

(2) In the case of a violation of any requirement of this subchapter where such violation occurs in a State with a program approved under section 6991c of this title, the Administrator shall give notice to the State in which such violation has occurred prior to issuing an order or commencing a civil action under this section.

(3) If a violator fails to comply with an order under this subsection within the time specified in the order, he shall be liable for a civil penalty of not more than \$25,000 for each day of continued noncompliance.

(b) Procedure

Any order issued under this section shall become final unless, no later than thirty days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

(c) Contents of order

Any order issued under this section shall state with reasonable specificity the nature of the violation, specify a reasonable time for compliance, and assess a penalty, if any, which the Administrator determines is reasonable taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

(d) Civil penalties

(1) Any owner who knowingly fails to notify or submits false information pursuant to section 6991a(a) of this title shall be subject to a civil penalty not to exceed \$10,000 for each tank for which notification is not given or false information is submitted.

(2) Any owner or operator of an underground storage tank who fails to comply with—

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

(B) any requirement or standard of a State program approved pursuant to section 6991c of this title;

(C) the provisions of section 6991b(g) of this title (entitled “Interim Prohibition”); or¹

(D)² the requirements established in section 6991b(i) of this title,³

(D)² the training requirements established by States pursuant to section 6991i of this title (relating to operator training); or

(E) the delivery prohibition requirement established by section 6991k of this title,

shall be subject to a civil penalty not to exceed \$10,000 for each tank for each day of violation. Any person making or accepting a delivery or deposit of a regulated substance to an underground storage tank at an ineligible facility in violation of section 6991k of this title shall also be subject to the same civil penalty for each day of such violation.

¹ So in original. The word “or” probably should not appear.

² So in original. Two subpars. (D) have been enacted.

³ So in original. The comma probably should be a semicolon.

(e) Incentive for performance

Both of the following may be taken into account in determining the terms of a civil penalty under subsection (d):

(1) The compliance history of an owner or operator in accordance with this subchapter or a program approved under section 6991c of this title.

(2) Any other factor the Administrator considers appropriate.

(Pub. L. 89-272, title II, §9006, as added Pub. L. 98-616, title VI, §601(a), Nov. 8, 1984, 98 Stat. 3285; Pub. L. 109-58, title XV, §§1524(c), 1526(d), 1527(b), 1530(d), Aug. 8, 2005, 119 Stat. 1096, 1098, 1099, 1104.)

Editorial Notes

AMENDMENTS

2005—Subsec. (d)(2). Pub. L. 109-58, §1527(b)(2), inserted at end “Any person making or accepting a delivery or deposit of a regulated substance to an underground storage tank at an ineligible facility in violation of section 6991k of this title shall also be subject to the same civil penalty for each day of such violation.”

Subsec. (d)(2)(B). Pub. L. 109-58, §1530(d)(1), which directed amendment of subpar. (B) by striking out “or” at end, could not be executed because “or” did not appear subsequent to amendment by Pub. L. 109-58, §1524(c)(1). See below.

Pub. L. 109-58, §1524(c)(1), struck out “or” at end.

Subsec. (d)(2)(C). Pub. L. 109-58, §1530(d)(2), inserted “; or” at end.

Subsec. (d)(2)(D). Pub. L. 109-58, §1530(d)(3), added subpar. (D) relating to requirements established in section 6991b(i) of this title.

Pub. L. 109-58, §1524(c)(2), added subpar. (D) relating to training requirements established by States pursuant to section 6991i of this title.

Subsec. (d)(2)(E). Pub. L. 109-58, §1527(b)(1), added subpar. (E).

Subsec. (e). Pub. L. 109-58, §1526(d), added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 1530(d) of Pub. L. 109-58 effective 18 months after Aug. 8, 2005, see section 1530(b) of Pub. L. 109-58, set out as a note under section 6991b of this title.

§ 6991f. Federal facilities

(a) In general

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any underground storage tank or underground storage tank system, or (2) engaged in any activity resulting, or which may result, in the installation, operation, management, or closure of any underground storage tank, release response activities related thereto, or in the delivery, acceptance, or deposit of any regulated substance to an underground storage tank or underground storage tank system shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting underground storage tanks in

the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local underground storage tank regulatory program. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning underground storage tanks with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State law concerning underground storage tanks, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any underground storage tank of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

(b) Review of and report on Federal underground storage tanks

(1) Review

Not later than 12 months after August 8, 2005, each Federal agency that owns or operates one or more underground storage tanks, or that manages land on which one or more underground storage tanks are located, shall submit to the Administrator, the Committee on Energy and Commerce of the United States House of Representatives, and the Committee on the Environment and Public Works of the Senate a compliance strategy report that—

(A) lists the location and owner of each underground storage tank described in this paragraph;

(B) lists all tanks that are not in compliance with this subchapter that are owned or operated by the Federal agency;

(C) specifies the date of the last inspection by a State or Federal inspector of each underground storage tank owned or operated by the agency;

(D) lists each violation of this subchapter respecting any underground storage tank owned or operated by the agency;

(E) describes the operator training that has been provided to the operator and other persons having primary daily on-site management responsibility for the operation and maintenance of underground storage tanks owned or operated by the agency; and

(F) describes the actions that have been and will be taken to ensure compliance for each underground storage tank identified under subparagraph (B).

(2) Not a safe harbor

This subsection does not relieve any person from any obligation or requirement under this subchapter.

(Pub. L. 89-272, title II, §9007, as added Pub. L. 98-616, title VI, §601(a), Nov. 8, 1984, 98 Stat. 3286; amended Pub. L. 109-58, title XV, §1528, Aug. 8, 2005, 119 Stat. 1100.)

Editorial Notes

AMENDMENTS

2005—Pub. L. 109-58 amended section generally. Prior to amendment, section required each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any underground storage tank to comply with all Federal, State, interstate, and local requirements, applicable to such tank, both substantive and procedural, in the same manner, and to the same extent, as any other person is subject to such requirements, including payment of reasonable service charges, provided that neither the United States, nor any agent, employee, or officer thereof, was immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such injunctive relief, and authorized the President to exempt any tank from compliance with such requirements upon certain determinations.

§ 6991g. State authority

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 re-