

104TH CONGRESS
2D SESSION

H. R. 3283

To require the Administrator of the Environmental Protection Agency to issue a regulation that consolidates all environmental laws administered by the Agency and health and safety laws applicable to the construction, maintenance, and operation of aboveground storage tanks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 1996

Mr. MORAN (for himself, Mrs. MORELLA, and Mr. DAVIS) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the Administrator of the Environmental Protection Agency to issue a regulation that consolidates all environmental laws administered by the Agency and health and safety laws applicable to the construction, maintenance, and operation of aboveground storage tanks, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Aboveground Petro-
3 leum Storage Tank Consolidation and Regulatory Im-
4 provement Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds that—

7 (1) improvement of Federal regulation of above-
8 ground storage tanks will lead to greater prevention
9 and containment of releases from aboveground stor-
10 age tanks and improvement of the environment;

11 (2) the Administrator of the Environmental
12 Protection Agency has not fully implemented any of
13 the 7 recommendations made in the 1989 report of
14 the General Accounting Office on inland oil spills;

15 (3) consolidation of Federal aboveground stor-
16 age tank provisions will lead to simplification of the
17 regulatory program and will allow the Administrator
18 to eliminate duplication and conflicting aboveground
19 storage tank regulations; and

20 (4) in order to promote environmental protec-
21 tion, aboveground petroleum storage tank secondary
22 containment structures should meet a minimum per-
23 meability standard.

24 **SEC. 3. PURPOSES.**

25 The purposes of this Act are—

26 (1) to promote protection of the environment;

1 (2) to streamline the offices in the Environ-
2 mental Protection Agency and other departments
3 and agencies that administer laws governing above-
4 ground storage tanks and underground storage
5 tanks;

6 (3) to consolidate the laws governing above-
7 ground storage tanks and eliminate duplicative regu-
8 lations; and

9 (4) to encourage release prevention and fire
10 protection measures in the operation of aboveground
11 storage tanks.

12 **SEC. 4. DEFINITIONS.**

13 In this Act:

14 (1) ABOVEGROUND PETROLEUM STORAGE
15 TANK.—The term “aboveground petroleum storage
16 tank”—

17 (A) means an aboveground storage tank
18 that—

19 (i) has a capacity of 42,000 gallons or
20 more; and

21 (ii) is or was at any time used to con-
22 tain any accumulation of a regulated pe-
23 troleum substance; but

1 (B) does not include an aboveground stor-
2 age tank that is used directly in the production
3 of crude oil or natural gas.

4 (2) ABOVEGROUND STORAGE TANK.—The term
5 “aboveground storage tank”—

6 (A) means a stationary tank, including
7 pipes, up to the first first flange, connected to
8 the stationary tank within the facility in which
9 the stationary tank is located, that is or was at
10 any time used to contain an accumulation of a
11 regulated substance, the volume of which tank
12 (including the volume of all piping within the
13 facility) is greater than 90 percent above
14 ground; and

15 (B) includes any tank that is capable of
16 being visually inspected; but

17 (C) does not include—

18 (i) a surface impoundment, pit, pond,
19 or lagoon;

20 (ii) a storm water or wastewater col-
21 lection system;

22 (iii) a flow-through process tank (in-
23 cluding a pressure vessel or process vessel
24 and oil and water separators);

- 1 (iv) an intermediate bulk container or
2 similar tank that may be moved within a
3 facility;
- 4 (v) a tank that is regulated under the
5 Surface Mining Control and Reclamation
6 Act of 1977 (30 U.S.C. 1201 et seq.);
- 7 (vi) a tank that is used for the stor-
8 age of products regulated under the Fed-
9 eral Food, Drug, and Cosmetic Act (21
10 U.S.C. 301 et seq.);
- 11 (vii) a tank (including piping and col-
12 lection and treatment systems) that is used
13 in the management of leachate, methane
14 gas, or methane gas condensate, unless the
15 tank is used for storage of a regulated sub-
16 stance;
- 17 (viii) a tank that is used to store pro-
18 pane gas;
- 19 (ix) any other tank excluded by the
20 Administrator by regulation issued under
21 this Act;
- 22 (x) a tank that is used to store a fer-
23 tilizer raw material, fertilizer intermediate
24 or fertilizer product; or

1 (xi) any pipe that is connected to a
2 tank or other facility described in this sub-
3 paragraph.

4 (3) ADMINISTRATOR.—The term “Adminis-
5 trator” means the Administrator of the Environ-
6 mental Protection Agency.

7 (4) DIRECTOR.—The term “Director” means
8 the Director of the Office.

9 (5) ENVIRONMENTAL LAW.—The term “envi-
10 ronmental law” means 1 of the following statutes
11 (and includes a regulation issued under any such
12 statute):

13 (A) The Clean Air Act (42 U.S.C. 7401 et
14 seq.).

15 (B) The Comprehensive Environmental
16 Response, Compensation, and Liability Act of
17 1980 (42 U.S.C. 9601 et seq.).

18 (C) The Federal Water Pollution Control
19 Act (33 U.S.C. 1251 et seq.).

20 (D) The Oil Pollution Act of 1990 (33
21 U.S.C. 2701 et seq.).

22 (E) The Solid Waste Disposal Act (42
23 U.S.C. 6901 et seq.).

24 (F) Any other statute administered by the
25 Administrator.

1 (6) MODEL FIRE CODE.—The term “model fire
2 code” means—

3 (A) fire code 30 or 30–a issued by the Na-
4 tional Fire Protection Association;

5 (B) the fire code issued by the Uniform
6 Fire Code Institute;

7 (C) the fire code issued by the Southern
8 Building Code Congress International; or

9 (D) the fire code issued by the Building
10 Offices and Code Administrators International.

11 (7) OFFICE.—The term “Office” means the Of-
12 fice of Storage Tanks established by section 5(a).

13 (8) PETROLEUM.—The term “petroleum”
14 means—

15 (A) crude oil; and

16 (B) any fraction of crude oil that is liquid
17 at standard conditions of temperature and pres-
18 sure (60 degrees Fahrenheit and 14.7 pounds
19 per square inch absolute).

20 (9) REGULATED PETROLEUM SUBSTANCE.—
21 The term “regulated petroleum substance” means—

22 (A) petroleum; and

23 (B) a petroleum-based substance com-
24 prised of a complex blend of hydrocarbons de-
25 rived from crude oil through processes of sepa-

1 ration, conversion, upgrading and finishing,
2 such as a motor fuel, jet fuel, distillate fuel oil,
3 residual fuel oil, lubricant, petroleum solvent, or
4 used or waste oil.

5 (10) REGULATED SUBSTANCE.—The term “reg-
6 ulated substance” means—

7 (A) a substance (as defined in section 101
8 of the Comprehensive Environmental Response,
9 Compensation, and Liability Act of 1980 (42
10 U.S.C. 9601)), but not including a substance
11 that is regulated as a hazardous waste under
12 subtitle C of the Solid Waste Disposal Act (42
13 U.S.C. 6921 et seq.); and

14 (B) a regulated petroleum substance.

15 (11) UNDERGROUND STORAGE TANK.—The
16 term “underground storage tank” has the meaning
17 stated in section 9001 of the Solid Waste Disposal
18 Act (42 U.S.C. 6991).

19 **SEC. 5. CONSOLIDATION OF OFFICES.**

20 (a) OFFICE OF STORAGE TANKS.—

21 (1) ESTABLISHMENT.—The Office of Under-
22 ground Storage Tanks of the Environmental Protec-
23 tion Agency is redesignated and established as the
24 Office of Storage Tanks.

1 (2) DIRECTOR.—The Office shall be headed by
2 a Director appointed by the Administrator.

3 (3) FUNCTIONS.—The Director shall perform—

4 (A) the functions that were vested in the
5 Director of the Office of Underground Storage
6 Tanks on the day before the date of enactment
7 of this Act; and

8 (B) the functions transferred to the Direc-
9 tor (or to the Administrator, acting through the
10 Director) by subsection (b).

11 (b) TRANSFERS OF AUTHORITY.—There are trans-
12 ferred to the Director all of the authorities of the following
13 officers of the Environmental Protection Agency, insofar
14 as the authorities relate to the regulation of aboveground
15 storage tanks and underground storage tanks under the
16 environmental laws:

17 (1) The Assistant Administrator for Air.

18 (2) The Assistant Administrator for Water.

19 (3) The Director of the Office of Emergency
20 and Remedial Response.

21 (4) Any other officer to whom the Adminis-
22 trator has delegated authority.

23 (c) MEMORANDUMS OF UNDERSTANDING.—

24 (1) SECRETARY OF LABOR.—The Adminis-
25 trator, acting through the Director, shall enter into

1 a Memorandum of Understanding with the Secretary
2 of Labor, acting through the Assistant Secretary for
3 Occupational Safety and Health, to clarify the au-
4 thorities of the Environmental Protection Agency
5 and the authorities of the Occupational Safety and
6 Health Administration, under the Occupational
7 Safety and Health Act of 1970 (29 U.S.C. 651 et
8 seq.) and section 126 of the Superfund Amendments
9 and Reauthorization Act of 1986 (Public Law 99-
10 499; 29 U.S.C. 655 note), with regard to the regula-
11 tion of aboveground storage tanks and underground
12 storage tanks.

13 (2) SECRETARY OF TRANSPORTATION.—The
14 Administrator, acting through the Director, shall
15 enter into a Memorandum of Understanding with
16 the Secretary of Transportation, acting through the
17 Administrator for Research and Special Programs,
18 acting through the Associate Administrator for Pipe-
19 line Safety and the Associate Administrator for Haz-
20 ardous Materials Technology, to clarify the authori-
21 ties of the Environmental Protection Agency and the
22 authorities of the Secretary of Transportation, under
23 chapter 601 of title 49, United States Code, relating
24 to the regulation of aboveground storage tanks and
25 underground storage tanks.

1 **SEC. 6. CONSOLIDATION OF APPLICABLE LAWS.**

2 (a) **RESTATEMENT IN CONSOLIDATED FORM.**—

3 (1) **IN GENERAL.**—Not later than 3 years after
4 the date of enactment of this Act, the Director, in
5 consultation with the States, shall evaluate all laws
6 (including regulations) administered by the Director
7 and, after notice and opportunity for public com-
8 ment, issue a regulation that restates those laws in
9 consolidated form and streamlines, to the extent
10 practicable, the application of those laws to owners
11 and operators of aboveground storage tanks and un-
12 derground storage tanks.

13 (2) **INTENT OF CONGRESS.**—In directing the
14 Director in paragraph (1) to restate the laws in con-
15 solidated form, it is not the intent of Congress to di-
16 rect or authorize the Director to modify the require-
17 ments of those laws in any way, except as necessary
18 or appropriate to eliminate any duplication or incon-
19 sistencies or to reduce any unnecessary regulatory
20 burdens and except as provided in subsections (b),
21 (c), and (d).

22 (b) **MODEL FIRE CODES.**—The regulation under sub-
23 section (a) shall be consistent with and adopt by reference
24 the model fire codes, as in effect on the date of enactment
25 of this Act or as they may be amended.

26 (c) **RELEASES.**—

1 (1) REPORTING REQUIREMENTS APPLICABLE
2 TO ALL ABOVEGROUND STORAGE TANKS.—The regu-
3 lation under subsection (a) shall require that an
4 owner or operator of an aboveground storage tank
5 shall report a release of 42 gallons or more of a reg-
6 ulated substance that occurs during a period of time
7 specified by the director, not to exceed 5 calendar
8 days, including a description of the corrective action
9 taken in response to the release, to the national re-
10 sponse center established under the Federal Water
11 Pollution Control Act (33 U.S.C. 1251 et seq.), un-
12 less the release is required to be reported, and is re-
13 ported, under other Federal law.

14 (2) ORDERS APPLICABLE TO ABOVEGROUND
15 PETROLEUM STORAGE TANKS.—After a release from
16 an aboveground petroleum storage tank containing a
17 regulated substance that is determined to be an im-
18 mminent threat to human health, public safety, or the
19 environment, the Administrator may issue an order
20 prohibiting the use or operation of the aboveground
21 petroleum storage tank until the Administrator de-
22 termines that—

23 (A) the prohibition is not necessary to pro-
24 tect human health, public safety, or the envi-
25 ronment; or

1 (B) adequate corrective action has been
2 taken, in accordance with the law regulating
3 corrective action that is in effect on the date on
4 which the determination is made.

5 (d) CORRECTION OF DEFICIENCIES IN THE LAW AP-
6 PLICABLE TO ABOVEGROUND PETROLEUM STORAGE
7 TANKS.—

8 (1) ADDITIONAL AUTHORITY.—In addition to
9 the authority transferred to the Director by section
10 5(b), the Director shall have authority to issue, and
11 shall include in the regulation under subsection (a),
12 release detection, prevention, and correction regula-
13 tions applicable to owners and operators of above-
14 ground petroleum storage tanks, as necessary to
15 protect human health and the environment.

16 (2) CORRECTION OF DEFICIENCIES.—In con-
17 ducting the evaluation of laws and issuing the regu-
18 lation under subsection (a), the Director shall—

19 (A) determine whether there are any defi-
20 ciencies in the law applicable to aboveground
21 petroleum storage tanks on the day before the
22 date of enactment of this Act, specifically with
23 reference to secondary containment, overfill pre-
24 vention, testing, inspection, compatibility, in-
25 stallation, corrosion protection, and structural

1 integrity of aboveground petroleum storage
2 tanks; and

3 (B) if the Director determines that any
4 such deficiencies exist—

5 (i) examine industry standards that
6 address the deficiencies;

7 (ii) give substantial weight to industry
8 standards in formulating the regulations
9 required by paragraph (1); and

10 (iii) design the regulation in the most
11 cost-effective manner to address the defi-
12 ciencies.

13 (e) CORRECTION OF DEFICIENCIES IN THE LAW AP-
14 PPLICABLE TO UNDERGROUND STORAGE TANKS.—In con-
15 junction with the evaluation of laws and issuing the regu-
16 lations under subsection (a), the Director shall provide
17 that the storage capacity of a facility does not include the
18 capacity of underground storage tanks that are currently
19 subject to the requirements of part 280 of title 40 of the
20 Code of Federal Regulations or the capacity of under-
21 ground storage tanks that are permanently closed in ac-
22 cordance with subpart G of such part 280.

23 (f) ENFORCEMENT.—

24 (1) IN GENERAL.—The regulation under sub-
25 section (a) shall make clear the statutory enforce-

1 ment provisions and other statutory provisions that
2 apply to each provision of the regulation.

3 (2) **ADDITIONAL AUTHORITY.**—Any provision of
4 the regulation under subsection (c) or (d) that im-
5 plements authority conferred by this Act in addition
6 to authority under law in effect on the day before
7 the date of enactment of this Act shall be enforced
8 under and in accordance with the procedures stated
9 in section 9006 of the Solid Waste Disposal Act (42
10 U.S.C. 6991e).

11 **SEC. 7. REPORTS.**

12 (a) **INTERIM REPORT.**—Not later than 2 years after
13 the date of enactment of this Act, the Director shall sub-
14 mit to Congress a report describing the progress made and
15 any tentative conclusions drawn in the evaluation process
16 under section 6(a)(1).

17 (b) **FINAL REPORT.**—Simultaneously with the issu-
18 ance of the regulation under section 6(a)(1), the Director
19 shall submit to Congress a final report that—

20 (1) describes the evaluation made and the regu-
21 lation issued under section 6(a)(1); and

22 (2)(A) states the extent to which the regulation
23 implements the recommendations made in the 1989
24 report of the General Accounting Office on inland oil
25 spills and the 1995 report of the General Accounting

1 Office on the status of the Environmental Protection
2 Agency's efforts to improve the safety of above-
3 ground storage tanks; and

4 (B) to the extent that the consolidated regula-
5 tion does not implement the recommendations, de-
6 scribes the Director's plans regarding the rec-
7 ommendations.

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