRAPHY, SOIL CONDITIONS AND HYDROGEOLOGY. THE
15 BOARD SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE SITING
16 REGULATIONS AND SHALL SOLICIT AND TAKE INTO CONSIDERATION
17 WRITTEN PUBLIC COMMENTS, PRIOR TO FINAL ADOPTION.

18 CHAPTER 13

19 ENFORCEMENT

20 SECTION 1301. WITHHOLDING PERMIT.

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

25 (1) THE APPLICANT HAS FAILED AND CONTINUES TO FAIL TO
26 COMPLY WITH ANY PROVISIONS OF FEDERAL OR STATE LAW WHICH ARE
27 IN ANY WAY CONNECTED WITH OR RELATED TO THE REGULATION OF
28 STORAGE TANKS OR OF ANY RELEVANT RULE, REGULATION, PERMIT OR
29 ORDER OF THE DEPARTMENT OR RELATED TO THE REGULATION OF
30 STORAGE TANKS.

1 (2) THE APPLICANT HAS SHOWN A LACK OF ABILITY OR
2 INTENTION TO COMPLY WITH ANY LAW, RULE, REGULATION, PERMIT OR
3 ORDER OF THE DEPARTMENT ISSUED PURSUANT TO THIS ACT AS
4 INDICATED BY PAST OR CONTINUING VIOLATIONS. ANY PERSON,
5 PARTNERSHIP, ASSOCIATION OR CORPORATION WHICH HAS VIOLATED
6 THIS ACT, RULE, REGULATION, ORDER OF THE DEPARTMENT, OR ANY
7 CONDITION OF ANY PERMIT ISSUED PURSUANT TO THIS ACT, OR WHICH
8 HAS A PARTNER, ASSOCIATE, OFFICER, PARENT CORPORATION,
9 SUBSIDIARY CORPORATION, CONTRACTOR OR SUBCONTRACTOR WHICH HAS
10 ENGAGED IN SUCH VIOLATION SHALL BE DENIED ANY PERMIT REQUIRED
11 BY THIS ACT UNLESS THE PERMIT APPLICATION DEMONSTRATES THAT
12 THE VIOLATION IS BEING CORRECTED TO THE SATISFACTION OF THE
13 DEPARTMENT.

14 SECTION 1302. RESPONSIBILITIES OF OWNERS AND OPERATORS.

15 (A) ORDER TO CORRECT CONDITION.--WHENEVER THE DEPARTMENT
16 FINDS THAT A RELEASE OR DANGER OF A RELEASE IS OR MAY BE
17 RESULTING FROM A STORAGE TANK IN THIS COMMONWEALTH, THE
18 DEPARTMENT MAY ORDER THE OWNER, OPERATOR, LANDOWNER OR OCCUPIER
19 TO TAKE CORRECTIVE ACTION IN A MANNER SATISFACTORY TO THE
20 DEPARTMENT OR IT MAY ORDER SUCH OWNER, OPERATOR, LANDOWNER OR
21 OCCUPIER TO ALLOW ACCESS TO THE LAND BY THE DEPARTMENT OR A
22 THIRD PARTY TO TAKE SUCH ACTION.

23 (B) ASSESSMENT OF EXPENSES.--FOR PURPOSES OF COLLECTING OR
24 RECOVERING THE EXPENSE INVOLVED IN TAKING CORRECTIVE AND COST
25 RECOVERY ACTION PURSUANT TO AN ORDER ~~OR OTHERWISE,~~ OR RECOVERING <—
26 THE COST OF ~~INVESTIGATION,~~ CORRECTIVE ACTION, LITIGATION, <—
27 OVERSIGHT, MONITORING, SAMPLING, TESTING, INVESTIGATION RELATED <—
28 TO A CORRECTIVE ACTION AND OTHER EXPENSES. ~~NECESSARY TO RESPOND~~ <—
29 ~~TO A VIOLATION OF THIS ACT,~~ THE THE DEPARTMENT MAY COLLECT THE <—
30 AMOUNT IN THE SAME MANNER AS CIVIL PENALTIES ARE COLLECTED UNDER

1 THE PROVISIONS OF SECTION 1307(B).

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

5 (1) THE IDENTIFICATION, INVESTIGATION, CONTAINMENT,
6 REMEDIATION, DISPOSAL, MONITORING AND MAINTENANCE OF LEAKING
7 UNDERGROUND STORAGE TANKS.

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

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

12 (4) EMERGENCY HOUSING, REPLACEMENT WATER SUPPLIES AND
13 WATER SOURCES.

14 SECTION 1303. PROTECTION OF WATER SUPPLIES.

15 (A) REGULATIONS.--IN ADDITION TO THE POWERS AND AUTHORITY
16 HEREINBEFORE GRANTED, POWER AND AUTHORITY IS HEREBY CONFERRED
17 UPON THE DEPARTMENT TO MAKE, ADOPT, PROMULGATE AND ENFORCE
18 ORDERS, AND REGULATIONS FOR THE PROTECTION OF ANY SOURCE OF
19 WATER FOR PRESENT OR FUTURE SUPPLY TO THE PUBLIC OR OTHER
20 LEGITIMATE USE, PROHIBITING THE POLLUTION OF ANY SUCH SOURCE OF
21 WATER WHICH WOULD RENDER THE SAME INIMICAL OR INJURIOUS TO THE
22 PUBLIC HEALTH OR OBJECTIONABLE FOR THE PURPOSES SERVED BY THE
23 WATER SUPPLY AND FOR THE REPLACEMENT OF ANY WATER SUPPLY
24 AFFECTED, POLLUTED, DIMINISHED OR THREATENED BY A RELEASE FROM A
25 STORAGE TANK. FOR PURPOSES OF THIS SECTION, WATER SUPPLY TO THE
26 PUBLIC SHALL INCLUDE A WATER SUPPLY SERVING ONE OR MORE PERSONS.

27 (B) AFFECTED OR DIMINISHED SUPPLY.--ANY OWNER OR OPERATOR
28 OF A STORAGE TANK WHO AFFECTS OR DIMINISHES A WATER SUPPLY AS A
29 RESULT OF A RELEASE SHALL RESTORE OR REPLACE THE AFFECTED SUPPLY
30 WITH AN ALTERNATE SOURCE OF WATER ADEQUATE IN QUANTITY AND

1 QUALITY FOR THE PURPOSES SERVED BY THE SUPPLY, AT NO COST TO THE <—
2 OWNER OF THE AFFECTED WATER SUPPLY.

3 SECTION 1304. PUBLIC NUISANCES.

4 A VIOLATION OF THIS ACT OR OF ANY ORDER OR REGULATION ADOPTED
5 BY THE DEPARTMENT OR OF PERMITS ISSUED BY THE DEPARTMENT SHALL
6 CONSTITUTE A PUBLIC NUISANCE. THE DEPARTMENT SHALL HAVE THE
7 AUTHORITY TO ORDER ANY PERSON CAUSING A PUBLIC NUISANCE ~~OR THE~~ <—
8 ~~OWNER OR OPERATOR OF A STORAGE TANK, THE LANDOWNER OR OCCUPIER,~~
9 TO ABATE THE PUBLIC NUISANCE. IN ADDITION, THE DEPARTMENT OR ANY
10 COMMONWEALTH AGENCY WHICH UNDERTAKES TO ABATE A PUBLIC NUISANCE
11 MAY RECOVER THE COSTS OF ABATEMENT IN AN ACTION IN EQUITY
12 BROUGHT BEFORE ANY COURT OF COMPETENT JURISDICTION. WHENEVER
13 SUCH NUISANCE SHALL BE MAINTAINED OR CONTINUED CONTRARY TO THIS
14 ACT OR SUCH ORDERS, ~~POLICIES,~~ REGULATIONS OR PERMITS THE SAME <—
15 MAY BE ABATABLE IN THE MANNER PROVIDED BY THIS ACT. ANY PERSON
16 WHO CAUSES SUCH PUBLIC NUISANCE SHALL BE LIABLE FOR THE COST OF
17 ABATEMENT.

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

19 (A) SUITS TO ABATE NUISANCES.--ANY ACTIVITY OR CONDITION
20 DECLARED BY THIS ACT TO BE A NUISANCE, OR WHICH IS OTHERWISE IN
21 VIOLATION OF THIS ACT, SHALL BE ABATABLE IN THE MANNER PROVIDED
22 BY LAW OR EQUITY FOR THE ABATEMENT OF PUBLIC NUISANCES. IN
23 ADDITION, IN ORDER TO RESTRAIN OR PREVENT ANY VIOLATION OF THIS
24 ACT AND OF THE RULES, REGULATIONS OR ORDERS ISSUED THEREUNDER,
25 OR TO RESTRAIN THE MAINTENANCE AND THREAT OF PUBLIC NUISANCE,
26 SUITS MAY BE INSTITUTED IN EQUITY OR AT LAW IN THE NAME OF THE
27 COMMONWEALTH UPON RELATION OF THE ATTORNEY GENERAL, THE GENERAL
28 COUNSEL OR UPON RELATION OF ANY DISTRICT ATTORNEY OF ANY COUNTY,
29 OR UPON RELATION OF THE SOLICITOR OF ANY MUNICIPALITY AFFECTED,
30 AFTER NOTICE HAS FIRST BEEN SERVED UPON THE ATTORNEY GENERAL OF

1 THE INTENTION OF THE GENERAL COUNSEL, DISTRICT ATTORNEY OR
2 SOLICITOR TO SO PROCEED. SUCH PROCEEDINGS MAY BE PROSECUTED IN
3 THE COMMONWEALTH COURT, OR IN THE COURT OF COMMON PLEAS OF THE
4 COUNTY WHERE THE ACTIVITY HAS TAKEN PLACE, THE CONDITION EXISTS,
5 OR THE PUBLIC IS AFFECTED, AND TO THAT END JURISDICTION IS
6 HEREBY CONFERRED IN LAW AND EQUITY UPON SUCH COURTS. EXCEPT IN
7 CASES OF EMERGENCY WHERE, IN THE OPINION OF THE COURT, THE
8 EXIGENCIES OF THE CASE REQUIRE IMMEDIATE ABATEMENT OF THE
9 NUISANCE, THE COURT MAY, IN ITS DECREE, FIX A REASONABLE TIME
10 DURING WHICH THE PERSON RESPONSIBLE FOR THE NUISANCE MAY MAKE
11 PROVISION FOR THE ABATEMENT OF THE SAME.

12 (B) MANDATORY AND SPECIAL INJUNCTIONS.--IN CASES WHERE THE
13 CIRCUMSTANCES REQUIRE IT OR THE PUBLIC HEALTH IS ENDANGERED, A
14 MANDATORY PRELIMINARY INJUNCTION, SPECIAL INJUNCTION OR
15 TEMPORARY RESTRAINING ORDER MAY BE ISSUED UPON THE TERMS
16 PRESCRIBED BY THE COURT, NOTICE OF THE APPLICATION THEREFOR
17 HAVING BEEN GIVEN TO THE DEFENDANT IN ACCORDANCE WITH THE RULES
18 OF EQUITY PRACTICE, AND IN ANY SUCH CASE THE ATTORNEY GENERAL,
19 THE GENERAL COUNSEL, THE DISTRICT ATTORNEY OR THE SOLICITOR OF
20 ANY MUNICIPALITY SHALL NOT BE REQUIRED TO GIVE BOND. IN ANY SUCH
21 PROCEEDING THE COURT SHALL, UPON MOTION OF THE COMMONWEALTH,
22 ISSUE A PROHIBITORY OR MANDATORY PRELIMINARY INJUNCTION IF IT
23 FINDS THAT THE DEFENDANT IS ENGAGING IN UNLAWFUL CONDUCT AS
24 DEFINED BY THIS ACT OR IS ENGAGED IN CONDUCT WHICH IS CAUSING
25 IMMEDIATE AND IRREPARABLE HARM TO THE PUBLIC. IN ADDITION TO AN
26 INJUNCTION, THE COURT IN SUCH EQUITY PROCEEDINGS MAY LEVY CIVIL
27 PENALTIES IN THE SAME MANNER AS THE DEPARTMENT IN ACCORDANCE
28 WITH SECTION 1307.

29 (C) PRIVATE ACTIONS.--EXCEPT AS PROVIDED IN SUBSECTION (D),
30 ANY PERSON HAVING AN INTEREST WHICH IS OR MAY BE AFFECTED MAY

1 COMMENCE A CIVIL ACTION ON HIS BEHALF TO COMPEL COMPLIANCE WITH
2 THIS ACT OR ANY RULE, REGULATION, ORDER OR PERMIT ISSUED
3 PURSUANT TO THIS ACT BY ANY OWNER, OPERATOR, LANDOWNER OR
4 OCCUPIER ALLEGED TO BE IN VIOLATION OF ANY PROVISION OF THIS ACT
5 OR ANY RULE, REGULATION, ORDER OR PERMIT ISSUED PURSUANT TO THIS
6 ACT. EXCEPT WHERE 42 PA.C.S. (RELATING TO JUDICIARY AND JUDICIAL
7 PROCEDURE) REQUIRES OTHERWISE, THE COURTS OF COMMON PLEAS SHALL
8 HAVE JURISDICTION OF SUCH ACTIONS, AND VENUE IN SUCH ACTIONS
9 SHALL BE AS SET FORTH IN THE RULES OF CIVIL PROCEDURE CONCERNING
10 CIVIL ACTIONS IN ASSUMPSIT. NO SUCH ACTION MAY BE COMMENCED IF
11 THE DEPARTMENT HAS COMMENCED AND IS DILIGENTLY PROSECUTING A
12 CIVIL ACTION IN A COURT OF THE UNITED STATES OR OF THE
13 COMMONWEALTH OR IS IN LITIGATION BEFORE THE ENVIRONMENTAL
14 HEARING BOARD TO REQUIRE THE ALLEGED VIOLATOR TO COMPLY WITH
15 THIS ACT OR ANY RULE, REGULATION, ORDER OR PERMIT ISSUED
16 PURSUANT TO THIS ACT, BUT IN ANY SUCH ACTION IN A COURT OF THE
17 UNITED STATES OR OF THE COMMONWEALTH, ANY PERSON HAVING OR
18 REPRESENTING AN INTEREST WHICH IS OR MAY BE ADVERSELY AFFECTED
19 MAY INTERVENE AS A MATTER OF RIGHT WITHOUT POSTING BOND.

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

24 (E) NOTICE NOT REQUIRED.--THE 60-DAY NOTICE PROVISIONS OF
25 SUBSECTION (D) TO THE CONTRARY NOTWITHSTANDING, ANY ACTION
26 PURSUANT TO SUBSECTION (C) MAY BE INITIATED IMMEDIATELY UPON
27 WRITTEN NOTIFICATION TO THE DEPARTMENT IN THE CASE WHERE THE
28 VIOLATION OR ORDER COMPLAINED OF CONSTITUTES AN IMMINENT THREAT
29 TO THE HEALTH OR SAFETY OF THE PLAINTIFF OR WOULD IMMEDIATELY
30 AFFECT A LEGAL INTEREST OF THE PLAINTIFF.

1 (F) FEES AND COSTS.--THE COURT, IN ISSUING ANY FINAL ORDER
2 IN ANY ACTION BROUGHT PURSUANT TO THIS SECTION, MAY AWARD COSTS
3 OF LITIGATION (INCLUDING ATTORNEY AND EXPERT WITNESS FEES) TO
4 ANY PARTY, WHENEVER THE COURT DETERMINES SUCH AWARD IS
5 APPROPRIATE. EXCEPT AS PROVIDED IN SUBSECTION (B), THE COURT
6 MAY, IF A TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION
7 IS SOUGHT, REQUIRE THE FILING OF A BOND OR EQUIVALENT SECURITY
8 IN ACCORD WITH THE RULES OF CIVIL PROCEDURE.

9 SECTION 1306. CRIMINAL PENALTIES.

10 (A) SUMMARY OFFENSE.--ANY PERSON WHO VIOLATES ANY PROVISION
11 OF THIS ACT, ANY RULE OR REGULATION OF THE DEPARTMENT, ANY ORDER
12 OF THE DEPARTMENT, OR ANY CONDITION OR TERM OF ANY PERMIT OR
13 CERTIFICATION ISSUED PURSUANT TO THIS ACT COMMITS A SUMMARY
14 OFFENSE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE
15 OF NOT LESS THAN \$100 NOR MORE THAN \$1,000 FOR EACH SEPARATE
16 OFFENSE, AND, IN DEFAULT OF THE PAYMENT OF SUCH FINE, MAY BE
17 SENTENCED TO IMPRISONMENT FOR 90 DAYS. EMPLOYEES OF THE
18 DEPARTMENT ARE HEREBY DECLARED TO BE LAW ENFORCEMENT OFFICERS
19 FOR PURPOSES OF ISSUING CITATIONS FOR SUMMARY VIOLATIONS UNDER
20 THIS ACT.

21 (B) MISDEMEANOR.--

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

30 (2) ANY PERSON WHO, AFTER A CONVICTION OF A MISDEMEANOR

1 FOR ANY VIOLATION AS PROVIDED IN PARAGRAPH (1), WILLFULLY OR
2 NEGLIGENTLY VIOLATES ANY PROVISION OF THIS ACT, ANY RULE OR
3 REGULATION OF THE DEPARTMENT, ANY ORDER OF THE DEPARTMENT, OR
4 ANY CONDITION OR TERM OF ANY PERMIT ISSUED PURSUANT TO THIS
5 ACT COMMITS A MISDEMEANOR OF THE SECOND DEGREE AND SHALL,
6 UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN
7 \$5,000 NOR MORE THAN \$50,000 FOR EACH SEPARATE OFFENSE OR TO
8 IMPRISONMENT FOR A PERIOD OF NOT MORE THAN TWO YEARS, OR
9 BOTH.

10 (C) CONTINUING VIOLATIONS.--EACH DAY OF CONTINUED VIOLATION
11 AND EACH VIOLATION OF ANY PROVISION OF THIS ACT, ANY RULE OR
12 REGULATION OF THE DEPARTMENT, ANY ORDER OF THE DEPARTMENT, OR
13 ANY CONDITION OR TERM OF ANY PERMIT ISSUED PURSUANT TO THIS ACT
14 SHALL CONSTITUTE A SEPARATE OFFENSE.

15 SECTION 1307. CIVIL PENALTIES.

16 (A) ASSESSMENT.--IN ADDITION TO PROCEEDING UNDER ANY OTHER
17 REMEDY AVAILABLE AT LAW OR IN EQUITY FOR A VIOLATION OF A
18 PROVISION OF THIS ACT, RULE, REGULATION, ORDER OF THE
19 DEPARTMENT, OR A CONDITION OR TERM OF ANY PERMIT ISSUED PURSUANT
20 TO THIS ACT, THE DEPARTMENT MAY ASSESS A CIVIL PENALTY FOR THE
21 VIOLATION. THIS PENALTY MAY BE ASSESSED WHETHER OR NOT THE
22 VIOLATION WAS WILLFUL. THE CIVIL PENALTY SO ASSESSED SHALL NOT
23 EXCEED \$10,000 PER DAY FOR EACH VIOLATION. IN DETERMINING THE
24 AMOUNT OF THE PENALTY, THE DEPARTMENT SHALL CONSIDER THE
25 WILLFULNESS OF THE VIOLATION; DAMAGE TO AIR, WATER, LAND OR
26 OTHER NATURAL RESOURCES OF THIS COMMONWEALTH OR THEIR USES; COST
27 OF RESTORATION AND ABATEMENT; SAVINGS RESULTING TO THE PERSON IN
28 CONSEQUENCE OF THE VIOLATION; DETERRENCE OF FUTURE VIOLATIONS;
29 AND OTHER RELEVANT FACTORS. EACH VIOLATION OF ANY PROVISION OF
30 THIS ACT, RULE, REGULATION, ORDER OF THE DEPARTMENT OR CONDITION

1 OF A PERMIT AND EACH DAY OF VIOLATION SHALL CONSTITUTE A
2 SEPARATE VIOLATION.

3 (B) COLLECTION.--WHEN THE DEPARTMENT OR ANY STATE AGENCY,
4 FEDERAL AGENCY, COUNTY, JOINT COUNTY AUTHORITY OR MULTIMUNICIPAL
5 AUTHORITY DELEGATED AUTHORITY TO ASSESS CIVIL PENALTIES UNDER
6 SECTION 107(A) PROPOSES TO ASSESS A CIVIL PENALTY, IT SHALL
7 INFORM THE PERSON OF THE PROPOSED AMOUNT OF THE PENALTY. THE
8 PERSON CHARGED WITH THE PENALTY SHALL THEN HAVE 30 DAYS TO PAY
9 THE PROPOSED PENALTY IN FULL OR, IF THE PERSON WISHES TO CONTEST
10 THE AMOUNT OF THE PENALTY OR THE FACT OF THE VIOLATION, FORWARD
11 THE PROPOSED AMOUNT OF THE PENALTY TO THE DEPARTMENT WITHIN THE
12 30-DAY PERIOD FOR PLACEMENT IN AN ESCROW ACCOUNT WITH THE STATE
13 TREASURER OR ANY PENNSYLVANIA BANK, OR POST AN APPEAL BOND TO
14 THE DEPARTMENT WITHIN 30 DAYS IN THE AMOUNT OF THE PROPOSED
15 PENALTY, PROVIDED THAT SUCH BOND IS EXECUTED BY A SURETY
16 LICENSED TO DO BUSINESS IN THIS COMMONWEALTH AND IS SATISFACTORY
17 TO THE DEPARTMENT. IF, THROUGH ADMINISTRATIVE OR FINAL JUDICIAL
18 REVIEW OF THE PROPOSED PENALTY, IT IS DETERMINED THAT NO
19 VIOLATION OCCURRED OR THAT THE AMOUNT OF THE PENALTY SHALL BE
20 REDUCED, THE DEPARTMENT SHALL WITHIN 30 DAYS REMIT THE
21 APPROPRIATE AMOUNT TO THE PERSON WITH ANY INTEREST ACCUMULATED
22 BY THE ESCROW DEPOSIT. FAILURE TO FORWARD THE MONEY OR THE
23 APPEAL BOND SHALL RESULT IN A WAIVER OF ALL LEGAL RIGHTS TO
24 CONTEST THE VIOLATION OR THE AMOUNT OF THE PENALTY. THE AMOUNT
25 ASSESSED AFTER ADMINISTRATIVE HEARING OR AFTER WAIVER OF
26 ADMINISTRATIVE HEARING SHALL BE PAYABLE TO THE COMMONWEALTH OF
27 PENNSYLVANIA AND SHALL BE COLLECTIBLE IN ANY MANNER PROVIDED BY
28 LAW FOR THE COLLECTION OF DEBTS. IF ANY PERSON LIABLE TO PAY ANY
29 SUCH PENALTY NEGLECTS OR REFUSES TO PAY THE SAME AFTER DEMAND,
30 THE AMOUNT, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY

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

11 SECTION 1308. PROCEEDINGS WHERE WATERS ARE POLLUTED FROM MANY
12 SOURCES.

13 NOTHING CONTAINED IN THE LAWS OF THIS COMMONWEALTH SHALL
14 ESTOP THE DEPARTMENT FROM PROCEEDING UNDER THE PROVISIONS OF
15 THIS ACT AGAINST ANY PERSON RELEASING ANY REGULATED SUBSTANCE
16 INTO THE WATERS OF THE COMMONWEALTH EVEN THOUGH SAID WATERS ARE,
17 AT THE TIME, POLLUTED FROM OTHER SOURCES.

18 SECTION 1309. ENFORCEMENT ORDERS.

19 THE DEPARTMENT MAY ISSUE SUCH ORDERS AS ARE NECESSARY TO AID
20 IN THE ENFORCEMENT OF THE PROVISIONS OF THIS ACT. SUCH ORDERS
21 SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, ORDERS MODIFYING,
22 SUSPENDING OR REVOKING PERMITS OR CERTIFICATIONS, ORDERS
23 REQUIRING PERSONS TO CEASE UNLAWFUL ACTIVITIES OR CEASE
24 OPERATION OF AN ESTABLISHMENT WHICH, IN THE COURSE OF ITS
25 OPERATION, IS IN VIOLATION OF ANY PROVISION OF THIS ACT, RULE OR
26 REGULATION PROMULGATED HEREUNDER, PERMIT, ORDER TO TAKE
27 CORRECTIVE ACTION OR TO ABATE A PUBLIC NUISANCE, OR AN ORDER
28 REQUIRING THE TESTING, SAMPLING OR MONITORING OF ANY TANK. SUCH
29 AN ORDER MAY BE ISSUED IF THE DEPARTMENT FINDS THAT ANY
30 CONDITION EXISTING IN OR ON THE FACILITY OR OPERATION INVOLVED

1 IS CAUSING OR IS CREATING A DANGER OF POLLUTION OF THE WATERS OF
2 THIS COMMONWEALTH, INCLUDING ANY PUBLIC OR PRIVATE WATER SUPPLY,
3 SURFACE WATER OR GROUNDWATER OR IF IT FINDS THAT THE PERMITTEE,
4 OR ANY PERSON IS IN VIOLATION OF ANY PROVISION OF THIS ACT, OR
5 OF ANY RULE, REGULATION OR ORDER OF THE ENVIRONMENTAL HEARING
6 BOARD OR REGULATION, ORDER, PERMIT OR CERTIFICATION OF THE
7 DEPARTMENT, PROVIDED, HOWEVER, THAT AN ORDER ADDRESSED TO AN
8 OPERATION NOT DIRECTLY RELATED TO THE CONDITION OR VIOLATION IN
9 QUESTION MAY BE ISSUED ONLY IF THE DEPARTMENT FINDS THAT THE
10 OTHER ENFORCEMENT PROCEDURES, PENALTIES AND REMEDIES AVAILABLE
11 UNDER THIS ACT WOULD NOT BE ADEQUATE TO EFFECTUATE PROMPT OR
12 EFFECTIVE CORRECTION OF THE CONDITION OR VIOLATION. THE
13 DEPARTMENT MAY, IN ITS ORDER, REQUIRE COMPLIANCE WITH SUCH
14 CONDITIONS AS ARE NECESSARY TO PREVENT OR ABATE POLLUTION OR
15 EFFECT THE PURPOSES OF THIS ACT. AN ORDER ISSUED UNDER THIS
16 SECTION SHALL TAKE EFFECT UPON NOTICE, UNLESS THE ORDER
17 SPECIFIES OTHERWISE. AN APPEAL TO THE ENVIRONMENTAL HEARING
18 BOARD OF THE DEPARTMENT'S ORDER SHALL NOT ACT AS A SUPERSEDEAS,
19 PROVIDED, HOWEVER, THAT, UPON APPLICATION AND FOR CAUSE SHOWN,
20 THE ENVIRONMENTAL HEARING BOARD MAY ISSUE SUCH A SUPERSEDEAS.
21 THE RIGHT OF THE DEPARTMENT TO ISSUE AN ORDER UNDER THIS SECTION
22 IS IN ADDITION TO ANY REMEDY OR PENALTY WHICH MAY BE IMPOSED
23 PURSUANT TO THIS ACT. THE FAILURE TO COMPLY WITH ANY SUCH ORDER
24 IS HEREBY DECLARED TO BE A NUISANCE.

25 SECTION 1310. UNLAWFUL CONDUCT.

26 IT SHALL BE UNLAWFUL TO FAIL TO COMPLY WITH, OR TO CAUSE OR
27 ASSIST IN THE VIOLATION OF, ANY OF THE PROVISIONS OF THIS ACT OR
28 RULES AND REGULATIONS ADOPTED HEREUNDER; OR TO FAIL TO COMPLY
29 WITH ANY ORDER, PERMIT, REGISTRATION, OR CERTIFICATION
30 REQUIREMENT OF THE DEPARTMENT; OR TO CAUSE A PUBLIC NUISANCE; OR

1 TO CAUSE AIR, SOIL OR WATER POLLUTION; OR TO HINDER, OBSTRUCT,
2 PREVENT OR INTERFERE WITH THE DEPARTMENT OR ITS PERSONNEL IN THE
3 PERFORMANCE OF ANY DUTY HEREUNDER; OR TO VIOLATE THE PROVISIONS
4 OF 18 PA.C.S. § 4903 (RELATING TO FALSE SWEARING) OR 4904
5 (RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES) IN REGARD TO
6 PAPERS REQUIRED TO BE SUBMITTED UNDER THIS ACT. THE OWNER OR
7 OPERATOR OF A STORAGE TANK AND THE LANDOWNER OR OCCUPIER ON
8 WHOSE LAND A STORAGE TANK IS OR WAS LOCATED SHALL NOT ALLOW
9 POLLUTION RESULTING FROM, OR A RELEASE TO OCCUR FROM, A STORAGE
10 TANK.

11 SECTION 1311. PRESUMPTION.

12 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), IT
13 SHALL BE PRESUMED AS A REBUTTABLE PRESUMPTION OF LAW IN CIVIL
14 AND ADMINISTRATIVE PROCEEDINGS THAT A PERSON WHO OWNS OR
15 OPERATES AN ABOVEGROUND OR UNDERGROUND STORAGE TANK SHALL BE
16 LIABLE, WITHOUT PROOF OF FAULT, NEGLIGENCE, OR CAUSATION FOR ALL
17 DAMAGES, CONTAMINATION OR POLLUTION WITHIN 2,500 FEET OF THE
18 PERIMETER OF THE SITE OF A STORAGE TANK CONTAINING OR WHICH
19 CONTAINED A REGULATED SUBSTANCE OF THE TYPE WHICH CAUSED THE
20 DAMAGE, CONTAMINATION OR POLLUTION. SUCH PRESUMPTION MAY BE
21 OVERCOME BY CLEAR AND CONVINCING EVIDENCE THAT THE PERSON SO
22 CHARGED DID NOT CONTRIBUTE TO THE DAMAGE, CONTAMINATION OR
23 POLLUTION.

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

28 (1) THE DAMAGES, CONTAMINATION OR POLLUTION EXISTED
29 PRIOR TO THE USE OF ANY STORAGE TANK AT THE FACILITY TO
30 CONTAIN AN ACCUMULATION OF REGULATED SUBSTANCES, AS

1 DETERMINED BY SURVEYS OF THE SITE AND WITHIN 2,500 FEET OF
2 THE PERIMETER OF THE STORAGE TANK OR FACILITY.

3 (2) AN ADJACENT LANDOWNER REFUSED TO ALLOW THE OWNER OR
4 OPERATOR OF A STORAGE TANK AT A NEW FACILITY ACCESS TO PROPERTY
5 WITHIN 2,500 FEET OF THE PERIMETER OF A STORAGE TANK FACILITY TO
6 CONDUCT A SURVEY.

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

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

11 SECTION 1312. EXISTING RIGHTS AND REMEDIES PRESERVED.

12 THE COLLECTION OF ANY PENALTY IMPOSED UNDER THE PROVISIONS OF
13 THIS ACT SHALL NOT BE CONSTRUED AS ESTOPPING THE COMMONWEALTH,
14 OR ANY DISTRICT ATTORNEY OR SOLICITOR OF A MUNICIPALITY, FROM
15 PROCEEDING IN COURTS OF LAW OR EQUITY TO ABATE POLLUTIONS
16 FORBIDDEN UNDER THIS ACT, OR ABATE NUISANCES UNDER EXISTING LAW.
17 IT IS HEREBY DECLARED TO BE THE PURPOSE OF THIS ACT TO PROVIDE
18 ADDITIONAL AND CUMULATIVE REMEDIES TO PREVENT AND ABATE THE
19 POLLUTION CAUSED BY STORAGE TANKS, AND NOTHING CONTAINED IN THIS
20 ACT SHALL IN ANY WAY ABRIDGE OR ALTER RIGHTS OF ACTION OR
21 REMEDIES NOW OR HEREAFTER EXISTING IN EQUITY, OR UNDER THE
22 COMMON LAW OR STATUTORY LAW, CRIMINAL OR CIVIL, NOR SHALL ANY
23 PROVISION IN THIS ACT, OR THE GRANTING OF ANY PERMIT UNDER THIS
24 ACT, OR ANY ACT DONE BY VIRTUE OF THIS ACT, BE CONSTRUED AS
25 ESTOPPING THE COMMONWEALTH, PERSONS OR MUNICIPALITIES, IN THE
26 EXERCISE OF THEIR RIGHTS UNDER THE COMMON LAW OR DECISIONAL LAW
27 OR IN EQUITY, FROM PROCEEDING IN COURTS OF LAW OR EQUITY TO
28 SUPPRESS NUISANCES, OR TO ABATE ANY POLLUTION NOW OR HEREAFTER
29 EXISTING, OR ENFORCE COMMON LAW OR STATUTORY RIGHTS.

30 SECTION 1313. APPEALABLE ACTIONS.

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

8 SECTION 1314. LIMITATION ON ACTION.

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

13 SECTION 1315. COLLECTION OF FINES AND PENALTIES.

14 ALL FINES AND PENALTIES SHALL BE COLLECTIBLE IN ANY MANNER
15 PROVIDED BY LAW FOR THE COLLECTION OF DEBTS. IF ANY PERSON
16 LIABLE TO PAY ANY SUCH PENALTY NEGLECTS OR REFUSES TO PAY THE
17 SAME AFTER DEMAND, THE AMOUNT TOGETHER WITH INTEREST AND ANY
18 COSTS THAT MAY ACCRUE, SHALL BE A JUDGMENT IN FAVOR OF THE
19 COMMONWEALTH UPON THE PROPERTY OF SUCH PERSON, BUT ONLY AFTER
20 SAME HAS BEEN ENTERED AND DOCKETED OF RECORD BY THE PROTHONOTARY
21 OF THE COUNTY WHERE SUCH PROPERTY IS SITUATED. THE DEPARTMENT
22 MAY AT ANY TIME TRANSMIT TO THE PROTHONOTARIES OF THE RESPECTIVE
23 COUNTIES CERTIFIED COPIES OF ALL SUCH JUDGMENTS, AND IT SHALL BE
24 THE DUTY OF EACH PROTHONOTARY TO ENTER AND DOCKET THE SAME OF
25 RECORD IN HIS OFFICE, AND TO INDEX THE SAME AS JUDGMENTS ARE
26 INDEXED, WITHOUT REQUIRING THE PAYMENT OF COSTS AS A CONDITION
27 PRECEDENT TO THE ENTRY THEREOF.

28 CHAPTER 21

29 MISCELLANEOUS PROVISIONS

30 SECTION 2101. START-UP COSTS.

1 THE GOVERNOR IS HEREBY AUTHORIZED TO TRANSFER \$2,500,000, OR
2 AS MUCH THEREOF AS MAY BE NECESSARY, FROM THE HAZARDOUS SITES
3 CLEANUP FUND CREATED BY SECTION 602.3 OF THE ACT OF MARCH 4,
4 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, TO THE
5 STORAGE TANK FUND TO BEGIN DEVELOPMENT AND OPERATION OF THE
6 ABOVEGROUND AND UNDERGROUND STORAGE TANK PROGRAMS AND TO THE
7 UNDERGROUND STORAGE TANK INDEMNIFICATION FUND TO BE USED FOR THE
8 INITIAL ADMINISTRATIVE EXPENSES OF THE UNDERGROUND STORAGE TANK
9 INDEMNIFICATION BOARD. ALL TRANSFERRED FUNDS FROM THE HAZARDOUS
10 SITES CLEANUP FUND SHALL BE REPAID TO THAT FUND FROM FUNDS IN
11 THE STORAGE TANK FUND OR THE UNDERGROUND STORAGE TANK
12 INDEMNIFICATION FUND WITHIN TWO YEARS OF THE TRANSFER. SUCH
13 TRANSFERS SHALL BE MADE HEREUNDER UPON WARRANT OF THE STATE
14 TREASURER UPON REQUISITION BY THE GOVERNOR.

15 SECTION 2102. SAVED FROM REPEAL.

16 THE FOLLOWING ACTS WHICH ARE REPEALED IN SECTION 2104 ARE
17 SAVED FROM REPEAL TO THE EXTENT THAT SUCH ACTS PROVIDE AUTHORITY
18 FOR THE REGULATION AND PREVENTION OF FIRE OR EXPLOSIVE HAZARDS
19 AT ABOVEGROUND OR UNDERGROUND STORAGE TANKS:

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

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

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

1 SECTION 2103. SEVERABILITY.

2 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF
3 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS
4 HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS
5 OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT
6 THE INVALID PROVISION OR APPLICATION.

7 SECTION 2104. REPEALS.

8 THE FOLLOWING ACTS AND PARTS OF ACTS ARE REPEALED TO THE
9 EXTENT SPECIFIED:

10 ACT OF JUNE 8, 1911 (P.L.705, NO.281), ENTITLED "AN ACT
11 CREATING THE OFFICE OF FIRE MARSHAL, TO BE ATTACHED TO THE
12 DEPARTMENT OF PUBLIC SAFETY IN CITIES OF THE FIRST CLASS;
13 PRESCRIBING HIS DUTIES AND POWERS; AND PROVIDING PENALTIES FOR
14 VIOLATIONS OF THE PROVISIONS OF THE ACT; AND PROVIDING FOR THE
15 METHOD OF APPOINTMENT, COMPENSATION, AND FOR THE MAINTENANCE OF
16 HIS OFFICE," INsofar AS IT IS INCONSISTENT WITH THIS ACT.

17 ACT OF APRIL 27, 1927 (P.L.450, NO.291), REFERRED TO AS THE
18 STATE FIRE MARSHAL LAW, INsofar AS THE STATE FIRE MARSHAL AND
19 THE PENNSYLVANIA STATE POLICE ARE AUTHORIZED TO ADOPT AND
20 ENFORCE RULES AND REGULATIONS GOVERNING THE USE, STORAGE AND
21 SALE AND RETENTION OF GASOLINE, NAPHTHALENE, KEROSENE, FUEL OIL
22 OR OTHER SUBSTANCES OF LIKE CHARACTER, ONLY TO THE EXTENT THAT
23 SAID ACT, RULES AND REGULATIONS ARE INCONSISTENT WITH THE
24 PROVISIONS OF THIS ACT.

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

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

30 SECTION 2105. EFFECTIVE DATE.

1 THIS ACT SHALL TAKE EFFECT IN 30 DAYS.