

amended Pub. L. 99-499, title II, §205(g), Oct. 17, 1986, 100 Stat. 1702.)

AMENDMENTS

1986—Pub. L. 99-499 amended section generally. Prior to amendment, section read as follows: “Nothing in this subchapter shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement or standard of performance respecting underground storage tanks that is more stringent than a regulation, requirement, or standard of performance in effect under this subchapter.”

**§ 6991h. Study of underground storage tanks**

**(a) Petroleum tanks**

Not later than twelve months after November 8, 1984, the Administrator shall complete a study of underground storage tanks used for the storage of regulated substances defined in section 6991(7)(B) of this title.

**(b) Other tanks**

Not later than thirty-six months after November 8, 1984, the Administrator shall complete a study of all other underground storage tanks.

**(c) Elements of studies**

The studies under subsections (a) and (b) of this section shall include an assessment of the ages, types (including methods of manufacture, coatings, protection systems, the compatibility of the construction materials and the installation methods) and locations (including the climate of the locations) of such tanks; soil conditions, water tables, and the hydrogeology of tank locations; the relationship between the foregoing factors and the likelihood of releases from underground storage tanks; the effectiveness and costs of inventory systems, tank testing, and leak detection systems; and such other factors as the Administrator deems appropriate.

**(d) Farm and heating oil tanks**

Not later than thirty-six months after November 8, 1984, the Administrator shall conduct a study regarding the tanks referred to in subparagraphs (A) and (B) of section 6991(10) of this title. Such study shall include estimates of the number and location of such tanks and an analysis of the extent to which there may be releases or threatened releases from such tanks into the environment.

**(e) Reports**

Upon completion of the studies authorized by this section, the Administrator shall submit reports to the President and to the Congress containing the results of the studies and recommendations respecting whether or not such tanks should be subject to the preceding provisions of this subchapter.

**(f) Reimbursement**

(1) If any owner or operator (excepting an agency, department, or instrumentality of the United States Government, a State or a political subdivision thereof) shall incur costs, including the loss of business opportunity, due to the closure or interruption of operation of an underground storage tank solely for the purpose of conducting studies authorized by this section, the Administrator shall provide such person fair and equitable reimbursement for such costs.

(2) All claims for reimbursement shall be filed with the Administrator not later than ninety days after the closure or interruption which gives rise to the claim.

(3) Reimbursements made under this section shall be from funds appropriated by the Congress pursuant to the authorization contained in section 6916(g)<sup>1</sup> of this title.

(4) For purposes of judicial review, a determination by the Administrator under this subsection shall be considered final agency action.

(Pub. L. 89-272, title II, §9009, as added Pub. L. 98-616, title VI, §601(a), Nov. 8, 1984, 98 Stat. 3287; amended Pub. L. 109-58, title XV, §1532(b)(3), Aug. 8, 2005, 119 Stat. 1105.)

REFERENCES IN TEXT

Section 6916(g) of this title, referred to in subsec. (f)(3), probably means section 6916(f) of this title which authorizes appropriations for this subchapter. There is no subsec. (g) of section 6916.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-58, §1532(b)(3)(A), substituted “6991(7)(B)” for “6991(2)(B)”.

Subsec. (d). Pub. L. 109-58, §1532(b)(3)(B), substituted “subparagraphs (A) and (B) of section 6991(10)” for “section 6991(1)(A) and (B)”.

**§ 6991i. Operator training**

**(a) Guidelines**

**(1) In general**

Not later than 2 years after August 8, 2005, in consultation and cooperation with States and after public notice and opportunity for comment, the Administrator shall publish guidelines that specify training requirements for—

(A) persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

(B) persons having daily on-site responsibility for the operation and maintenance of underground storage tanks systems; and

(C) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

**(2) Considerations**

The guidelines described in paragraph (1) shall take into account—

(A) State training programs in existence as of the date of publication of the guidelines;

(B) training programs that are being employed by tank owners and tank operators as of August 8, 2005;

(C) the high turnover rate of tank operators and other personnel;

(D) the frequency of improvement in underground storage tank equipment technology;

(E) the nature of the businesses in which the tank operators are engaged;

(F) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

<sup>1</sup> See References in Text note below.

(G) such other factors as the Administrator determines to be necessary to carry out this section.

**(b) State programs**

**(1) In general**

Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1) of this section, each State that receives funding under this subchapter shall develop State-specific training requirements that are consistent with the guidelines developed under subsection (a)(1) of this section.

**(2) Requirements**

State requirements described in paragraph (1) shall—

(A) be consistent with subsection (a) of this section;

(B) be developed in cooperation with tank owners and tank operators;

(C) take into consideration training programs implemented by tank owners and tank operators as of August 8, 2005; and

(D) be appropriately communicated to tank owners and operators.

**(3) Financial incentive**

The Administrator may award to a State that develops and implements requirements described in paragraph (1), in addition to any funds that the State is entitled to receive under this subchapter, not more than \$200,000, to be used to carry out the requirements.

**(c) Training**

All persons that are subject to the operator training requirements of subsection (a) of this section shall—

(1) meet the training requirements developed under subsection (b) of this section; and

(2) repeat the applicable requirements developed under subsection (b) of this section, if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with—

(A) a requirement or standard promulgated by the Administrator under section 6991b of this title; or

(B) a requirement or standard of a State program approved under section 6991c of this title.

(Pub. L. 89-272, title II, §9010, as added Pub. L. 98-616, title VI, §601(a), Nov. 8, 1984, 98 Stat. 3287; amended Pub. L. 109-58, title XV, §1524(a), Aug. 8, 2005, 119 Stat. 1095.)

REFERENCES IN TEXT

August 8, 2005, referred to in subsec. (b)(2)(C), was in the original “the date of enactment of this section”, which was translated as meaning the date of enactment of Pub. L. 109-58, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

2005—Pub. L. 109-58 amended section catchline and text generally. Prior to amendment, text read as follows: “For authorization of appropriations to carry out this subchapter, see section 6916(g) of this title.”

**§ 6991j. Use of funds for release prevention and compliance**

Funds made available under section 6991m(2)(D) of this title from the Trust Fund

may be used to conduct inspections, issue orders, or bring actions under this subchapter—

(1) by a State, in accordance with a grant or cooperative agreement with the Administrator, of<sup>1</sup> State regulations pertaining to underground storage tanks regulated under this subchapter; and

(2) by the Administrator, for tanks regulated under this subchapter (including under a State program approved under section 6991c of this title).

(Pub. L. 89-272, title II, §9011, as added Pub. L. 109-58, title XV, §1526(a), Aug. 8, 2005, 119 Stat. 1097.)

**§ 6991k. Delivery prohibition**

**(a) Requirements**

**(1) Prohibition of delivery or deposit**

Beginning 2 years after August 8, 2005, it shall be unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility which has been identified by the Administrator or a State implementing agency to be ineligible for such delivery, deposit, or acceptance.

**(2) Guidance**

Within 1 year after August 8, 2005, the Administrator shall, in consultation with the States, underground storage tank owners, and product delivery industries, publish guidelines detailing the specific processes and procedures they will use to implement the provisions of this section. The processes and procedures include, at a minimum—

(A) the criteria for determining which underground storage tank facilities are ineligible for delivery, deposit, or acceptance of a regulated substance;

(B) the mechanisms for identifying which facilities are ineligible for delivery, deposit, or acceptance of a regulated substance to the underground storage tank owning and fuel delivery industries;

(C) the process for reclassifying ineligible facilities as eligible for delivery, deposit, or acceptance of a regulated substance;

(D) one or more processes for providing adequate notice to underground storage tank owners and operators and supplier industries that an underground storage tank has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance; and

(E) a delineation of, or a process for determining, the specified geographic areas subject to paragraph (4).

**(3) Compliance**

States that receive funding under this subchapter shall, at a minimum, comply with the processes and procedures published under paragraph (2).

**(4) Consideration**

**(A) Rural and remote areas**

Subject to subparagraph (B), the Administrator or a State may consider not treating

<sup>1</sup> So in original.