Public Law 98-616
98th Congress

An Act

To amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1985 through 1988, and for other purposes.

Nov. 8, 1984
[H.R. 2867]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

The Hazardous and Solid Waste Amendments of 1984.
42 USC 6901 note.
Pollution.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as "The Hazardous and Solid Waste Amendments of 1984".

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42 USC 6916.

SEC. 2. (a) Section 2007(a) of the Solid Waste Disposal Act (relating to general authorization) is amended by striking out "and $80,000,000 for the fiscal year ending September 30, 1982" and substituting "$80,000,000 for the fiscal year ending September 30, 1982, $70,000,000 for the fiscal year ending September 30, 1985, $80,000,000 for the fiscal year ending September 30, 1986, $80,000,000 for the fiscal year ending September 30, 1987, and $80,000,000 for the fiscal year 1988".

42 USC 6931.

(b) Section 3011(a) of the Solid Waste Disposal Act (relating to State hazardous waste programs) is amended by striking out "and $40,000,000 for fiscal year 1982" and substituting "$40,000,000 for the fiscal year 1982, $55,000,000 for the fiscal year 1985, $60,000,000 for the fiscal year 1986, $60,000,000 for the fiscal year 1987, and $60,000,000 for the fiscal year 1988".

42 USC 6933.

(c) Section 3012 of the Solid Waste Disposal Act (relating to the hazardous waste inventory) is amended by striking out "$20,000,000" in subsection (c)(2) and inserting in lieu thereof "$25,000,000 for each of the fiscal years 1985 through 1988".

42 USC 6948.

(d) Section 4008(a)(1) of the Solid Waste Disposal Act (relating to development and implementation assistance) is amended by striking out "and $20,000,000 for fiscal year 1982" and substituting

"$20,000,000 for the fiscal year 1982, and $10,000,000 for each of the fiscal years 1985 through 1988".

(e) Section 4008(a)(2)(C) of the Solid Waste Disposal Act (relating to implementation assistance) is amended by striking out "and $10,000,000 for fiscal year 1982" and substituting "$10,000,000 for fiscal year 1982, and $10,000,000 for each of the fiscal years 1985 through 1988". 42 USC 6948.

"(f) UNDERGROUND STORAGE TANKS.—(1) There are authorized to be appropriated to the Administrator for the purpose of carrying out the provisions of subtitle I (relating to regulation of underground storage tanks), $10,000,000 for each of the fiscal years 1985 through 1988. *Post*, p. 3277.

(g) Section 4008 of the Solid Waste Disposal Act (relating to Federal assistance for certain programs) is amended in paragraph (4) of subsection (f) (relating to assistance to States for discretionary programs for recycled oil) by striking out "and $5,000,000 for fiscal year 1983" and substituting ", $5,000,000 for fiscal year 1983, and $5,000,000 for each of the fiscal years 1985 through 1988".

(h) Section 5006 of the Solid Waste Disposal Act (relating to Department of Commerce functions) is amended by inserting after "1982" the following "and $1,500,000 for each of the fiscal years 1985 through 1988". 42 USC 6956.

(i) Section 2007 of the Solid Waste Disposal Act (relating to criminal investigators) is amended by adding the following new subsections at the end thereof: 42 USC 6916.

"(e) CRIMINAL INVESTIGATORS.—There is authorized to be appropriated to the Administrator $3,246,000 for the fiscal year 1985, $2,408,300 for the fiscal year 1986, $2,529,000 for the fiscal year 1987, and $2,529,000 for the fiscal year 1988 to be used—

"(1) for additional officers or employees of the Environmental Protection Agency authorized by the Administrator to conduct criminal investigations (to investigate, or supervise the investigation of, any activity for which a criminal penalty is provided) under this Act; and

"(2) for support costs for such additional officers or employees.

"(f) UNDERGROUND STORAGE TANKS.—(1) There are authorized to be appropriated to the Administrator for the purpose of carrying out the provisions of subtitle I (relating to regulation of underground storage tanks), $10,000,000 for each of the fiscal years 1985 through 1988.

"(2) There is authorized to be appropriated $25,000,000 for each of the fiscal years 1985 through 1988 to be used to make grants to the States for purposes of assisting the States in the development and implementation of approved State underground storage tank release detection, prevention, and correction programs under subtitle I." Grants.

(j) There is authorized to be appropriated for purposes of section 221(b) of this Act $500,000 for each of the fiscal years 1985 through 1987.

(k) Section 4008(a)(2) of the Solid Waste Disposal Act is amended by adding the following new subparagraph after subparagraph (C): 42 USC 6948.

"(D) There are authorized—

"(i) to be made available $15,000,000 out of funds appropriated for fiscal year 1985, and

"(ii) to be appropriated for each of the fiscal years 1986 though 1988, $20,000,000

for grants to States (and where appropriate to regional, local, and interstate agencies) to implement programs requiring compliance by

solid waste management facilities with the criteria promulgated under section 4004(a) and section 1008(a)(3) and with the provisions of section 4005. To the extent practicable, such programs shall require such compliance not later than thirty-six months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984.".

42 USC 6944, 6907. 42 USC 6945.

(l) For provisions authorizing the appropriation of funds for the National Ground Water Commission, see section 704 of this Act.

Post, p. 3289.

TITLE I—PROVISIONS RELATING PRIMARILY TO SUBTITLES A AND B OF THE SOLID WASTE DISPOSAL ACT

FINDINGS AND OBJECTIVES OF SOLID WASTE DISPOSAL ACT

42 USC 6901.

SEC. 101. (a) Section 1002(b) of the Solid Waste Disposal Act is amended by—

(1) striking out paragraph (5) and substituting:

"(5) the placement of inadequate controls on hazardous waste management will result in substantial risks to human health and the environment;

"(6) if hazardous waste management is improperly performed in the first instance, corrective action is likely to be expensive, complex, and time consuming;

"(7) certain classes of land disposal facilities are not capable of assuring long-term containment of certain hazardous wastes, and to avoid substantial risk to human health and the environment, reliance on land disposal should be minimized or eliminated, and land disposal, particularly landfill and surface impoundment, should be the least favored method for managing hazardous wastes; and";

(2) redesignating paragraph (6) as paragraph (8); and

(3) striking out the semicolon in redesignated paragraph (8) and substituting a period.

42 USC 6902.

(b) Section 1003 of the Solid Waste Disposal Act is amended by—

(1) adding "AND NATIONAL POLICY" to the title, inserting "(a) OBJECTIVES.—" after "SEC. 1003.", and adding the following new subsection at the end thereof:

Congress.

"(b) NATIONAL POLICY.—The Congress hereby declares it to be the national policy of the United States that, wherever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment."; and

(2) striking out paragraph (4) of subsection (a) (as designated by paragraph (1) of this subsection), substituting the following new paragraphs in such subsection (a), and redesignating paragraphs (5) through (8) thereof as paragraphs (8) through (11):

"(4) assuring that hazardous waste management practices are conducted in a manner which protects human health and the environment;

"(5) requiring that hazardous waste be properly managed in the first instance thereby reducing the need for corrective action at a future date;

"(6) minimizing the generation of hazardous waste and the land disposal of hazardous waste by encouraging process substi-

tution, materials recovery, properly conducted recycling and reuse, and treatment;

"(7) establishing a viable Federal-State partnership to carry out the purposes of this Act and insuring that the Administrator will, in carrying out the provisions of subtitle C of this Act, give a high priority to assisting and cooperating with States in obtaining full authorization of State programs under subtitle C;".

DIOXINS FROM RESOURCE RECOVERY FACILITIES

SEC. 102. Section 1006(b) of the Solid Waste Disposal Act is amended by inserting "(1)" after "INTEGRATION WITH OTHER ACTS.—" and by adding the following new paragraph at the end thereof: 42 USC 6905.

"(2)(A) As promptly as practicable after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit a report describing— Report.

"(i) the current data and information available on emissions of polychlorinated dibenzo-p-dioxins from resource recovery facilities burning municipal solid waste;

"(ii) any significant risks to human health posed by these emissions; and

"(iii) operating practices appropriate for controlling these emissions.

"(B) Based on the report under subparagraph (A) and on any future information on such emissions, the Administrator may publish advisories or guidelines regarding the control of dioxin emissions from such facilities. Nothing in this paragraph shall be construed to preempt or otherwise affect the authority of the Administrator to promulgate any regulations under the Clean Air Act regarding emissions of polychlorinated dibenzo-p-dioxins.". 42 USC 7401 note.

OMBUDSMAN

SEC. 103. (a) Subtitle B of the Solid Waste Disposal Act is amended by inserting the following new section after section 2007:

"OFFICE OF OMBUDSMAN

"SEC. 2008. (a) ESTABLISHMENT; FUNCTIONS.—The Administrator shall establish an Office of Ombudsman, to be directed by an Ombudsman. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests for information submitted by any person with respect to any program or requirement under this Act. Establishment. 42 USC 6917.

"(b) AUTHORITY TO RENDER ASSISTANCE.—The Ombudsman shall render assistance with respect to the complaints, grievances, and requests submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Administrator.

"(c) EFFECT ON PROCEDURES FOR GRIEVANCES, APPEALS, OR ADMINISTRATIVE MATTERS.—The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this Act, any other provision of law, or any Federal regulation.

"(d) TERMINATION.—The Office of the Ombudsman shall cease to exist 4 years after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.".

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 2007:

"Sec. 2008. Office of Ombudsman.".

TITLE II—PROVISIONS RELATING PRIMARILY TO SUBTITLE C OF THE SOLID WASTE DISPOSAL ACT

Subtitle A—Amendments Primarily to Section 3004

LAND DISPOSAL OF HAZARDOUS WASTE

42 USC 6924.

SEC. 201. (a) LAND DISPOSAL OF CERTAIN HAZARDOUS WASTES.—Section 3004 of the Solid Waste Disposal Act is amended by inserting "(a) IN GENERAL.—" after "3004." and by adding the following at the end thereof:

Prohibitions.

"(b) SALT DOME FORMATIONS, SALT BED FORMATIONS, UNDERGROUND MINES AND CAVES.—(1) Effective on the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of any noncontainerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine, or cave is prohibited until such time as—

"(A) the Administrator has determined, after notice and opportunity for hearings on the record in the affected areas, that such placement is protective of human health and the environment;

"(B) the Administrator has promulgated performance and permitting standards for such facilities under this subtitle, and;

"(C) a permit has been issued under section 3005(c) for the facility concerned.

"(2) Effective on the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of any hazardous waste other than a hazardous waste referred to in paragraph (1) in a salt dome formation, salt bed formation, underground mine, or cave is prohibited until such time as a permit has been issued under section 3005(c) for the facility concerned.

Post, pp. 3241, 3242.

"(3) No determination made by the Administrator under subsection (d), (e), or (g) of this section regarding any hazardous waste to which such subsection (d), (e), or (g) applies shall affect the prohibition contained in paragraph (1) or (2) of this subsection.

"(4) Nothing in this subsection shall apply to the Department of Energy Waste Isolation Pilot Project in New Mexico.

"(c) LIQUIDS IN LANDFILLS.—(1) Effective 6 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of bulk or noncontainerized liquid hazardous waste or free liquids contained in hazardous waste (whether or not absorbents have been added) in any landfill is prohibited. Prior to such date the requirements (as in effect on April 30, 1983) promulgated under this section by the Administrator regarding liquid hazardous waste shall remain in force and effect to the extent such requirements are applicable to the placement of bulk or noncontainerized liquid hazardous waste, or free liquids contained in hazardous waste, in landfills.

Regulations.

"(2) Not later than fifteen months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate final regulations which—

"(A) minimize the disposal of containerized liquid hazardous waste in landfills, and

"(B) minimize the presence of free liquids in containerized hazardous waste to be disposed of in landfills.

Such regulations shall also prohibit the disposal in landfills of liquids that have been absorbed in materials that biodegrade or that release liquids when compressed as might occur during routine landfill operations. Prior to the date on which such final regulations take effect, the requirements (as in effect on April 30, 1983) promulgated under this section by the Administrator shall remain in force and effect to the extent such requirements are applicable to the disposal of containerized liquid hazardous waste, or free liquids contained in hazardous waste, in landfills.

Prohibition.

"(3) Effective twelve months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of any liquid which is not a hazardous waste in a landfill for which a permit is required under section 3005(c) or which is operating pursuant to interim status granted under section 3005(e) is prohibited unless the owner or operator of such landfill demonstrates to the Administrator, or the Administrator determines, that—

Post, pp. 3241, 3242.

"(A) the only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted under section 3005(c) or operating pursuant to interim status under section 3005(e), which contains, or may reasonably be anticipated to contain, hazardous waste; and

"(B) placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water.

As used in subparagraph (B), the term 'underground source of drinking water' has the same meaning as provided in regulations under the Safe Drinking Water Act (title XIV of the Public Health Service Act).

42 USC 201 note.
42 USC 300f.

"(4) No determination made by the Administrator under subsection (d), (e), or (g) of this section regarding any hazardous waste to which such subsection (d), (e), or (g) applies shall affect the prohibition contained in paragraph (1) of this subsection.

"(d) PROHIBITIONS ON LAND DISPOSAL OF SPECIFIED WASTES.—(1) Effective 32 months after the enactment of the Hazardous and Solid Waste Amendments of 1984 (except as provided in subsection (f) with respect to underground injection into deep injection wells), the land disposal of the hazardous wastes referred to in paragraph (2) is prohibited unless the Administrator determines the prohibition on one or more methods of land disposal of such waste is not required in order to protect human health and the environment for as long as the waste remains hazardous, taking into account—

"(A) the long-term uncertainties associated with land disposal,

"(B) the goal of managing hazardous waste in an appropriate manner in the first instance, and

"(C) the persistence, toxicity, mobility, and propensity to bioaccumulate of such hazardous wastes and their hazardous constituents.

For the purposes of this paragraph, a method of land disposal may not be determined to be protective of human health and the environment for a hazardous waste referred to in paragraph (2) (other than a hazardous waste which has complied with the pretreatment regu-

lations promulgated under subsection (m)), unless, upon application by an interested person, it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

42 USC 6921.

"(2) Paragraph (1) applies to the following hazardous wastes listed or identified under section 3001:

"(A) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/l.

"(B) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals (or elements) or compounds of these metals (or elements) at concentrations greater than or equal to those specified below:

"(i) arsenic and/or compounds (as As) 500 mg/l;

"(ii) cadmium and/or compounds (as Cd) 100 mg/l;

"(iii) chromium (VI and/or compounds (as Cr VI)) 500 mg/l;

"(iv) lead and/or compounds (as Pb) 500 mg/l;

"(v) mercury and/or compounds (as Hg) 20 mg/l;

"(vi) nickel and/or compounds (as Ni) 134 mg/l;

"(vii) selenium and/or compounds (as Se) 100 mg/l; and

"(viii) thallium and/or compounds (as Th) 130 mg/l.

"(C) Liquid hazardous waste having a pH less than or equal to two (2.0).

"(D) Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm.

"(E) Hazardous wastes containing halogenated organic compounds in total concentration greater than or equal to 1,000 mg/kg.

When necessary to protect human health and the environment, the Administrator shall substitute more stringent concentration levels than the levels specified in subparagraphs (A) through (E).

"(3) During the period ending forty-eight months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, this subsection shall not apply to any disposal of contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under this subtitle.

42 USC 9604, 9606.

Prohibition.

"(e) SOLVENTS AND DIOXINS.—(1) Effective twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 (except as provided in subsection (f) with respect to underground injection into deep injection wells), the land disposal of the hazardous wastes referred to in paragraph (2) is prohibited unless the Administrator determines the prohibition of one or more methods of land disposal of such waste is not required in order to protect human health and the environment for as long as the waste remains hazardous, taking into account the factors referred to in subparagraph (A) through (C) of subsection (d)(1). For the purposes of this paragraph, a method of land disposal may not be determined to be protective of human health and the environment for a hazardous waste referred to in paragraph (2) (other than a hazardous waste which has complied with the pretreatment regulations promulgated under subsection (m)), unless upon application by an interested person it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no

migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

"(2) The hazardous wastes to which the prohibition under paragraph (1) applies are as follows—

"(A) dioxin-containing hazardous wastes numbered F020, F021, F022, and F023 (as referred to in the proposed rule published by the Administrator in the Federal Register for April 4, 1983), and

"(B) those hazardous wastes numbered F001, F002, F003, F004, and F005 in regulations promulgated by the Administrator under section 3001 (40 C.F.R. 261.31 (July 1, 1983)), as those regulations are in effect on July 1, 1983.

"(3) During the period ending forty-eight months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, this subsection shall not apply to any disposal of contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehenisve Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under this subtitle.

42 USC 9604, 9606.

"(f) DISPOSAL INTO DEEP INJECTION WELLS; SPECIFIED SUBSECTION (d) WASTES; SOLVENTS AND DIOXINS.—(1) Not later than forty-five months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall complete a review of the disposal of all hazardous wastes referred to in paragraph (2) of subsection (d) and in paragraph (2) of subsection (e) by underground injection into deep injection wells.

"(2) Within forty-five months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall make a determination regarding the disposal by underground injection into deep injection wells of the hazardous wastes referred to in paragraph (2) of subsection (d) and the hazardous wastes referred to in paragraph (2) of subsection (e). The Administrator shall promulgate final regulations prohibiting the disposal of such wastes into such wells if it may reasonably be determined that such disposal may not be protective of human health and the environment for as long as the waste remains hazardous, taking into account the factors referred to in subparagraphs (A) through (C) of subsection (d)(1). In promulgating such regulations, the Administrator shall consider each hazardous waste referred to in paragraph (2) of subsection (d) or in paragraph (2) of subsection (e) which is prohibited from disposal into such wells by any State.

Regulations. Prohibitions.

"(3) If the Administrator fails to make a determination under paragraph (2) for any hazardous waste referred to in paragraph (2) of subsection (d) or in paragraph (2) of subsection (e) within forty-five months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, such hazardous waste shall be prohibited from disposal into any deep injection well.

Prohibition.

"(4) As used in this subsection, the term 'deep injection well' means a well used for the underground injection of hazardous waste other than a well to which section 7010(a) applies.

"(g) ADDITIONAL LAND DISPOSAL PROHIBITION DETERMINATIONS.—(1) Not later than twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit a schedule to Congress for—

"(A) reviewing all hazardous wastes listed (as of the date of the enactment of the Hazardous and Solid Waste Amendments

42 USC 6921.

of 1984) under section 3001 other than those wastes which are referred to in subsection (d) or (e); and

"(B) taking action under paragraph (5) of this subsection with respect to each such hazardous waste.

"(2) The Administrator shall base the schedule on a ranking of such listed wastes considering their intrinsic hazard and their volume such that decisions regarding the land disposal of high volume hazardous wastes with high intrinsic hazard shall, to the maximum extent possible, be made by the date forty-five months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984. Decisions regarding low volume hazardous wastes with lower intrinsic hazard shall be made by the date sixty-six months after such date of enactment.

44 USC 101 note.

"(3) The preparation and submission of the schedule under this subsection shall not be subject to the Paperwork Reduction Act of 1980. No hearing on the record shall be required for purposes of preparation or submission of the schedule. The schedule shall not be subject to judicial review.

"(4) The schedule under this subsection shall require that the Administrator shall promulgate regulations in accordance with paragraph (5) or make a determination under paragraph (5)—

"(A) for at least one-third of all hazardous wastes referred to in paragraph (1) by the date forty-five months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984;

"(B) for at least two-thirds of all such listed wastes by the date fifty-five months after the date of enactment of such Amendments; and

"(C) for all such listed wastes and for all hazardous wastes identified under 3001 by the date sixty-six months after the date of enactment of such Amendments.

In the case of any hazardous waste identified or listed under section 3001 after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall determine whether such waste shall be prohibited from one or more methods of land disposal in accordance with paragraph (5) within six months after the date of such identification or listing.

Regulations.
Prohibitions.

"(5) Not later than the date specified in the schedule published under this subsection, the Administrator shall promulgate final regulations prohibiting one or more methods of land disposal of the hazardous wastes listed on such schedule except for methods of land disposal which the Administrator determines will be protective of human health and the environment for as long as the waste remains hazardous, taking into account the factors referred to in subparagraph (A) through (C) of subsection (d)(1). For the purposes of this paragraph, a method of land disposal may not be determined to be protective of human health and the environment (except with respect to a hazardous waste which has complied with the pretreatment regulations promulgated under subsection (m)) unless, upon application by an interested person, it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

"(6)(A) If the Administrator fails (by the date forty-five months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984) to promulgate regulations or make a determination under paragraph (5) for any hazardous waste which is

included in the first one-third of the schedule published under this subsection, such hazardous waste may be disposed of in a landfill or surface impoundment only if—

"(i) such facility is in compliance with the requirements of subsection (o) which are applicable to new facilities (relating to minimum technological requirements); and

"(ii) prior to such disposal, the generator has certified to the Administrator that such generator has investigated the availability of treatment capacity and has determined that the use of such landfill or surface impoundment is the only practical alternative to treatment currently available to the generator.

The prohibition contained in this subparagraph shall continue to apply until the Administrator promulgates regulations or makes a determination under paragraph (5) for the waste concerned.

"(B) If the Administrator fails (by the date 55 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984) to promulgate regulations or make a determination under paragraph (5) for any hazardous waste which is included in the first two-thirds of the schedule published under this subsection, such hazardous waste may be disposed of in a landfill or surface impoundment only if—

"(i) such facility is in compliance with the requirements of subsection (o) which are applicable to new facilities (relating to minimum technological requirements); and

"(ii) prior to such disposal, the generator has certified to the Administrator that such generator has investigated the availability of treatment capacity and has determined that the use of such landfill or surface impoundment is the only practical alternative to treatment currently available to the generator.

The prohibition contained in this subparagraph shall continue to apply until the Administrator promulgates regulations or makes a determination under paragraph (5) for the waste concerned.

"(C) If the Administrator fails to promulgate regulations, or make a determination under paragraph (5) for any hazardous waste referred to in paragraph (1) within 66 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, such hazardous waste shall be prohibited from land disposal.

"(h) VARIANCES FROM LAND DISPOSAL PROHIBITIONS.—(1) A prohibition in regulations under subsection (d), (e), (f), or (g) shall be effective immediately upon promulgation.

"(2) The Administrator may establish an effective date different from the effective date which would otherwise apply under subsection (d), (e), (f), or (g) with respect to a specific hazardous waste which is subject to a prohibition under subsection (d), (e), (f), or (g) or under regulations under subsection (d), (e), (f), or (g). Any such other effective date shall be established on the basis of the earliest date on which adequate alternative treatment, recovery, or disposal capacity which protects human health and the environment will be available. Any such other effective date shall in no event be later than 2 years after the effective date of the prohibition which would otherwise apply under subsection (d), (e), (f), or (g).

"(3) The Administrator, after notice and opportunity for comment and after consultation with appropriate State agencies in all affected States, may on a case-by-case basis grant an extension of the effective date which would otherwise apply under subsection (d), (e), (f), or (g) or under paragraph (2) for up to one year, where the applicant demonstrates that there is a binding contractual commit-

ment to construct or otherwise provide such alternative capacity but due to circumstances beyond the control of such applicant such alternative capacity cannot reasonably be made available by such effective date. Such extension shall be renewable once for no more than one additional year.

"(4) Whenever another effective date (hereinafter referred to as a 'variance') is established under paragraph (2), or an extension is granted under paragraph (3), with respect to any hazardous waste, during the period for which such variance or extension is in effect, such hazardous waste may be disposed of in a landfill or surface impoundment only if such facility is in compliance with the requirements of subsection (o).

Federal Register, publication.

"(i) PUBLICATION OF DETERMINATION.—If the Administrator determines that a method of land disposal will be protective of human health and the environment, he shall promptly publish in the Federal Register notice of such determination, together with an explanation of the basis for such determination.

"(j) STORAGE OF HAZARDOUS WASTE PROHIBITED FROM LAND DISPOSAL.—In the case of any hazardous waste which is prohibited from one or more methods of land disposal under this section (or under regulations promulgated by the Administrator under any provision of this section) the storage of such hazardous waste is prohibited unless such storage is solely for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal.

"(k) DEFINITION OF LAND DISPOSAL.—For the purposes of this section, the term 'land disposal', when used with respect to a specified hazardous waste, shall be deemed to include, but not be limited to, any placement of such hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave.

"(l) BAN ON DUST SUPPRESSION.—The use of waste or used oil or other material, which is contaminated or mixed with dioxin or any other hazardous waste identified or listed under section 3001 (other than a waste identified solely on the basis of ignitability), for dust suppression or road treatment is prohibited.

"(m) TREATMENT STANDARDS FOR WASTES SUBJECT TO LAND DISPOSAL PROHIBITION.—(1) Simultaneously with the promulgation of regulations under subsection (d), (e), (f), or (g) prohibiting one or more methods of land disposal of a particular hazardous waste, and as appropriate thereafter, the Administrator shall, after notice and an opportunity for hearings and after consultation with appropriate Federal and State agencies, promulgate regulations specifying those levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.

"(2) If such hazardous waste has been treated to the level or by a method specified in regulations promulgated under this subsection, such waste or residue thereof shall not be subject to any prohibition promulgated under subsection (d), (e), (f), or (g) and may be disposed of in a land disposal facility which meets the requirements of this subtitle. Any regulation promulgated under this subsection for a particular hazardous waste shall become effective on the same date

as any applicable prohibition promulgated under subsection (d), (e), (f), or (g).

"(n) AIR EMISSIONS.—Not later than thirty months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate such regulations for the monitoring and control of air emissions at hazardous waste treatment, storage, and disposal facilities, including but not limited to open tanks, surface impoundments, and landfills, as may be necessary to protect human health and the environment.". Regulations.

MINIMUM TECHNOLOGICAL REQUIREMENTS

SEC. 202. (a) Section 3004 of the Solid Waste Disposal Act is amended by inserting the following new subsection after subsection (n): *Supra.* 42 USC 6924.

"(o) MINIMUM TECHNOLOGICAL REQUIREMENTS.—(1) The regulations under subsection (a) of this section shall be revised from time to time to take into account improvements in the technology of control and measurement. At a minimum, such regulations shall require, and a permit issued pursuant to section 3005(c) after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 by the Administrator or a State shall require— *Post,* pp. 3241, 3242.

"(A) for each new landfill or surface impoundment, each new landfill or surface impoundment unit at an existing facility, each replacement of an existing landfill or surface impoundment unit, and each lateral expansion of an existing landfill or surface impoundment unit, for which an application for a final determination regarding issuance of a permit under section 3005(c) is received after the date of enactment of the Hazardous and Solid Waste Amendments of 1984—

"(i) the installation of two or more liners and a leachate collection system above (in the case of a landfill) and between such liners; and

"(ii) ground water monitoring; and

"(B) for each incinerator which receives a permit under section 3005(c) after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the attainment of the minimum destruction and removal efficiency required by regulations in effect on June 24, 1982.

The requirements of this paragraph shall apply with respect to all waste received after the issuance of the permit.

"(2) Paragraph (1)(A)(i) shall not apply if the owner or operator demonstrates to the Administrator, and the Administrator finds for such landfill or surface impoundment, that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents into the ground water or surface water at least as effectively as such liners and leachate collection systems.

"(3) The double-liner requirement set forth in paragraph (1)(A)(i) may be waived by the Administrator for any monofill, if—

"(A) such monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand,

"(B) such wastes do not contain constituents which would render the wastes hazardous for reasons other than the Extraction Procedure ("EP") toxicity characteristics set forth in regulations under this subtitle, and

"(C) such monofill meets the same requirements as are applicable in the case of a waiver under section 3005(j) (2) or (4).

Post, p. 3243.

"(4)(A) Not later than thirty months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate standards requiring that new landfill units, surface impoundment units, waste piles, underground tanks and land treatment units for the storage, treatment, or disposal of hazardous waste identified or listed under section 3001 shall be required to utilize approved leak detection systems.

42 USC 6921.

"(B) For the purposes of subparagraph (A)—

"(i) the term 'approved leak detection system' means a system or technology which the Administrator determines to be capable of detecting leaks of hazardous constituents at the earliest practicable time; and

"(ii) the term 'new units' means units on which construction commences after the date of promulgation of regulations under this paragraph.

Regulations.

"(5)(A) The Administrator shall promulgate regulations or issue guidance documents implementing the requirements of paragraph (1)(A) within two years after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984.

"(B) Until the effective date of such regulations or guidance documents, the requirement for the installation of two or more liners may be satisfied by the installation of a top liner designed, operated, and constructed of materials to prevent the migration of any constituent into such liner during the period such facility remains in operation (including any post-closure monitoring period), and a lower liner designed, operated and constructed to prevent the migration of any constituent through such liner during such period. For the purpose of the preceding sentence, a lower liner shall be deemed to satisfy such requirement if it is constructed of at least a 3-foot thick layer of recompacted clay or other natural material with a permeability of no more than 1×10^{-7} centimeter per second.

Alabama.
42 USC 6925.

"(6) Any permit under section 3005 which is issued for a landfill located within the State of Alabama shall require the installation of two or more liners and a leachate collection system above and between such liners, notwithstanding any other provision of this Act.

"(7) In addition to the requirements set forth in this subsection, the regulations referred to in paragraph (1) shall specify criteria for the acceptable location of new and existing treatment, storage, or disposal facilities as necessary to protect human health and the environment. Within 18 months after the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall publish guidance criteria identifying areas of vulnerable hydrogeology.".

GROUND WATER MONITORING

Ante, p. 3233.
42 USC 6924.

SEC. 203. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (o) thereof:

"(p) GROUND WATER MONITORING.—The standards under this section concerning ground water monitoring which are applicable to surface impoundments, waste piles, land treatment units, and landfills shall apply to such a facility whether or not—

"(1) the facility is located above the seasonal high water table;

"(2) two liners and a leachate collection system have been installed at the facility; or

"(3) the owner or operator inspects the liner (or liners) which has been installed at the facility.

This subsection shall not be construed to affect other exemptions or waivers from such standards provided in regulations in effect on the date of enactment of the Hazardous and Solid Waste Amendments of 1984 or as may be provided in revisions to those regulations, to the extent consistent with this subsection. The Administrator is authorized on a case-by-case basis to exempt from ground water monitoring requirements under this section (including subsection (o)) any engineered structure which the Administrator finds does not receive or contain liquid waste (nor waste containing free liquids), is designed and operated to exclude liquid from precipitation or other runoff, utilizes multiple leak detection systems within the outer layer of containment, and provides for continuing operation and maintenance of these leak detection systems during the operating period, closure, and the period required for post-closure monitoring and for which the Administrator concludes on the basis of such findings that there is a reasonable certainty hazardous constituents will not migrate beyond the outer layer of containment prior to the end of the period required for post-closure monitoring.".

BURNING AND BLENDING OF HAZARDOUS WASTES

SEC. 204. (a)(1) Section 3010 of the Solid Waste Disposal Act is amended by inserting the following after the first sentence thereof: "Not later than fifteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984—

42 USC 6930. Petroleum and petroleum products.

"(1) the owner or operator of any facility which produces a fuel (A) from any hazardous waste identified or listed under section 3001, (B) from such hazardous waste identified or listed under section 3001 and any other material, (C) from used oil, or (D) from used oil and any other material;

42 USC 6921.

"(2) the owner or operator of any facility (other than a single- or two-family residence) which burns for purposes of energy recovery any fuel produced as provided in paragraph (1) or any fuel which otherwise contains used oil or any hazardous waste identified or listed under section 3001; and

"(3) any person who distributes or markets any fuel which is produced as provided in paragraph (1) or any fuel which otherwise contains used oil or any hazardous waste identified or listed under section 3001

shall file with the Administrator (and with the State in the case of a State with an authorized hazardous waste program) a notification stating the location and general description of the facility, together with a description of the identified or listed hazardous waste involved and, in the case of a facility referred to in paragraph (1) or (2), a description of the production or energy recovery activity carried out at the facility and such other information as the Administrator deems necessary. For purposes of the preceding sentence, the term 'hazardous waste listed under section 3001' also includes any commercial chemical product which is listed under section 3001 and which, in lieu of its original intended use, is (i) produced for use as (or as a component of) a fuel, (ii) distributed for use as a fuel, or (iii) burned as a fuel. Notification shall not be required under the second sentence of this subsection in the case of facilities (such as residen-

tial boilers) where the Administrator determines that such notification is not necessary in order for the Administrator to obtain sufficient information respecting current practices of facilities using hazardous waste for energy recovery. Nothing in this subsection shall be construed to affect or impair the provisions of section 3001(b)(3). Nothing in this subsection shall affect regulatory determinations under section 3014.".

42 USC 6921.
Post, p. 3258.
42 USC 6930.

(2) Section 3010 of such Act is amended by striking out "the preceding sentence" each place it occurs and substituting "the preceding provisions".

Ante, p. 3234.
42 USC 6924.
Regulations.

(b)(1) Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsections after subsection (p):

"(q) HAZARDOUS WASTE USED AS FUEL.—(1) Not later than two years after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, and after notice and opportunity for public hearing, the Administrator shall promulgate regulations establishing such—

"(A) standards applicable to the owners and operators of facilities which produce a fuel—

"(i) from any hazardous waste identified or listed under section 3001, or

"(ii) from any hazardous waste identified or listed under section 3001 and any other material;

"(B) standards applicable to the owners and operators of facilities which burn, for purposes of energy recovery, any fuel produced as provided in subparagraph (A) or any fuel which otherwise contains any hazardous waste identified or listed under section 3001; and

"(C) standards applicable to any person who distributes or markets any fuel which is produced as provided in subparagraph (A) or any fuel which otherwise contains any hazardous waste identified or listed under section 3001

as may be necessary to protect human health and the environment. Such standards may include any of the requirements set forth in paragraphs (1) through (7) of subsection (a) as may be appropriate. Nothing in this subsection shall be construed to affect or impair the provisions of section 3001(b)(3). For purposes of this subsection, the term 'hazardous waste listed under section 3001' includes any commercial chemical product which is listed under section 3001 and which, in lieu of its original intended use, is (i) produced for use as (or as a component of) a fuel, (ii) distributed for use as a fuel, or (iii) burned as a fuel.

Petroleum and petroleum products.

"(2)(A) This subsection, subsection (r), and subsection (s) shall not apply to petroleum refinery wastes containing oil which are converted into petroleum coke at the same facility at which such wastes were generated, unless the resulting coke product would exceed one or more characteristics by which a substance would be identified as a hazardous waste under section 3001.

"(B) The Administrator may exempt from the requirements of this subsection, subsection (r), or subsection (s) facilities which burn de minimis quantities of hazardous waste as fuel, as defined by the Administrator, if the wastes are burned at the same facility at which such wastes are generated; the waste is burned to recover useful energy, as determined by the Administrator on the basis of the design and operating characteristics of the facility and the heating value and other characteristics of the waste; and the waste is burned in a type of device determined by the Administrator to be

designed and operated at a destruction and removal efficiency sufficient such that protection of human health and environment is assured.

"(C)(i) After the date of the enactment of the Hazardous and Solid Waste Amendments of 1984 and until standards are promulgated and in effect under paragraph (2) of this subsection, no fuel which contains any hazardous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations (as in effect on the date of the enactment of the Hazardous and Solid Waste Amendments of 1984) under this subtitle which are applicable to incinerators.

Prohibition.

"(ii) Any person who knowingly violates the prohibition contained in clause (i) shall be deemed to have violated section 3008(d)(2).

Post, p. 3256.

"(r) LABELING.—(1) Notwithstanding any other provision of law, until such time as the Administrator promulgates standards under subsection (q) specifically superceding this requirement, it shall be unlawful for any person who is required to file a notification in accordance with paragraph (1) or (3) of section 3010 to distribute or market any fuel which is produced from any hazardous waste identified or listed under section 3001, or any fuel which otherwise contains any hazardous waste identified or listed under section 3001 if the invoice or the bill of sale fails—

Ante, p. 3235.

42 USC 6921.

"(A) to bear the following statement: 'WARNING: THIS FUEL CONTAINS HAZARDOUS WASTES', and

"(B) to list the hazardous wastes contained therein.

Beginning ninety days after the enactment of the Hazardous and Solid Waste Amendments of 1984, such statement shall be located in a conspicuous place on every such invoice or bill of sale and shall appear in conspicuous and legible type in contrast by typography, layouts, or color with other printed matter on the invoice or bill of sale.

"(2) Unless the Administrator determines otherwise as may be necessary to protect human health and the environment, this subsection shall not apply to fuels produced from petroleum refining waste containing oil if—

"(A) such materials are generated and reinserted onsite into the refining process;

"(B) contaminants are removed; and

"(C) such refining waste containing oil is converted along with normal process streams into pertroleum-derived fuel products at a facility at which crude oil is refined into petroleum products and which is classified as a number SIC 2911 facility under the Office of Management and Budget Standard Industrial Classification Manual.

Petroleum and petroleum products.

"(3) Unless the Administrator determines otherwise as may be necessary to protect human health and the environment, this subsection shall not apply to fuels produced from oily materials, resulting from normal petroleum refining, production and transportation practices, if (A) contaminants are removed; and (B) such oily materials are converted along with normal process streams into petroleum-derived fuel products at a facility at which crude oil is refined into petroleum products and which is classified as a number SIC 2911 facility under the Office of Management and Budget Standard Classification Manual.

Petroleum and petroleum products.

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"(s) RECORDKEEPING.—Not later than fifteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate regulations requiring that any person who is required to file a notification in accordance with subparagraph (1), (2), or (3), of section 3010(a) shall maintain such records regarding fuel blending, distribution, or use as may be necessary to protect human health and the environment.".

42 USC 6923.

(2) Section 3003 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b):

"(c) FUEL FROM HAZARDOUS WASTE.—Not later than two years after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, and after opportunity for public hearing, the Administrator shall promulgate regulations establishing standards, applicable to transporters of fuel produced (1) from any hazardous waste identified or listed under section 3001, or (2) from any hazardous waste identified or listed under section 3001 and any other material, as may be necessary to protect human health and the environment. Such standards may include any of the requirements set forth in paragraphs (1) through (4) of subsection (a) as may be appropriate.".

42 USC 6921.

DIRECT ACTION

Supra.
42 USC 6924.

SEC. 205. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (s) thereof:

"(t) FINANCIAL RESPONSIBILITY PROVISIONS.—(1) Financial responsibility required by subsection (a) of this section may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.

Claims.

"(2) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where (with reasonable diligence) jurisdiction in any State court or any Federal Court cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(3) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this Act. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this

subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

42 USC 9607, 9611.

"(4) For the purpose of this subsection, the term 'guarantor' means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.".

CONTINUING RELEASES AT PERMITTED FACILITIES

SEC. 206. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (t) thereof:

Ante, p. 3238.
42 USC 6924.

"(u) CONTINUING RELEASES AT PERMITTED FACILITIES.—Standards promulgated under this section shall require, and a permit issued after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 by the Administrator or a State shall require, corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit under this subtitle, regardless of the time at which waste was placed in such unit. Permits issued under section 3005 shall contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.".

Post, pp. 3241, 3242.

CORRECTIVE ACTION BEYOND FACILITY BOUNDARIES; UNDERGROUND TANKS

SEC. 207. Section 3004 is amended by adding the following after subsection (u):

Supra.

"(v) CORRECTIVE ACTIONS BEYOND FACILITY BOUNDARY.—As promptly as practicable after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall amend the standards under this section regarding corrective action required at facilities for the treatment, storage, or disposal, of hazardous waste listed or identified under section 3001 to require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment unless the owner or operator of the facility concerned demonstrates to the satisfaction of the Administrator that, despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. Such regulations shall take effect immediately upon promulgation, notwithstanding section 3010(b), and shall apply to—

42 USC 6921.

Post, p. 3258.

"(1) all facilities operating under permits issued under subsection (c), and

"(2) all landfills, surface impoundments, and waste pile units (including any new units, replacements of existing units, or lateral expansions of existing units) which receive hazardous waste after July 26, 1982.

Pending promulgation of such regulations, the Administrator shall issue corrective action orders for facilities referred to in paragraphs (1) and (2), on a case-by-case basis, consistent with the purposes of this subsection.

"(w) UNDERGROUND TANKS.—Not later than March 1, 1985, the Administrator shall promulgate final permitting standards under

this section for underground tanks that cannot be entered for inspection. Within forty-eight months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, such standards shall be modified, if necessary, to cover at a minimum all requirements and standards described in section 9003.".

FINANCIAL RESPONSIBILITY FOR CORRECTIVE ACTION

Ante, p. 3226.

SEC. 208. Section 3004(a) of the Solid Waste Disposal Act (as redesignated by section 201 of this Act) is amended by inserting "(including financial responsibility for corrective action)" immediately after "and financial responsibility" in paragraph (6).

MINING WASTE AND OTHER SPECIAL WASTES

Ante, p. 3239.
42 USC 6924.

SEC. 209. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (w):

"(x) If (1) solid waste from the extraction, beneficiation or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium, (2) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, or (3) cement kiln dust waste, is subject to regulation under this subtitle, the Administrator is authorized to modify the requirements of subsections (c), (d), (e), (f), (g), (o), and (u) and section 3005(j), in the case of landfills or surface impoundments receiving such solid waste, to take into account the special characteristics of such wastes, the practical difficulties associated with implementation of such requirements, and site-specific characteristics, including but not limited to the climate, geology, hydrology and soil chemistry at the site, so long as such modified requirements assure protection of human health and the environment.".

Post, p. 3243.

Subtitle B—Amendments Primarily to Section 3005

AUTHORITY FOR PERMIT TO CONSTRUCT HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES

42 USC 6925.

SEC. 211. Section 3005(a) of the Solid Waste Disposal Act is amended by—

(1) striking "a" immediately after "owning or operating" in the first sentence and inserting in lieu thereof "an existing facility or planning to construct a new";

(2) inserting in the second sentence "and the construction of any new facility for the treatment, storage, or disposal of any such hazardous waste" immediately after "any such hazardous waste"; and

(3) adding the following at the end thereof: "No permit shall be required under this section in order to construct a facility if such facility is constructed pursuant to an approval issued by the Administrator under section 6(e) of the Toxic Substances Control Act for the incineration of polycholorinated biphenyls and any person owning or operating such a facility may, at any time after operation or construction of such facility has begun, file an application for a permit pursuant to this section authorizing such facility to incinerate hazardous waste identified or listed under this subtitle.".

15 USC 2605.

PERMIT LIFE

SEC. 212. Section 3005(c) of the Solid Waste Disposal Act is amended by adding the following new paragraph after paragraph (2):

Post, p. 3242.

"(3) Any permit under this section shall be for a fixed term, not to exceed 10 years in the case of any land disposal facility, storage facility, or incinerator or other treatment facility. Each permit for a land disposal facility shall be reviewed five years after date of issuance or reissuance and shall be modified as necessary to assure that the facility continues to comply with the currently applicable requirements of this section and section 3004. Nothing in this subsection shall preclude the Administrator from reviewing and modifying a permit at any time during its term. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations. Each permit issued under this section shall contain such terms and conditions as the Administrator (or the State) determines necessary to protect human health and the environment.".

42 USC 6924.

INTERIM STATUS

SEC. 213. (a) Section 3005(e) of the Solid Waste Disposal Act is amended by—

42 USC 6925.

(1) inserting "(1)" after "Interim Status.—",

(2) redesignating existing paragraphs (1) through (3) as subparagraphs (A) through (C),

(3) adding the following at the end thereof:

"This paragraph shall not apply to any facility which has been previously denied a permit under this section or if authority to operate the facility under this section has been previously terminated.

"(2) In the case of each land disposal facility which has been granted interim status under this subsection before the date of enactment of the Hazardous and Solid Waste Amendments of 1984, interim status shall terminate on the date twelve months after the date of the enactment of such Amendments unless the owner or operator of such facility—

"(A) applies for a final determination regarding the issuance of a permit under subsection (c) for such facility before the date twelve months after the date of the enactment of such Amendments; and

"(B) certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

"(3) In the case of each land disposal facility which is in existence on the effective date of statutory or regulatory changes under this Act that render the facility subject to the requirement to have a permit under this section and which is granted interim status under this subsection, interim status shall terminate on the date twelve months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility—

"(A) applies for a final determination regarding the issuance of a permit under subsection (c) for such facility before the date

twelve months after the date on which the facility first becomes subject to such permit requirement; and

"(B) certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements."; and

(4) amending subparagraph (A) (as redesignated by paragraph (1) of this subsection) to read as follows:

"(A) owns or operates a facility required to have a permit under this section which facility—

"(i) was in existence on November 19, 1980, or

"(ii) is in existence on the effective date of statutory or regulatory changes under this Act that render the facility subject to the requirement to have a permit under this section,".

42 USC 6929.

(b) Section 3009 of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "Nothing in this title (or in any regulation adopted under this title) shall be construed to prohibit any State from requiring that the State be provided with a copy of each manifest used in connection with hazardous waste which is generated within that State or transported to a treatment, storage, or disposal facility within that State."

42 USC 6925.

(c) Section 3005(c) of the Solid Waste Disposal Act is amended by inserting "(1)" after "PERMIT ISSUANCE.—" and by adding the following new paragraph at the end thereof:

"(2)(A)(i) Not later than the date four years after the enactment of the Hazardous and Solid Waste Amendments of 1984, in the case of each application under this subsection for a permit for a land disposal facility which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

"(ii) Not later than the date five years after the enactment of the Hazardous and Solid Waste Amendments of 1984, in the case of each application for a permit under this subsection for an incinerator facility which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

"(B) Not later than the date eight years after the enactment of the Hazardous and Solid Waste Amendments of 1984, in the case of each application for a permit under this subsection for any facility (other than a facility referred to in subparagraph (A)) which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

"(C) The time periods specified in this paragraph shall also apply in the case of any State which is administering an authorized hazardous waste program under section 3006. Interim status under subsection (e) shall terminate for each facility referred to in subparagraph (A)(ii) or (B) on the expiration of the five- or eight-year period referred to in subparagraph (A) or (B), whichever is applicable, unless the owner or operator of the facility applies for a final determination regarding the issuance of a permit under this subsection within—

42 USC 6927.

"(i) two years after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984 (in the case of a facility referred to in subparagraph (A)(ii)), or

"(ii) four years after such date of enactment (in the case of a facility referred to in subparagraph (B)).".

NEW AND INNOVATIVE TREATMENT TECHNOLOGIES

SEC. 214. (a) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (f): 42 USC 6925.

"(g) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PERMITS.—(1) The Administrator may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under this subtitle. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits—

"(A) shall provide for the construction of such facilities, as necessary, and for operation of the facility for not longer than one year (unless renewed as provided in paragraph (4)), and

"(B) shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the Administrator deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and

"(C) shall include such requirements as the Administrator deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, insurance or bonding, financial reponsibility, closure, and remedial action), and such requirements as the Administrator deems necessary regarding testing and providing of information to the Administrator with respect to the operation of the facility.

The Administrator may apply the criteria set forth in this paragraph in establishing the conditions of each permit without separate establishment of regulations implementing such criteria.

"(2) For the purpose of expediting review and issuance of permits under this subsection, the Administrator may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements established in the Administrator's general permit regulations except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures established under section 7004(b)(2) regarding public participation. 42 USC 6974.

"(3) The Administrator may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

"(4) Any permit issued under this subsection may be renewed not more than three times. Each such renewal shall be for a period of not more than 1 year.".

EXISTING SURFACE IMPOUNDMENTS

SEC. 215. Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (i): *Post*, p. 3261.

"(j) INTERIM STATUS SURFACE IMPOUNDMENTS.—(1) Except as provided in paragraph (2), (3), or (4), each surface impoundment in existence on the date of enactment of the Hazardous and Solid Waste Amendments of 1984 and qualifying for the authorization to operate under subsection (e) of this section shall not receive, store,

or treat hazardous waste after the date four years after such date of enactment unless such surface impoundment is in compliance with the requirements of section 3004(o)(1)(A) which would apply to such impoundment if it were new.

Ante, p. 3233.

"(2) Paragraph (1) of this subsection shall not apply to any surface impoundment which (A) has at least one liner, for which there is no evidence that such liner is leaking; (B) is located more than one-quarter mile from an underground source of drinking water; and (C) is in compliance with generally applicable ground water monitoring requirements for facilities with permits under subsection (c) of this section.

"(3) Paragraph (1) of this subsection shall not apply to any surface impoundment which (A) contains treated waste water during the secondary or subsequent phases of an aggressive biological treatment facility subject to a permit issued under section 402 of the Clean Water Act (or which holds such treated waste water after treatment and prior to discharge); (B) is in compliance with generally applicable ground water monitoring requirements for facilities with permits under subsection (c) of this section; and (C)(i) is part of a facility in compliance with section 301(b)(2) of the Clean Water Act, or (ii) in the case of a facility for which no effluent guidelines required under section 304(b)(2) of the Clean Water Act are in effect and no permit under section 402(a)(1) of such Act implementing section 301(b)(2) of such Act has been issued, is part of a facility in compliance with a permit under section 402 of such Act, which is achieving significant degradation of toxic pollutants and hazardous constituents contained in the untreated waste stream and which has identified those toxic pollutants and hazardous constituents in the untreated waste stream to the appropriate permitting authority.

33 USC 1342.

33 USC 1311.

33 USC 1314.

"(4) The Administrator (or the State, in the case of a State with an authorized program), after notice and opportunity for comment, may modify the requirements of paragraph (1) for any surface impoundment if the owner or operator demonstrates that such surface impoundment is located, designed and operated so as to assure that there will be no migration of any hazardous constitutent into ground water or surface water at any future time. The Administrator or the State shall take into account locational criteria established under section 3004(o)(7).

Ante, p. 3233.

"(5) The owner or operator of any surface impoundment potentially subject to paragraph (1) who has reason to believe that on the basis of paragraph (2), (3), or (4) such surface impoundment is not required to comply with the requirements of paragraph (1), shall apply to the Administrator (or the State, in the case of a State with an authorized program) not later than twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 for a determination of the applicability of paragraph (1) (in the case of paragraph (2) or (3)) or for a modification of the requirements of paragraph (1) (in the case of paragraph (4)), with respect to such surface impoundment. Such owner or operator shall provide, with such application, evidence pertinent to such decision, including:

"(A) an application for a final determination regarding the issuance of a permit under subsection (c) of this section for such facility, if not previously submitted;

"(B) evidence as to compliance with all applicable ground water monitoring requirements and the information and analysis from such monitoring;

"(C) all reasonably ascertainable evidence as to whether such surface impoundment is leaking; and

"(D) in the case of applications under paragraph (2) or (3), a certification by a registered professional engineer with academic training and experience in ground water hydrology that—

"(i) under paragraph (2), the liner of such surface impoundment is designed, constructed, and operated in accordance with applicable requirements, such surface impoundment is more than one-quarter mile from an underground source of drinking water and there is no evidence such liner is leaking; or

"(ii) under paragraph (3), based on analysis of those toxic pollutants and hazardous constituents that are likely to be present in the untreated waste stream, such impoundment satisfies the conditions of paragraph (3).

In the case of any surface impoundment for which the owner or operator fails to apply under this paragraph within the time provided by this paragraph or paragraph (6), such surface impoundment shall comply with paragraph (1) notwithstanding paragraph (2), (3), or (4). Within twelve months after receipt of such application and evidence and not later than thirty-six months after such date of enactment, and after notice and opportunity to comment, the Administrator (or, if appropriate, the State) shall advise such owner or operator on the applicability of paragraph (1) to such surface impoundment or as to whether and how the requirements of paragraph (1) shall be modified and applied to such surface impoundment.

"(6)(A) In any case in which a surface impoundment becomes subject to paragraph (1) after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 due to the promulgation of additional listings or characteristics for the identification of hazardous waste under section 3001, the period for compliance in paragraph (1) shall be four years after the date of such promulgation, the period for demonstrations under paragraph (4) and for submission of evidence under paragraph (5) shall be not later than twenty-four months after the date of such promulgation, and the period for the Administrator (or if appropriate, the State) to advise such owners or operators under paragraph (5) shall be not later than thirty-six months after the date of promulgation. 42 USC 6921.

"(B) In any case in which a surface impoundment is initially determined to be excluded from the requirements of paragraph (1) but due to a change in condition (including the existence of a leak) no longer satisfies the provisions of paragraph (2), (3), or (4) and therefore becomes subject to paragraph (1), the period for compliance in paragraph (1) shall be two years after the date of discovery of such change of condition, or in the case of a surface impoundment excluded under paragraph (3) three years after such date of discovery.

"(7)(A) The Administrator shall study and report to the Congress on the number, range of size, construction, likelihood of hazardous constituents migrating into ground water, and potential threat to human health and the environment of existing surface impoundments excluded by paragraph (3) from the requirements of para- Study. Report.

graph (1). Such report shall address the need, feasibility, and estimated costs of subjecting such existing surface impoundments to the requirements of paragraph (1).

"(B) In the case of any existing surface impoundment or class of surface impoundments from which the Administrator (or the State, in the case of a State with an authorized program) determines hazardous constituents are likely to migrate into ground water, the Administrator (or if appropriate, the State) is authorized to impose such requirements as may be necessary to protect human health and the environment, including the requirements of section 3004(o) which would apply to such impoundments if they were new.

Ante, p. 3233.

"(C) In the case of any surface impoundment excluded by paragraph (3) from the requirements of paragraph (1) which is subsequently determined to be leaking, the Administrator (or, if appropriate, the State) shall require compliance with paragraph (1), unless the Administrator (or, if appropriate, the State) determines that such compliance is not necessary to protect human health and the environment.

"(8) In the case of any surface impoundment in which the liners and leak detection system have been installed pursuant to the requirements of paragraph (1) and in good faith compliance with section 3004(o) and the Administrator's regulations and guidance documents governing liners and leak detection systems, no liner or leak detection system which is different from that which was so installed pursuant to paragraph (1) shall be required for such unit by the Administrator when issuing the first permit under this section to such facility. Nothing in this paragraph shall preclude the Administrator from requiring installation of a new liner when the Administrator has reason to believe that any liner installed pursuant to the requirements of this subsection is leaking.

"(9) In the case of any surface impoundment which has been excluded by paragraph (2) on the basis of a liner meeting the definition under paragraph (12)(A)(ii), at the closure of such impoundment the Administrator shall require the owner or operator of such impoundment to remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment shall be required to comply with appropriate post-closure requirements, including but not limited to ground water monitoring and corrective action.

"(10) Any incremental cost attributable to the requirements of this subsection or section 3004(o) shall not be considered by the Administrator (or the State, in the case of a State with an authorized program under section 402 of the Clean Water Act)—

33 USC 1342.

"(A) in establishing effluent limitations and standards under section 301, 304, 306, 307, or 402 of the Clean Water Act based on effluent limitations guidelines and standards promulgated any time before twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984; or

33 USC 1311, 1314, 1316, 1317.

"(B) in establishing any other effluent limitations to carry out the provisions of section 301, 307, or 402 of the Clean Water Act on or before October 1, 1986.

"(11)(A) If the Administrator allows a hazardous waste which is prohibited from one or more methods of land disposal under subsection (d), (e), or (g) of section 3004 (or under regulations promulgated by the Administrator under such subsections) to be placed in a surface impoundment (which is operating pursuant to interim

Ante, p. 3226.

status) for storage or treatment, such impoundment shall meet the requirements that are applicable to new surface impoundments under section 3004(o)(1), unless such impoundment meets the requirements of paragraph (2) or (4).

Ante, p. 3233.

"(B) In the case of any hazardous waste which is prohibited from one or more methods of land disposal under subsection (d), (e), or (g) of section 3004 (or under regulations promulgated by the Administrator under such subsection) the placement or maintenance of such hazardous waste in a surface impoundment for treatment is prohibited as of the effective date of such prohibition unless the treatment residues which are hazardous are, at a minimum, removed for subsequent management within one year of the entry of the waste into the surface impoundment.

Ante, p. 3226.

"(12)(A) For the purposes of paragraph (2)(A) of this subsection, the term 'liner' means—

"(i) a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility; or

"(ii) a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility.

"(B) For the purposes of this subsection, the term 'aggressive biological treatment facility' means a system of surface impoundments in which the initial impoundment of the secondary treatment segment of the facility utilizes intense mechanical aeration to enhance biological activity to degrade waste water pollutants and

"(i) the hydraulic retention time in such initial impoundment is no longer than 5 days under normal operating conditions, on an annual average basis;

"(ii) the hydraulic retention time in such initial impoundment is no longer than thirty days under normal operating conditions, on an annual average basis: *Provided*, That the sludge in such impoundment does not constitute a hazardous waste as identified by the extraction procedure toxicity characteristic in effect on the date of enactment of the Hazardous and Solid Waste Amendments of 1984; or

"(iii) such system utilizes activated sludge treatment in the first portion of secondary treatment.

"(C) For the purposes of this subsection, the term 'underground source or drinking water' has the same meaning as provided in regulations under the Safe Drinking Water Act (title XIV of the Public Health Service Act).

42 USC 201 note.
42 USC 300f.

"(13) The Administrator may modify the requirements of paragraph (1) in the case of a surface impoundment for which the owner or operator, prior to October 1, 1984, has entered into, and is in compliance with, a consent order, decree, or agreement with the Administrator or a State with an authorized program mandating corrective action with respect to such surface impoundment that provides a degree of protection of human health and the environment which is at a minimum equivalent to that provided by paragraph (1).".

Subtitle C—Amendments Primarily to Other Sections in Subtitle C

SMALL QUANTITY GENERATOR WASTE

42 USC 6921.

SEC. 221. (a) Section 3001 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (c):

"(d) SMALL QUANTITY GENERATOR WASTE.—(1) By March 31, 1986, the Administrator shall promulgate standards under sections 3002, 3003, and 3004 for hazardous waste generated by a generator in a total quantity of hazardous waste greater than one hundred kilograms but less than one thousand kilograms during a calendar month.

42 USC 6922-6924.

"(2) The standards referred to in paragraph (1), including standards applicable to the legitimate use, reuse, recycling, and reclamation of such wastes, may vary from the standards applicable to hazardous waste generated by larger quantity generators, but such standards shall be sufficient to protect human health and the environment.

"(3) Not later than two hundred and seventy days after the enactment of the Hazardous and Solid Waste Amendments of 1984 any hazardous waste which is part of a total quantity generated by a generator generating greater than one hundred kilograms but less than one thousand kilograms during one calendar month and which is shipped off the premises on which such waste is generated shall be accompanied by a copy of the Environmental Protection Agency Uniform Hazardous Waste Manifest form signed by the generator. This form shall contain the following information:

"(A) the name and address of the generator of the waste;

"(B) the United States Department of Transportation description of the waste, including the proper shipping name, hazard class, and identification number (UN/NA), if applicable;

"(C) the number and type of containers;

"(D) the quantity of waste being transported; and

"(E) the name and address of the facility designated to receive the waste.

If subparagraph (B) is not applicable, in lieu of the description referred to in such subparagraph (B), the form shall contain the Environmental Protection Agency identification number, or a generic description of the waste, or a description of the waste by hazardous waste characteristic. Additional requirements related to the manifest form shall apply only if determined necessary by the Administrator to protect human health and the environment.

"(4) The Administrator's responsibility under this subtitle to protect human health and the environment may require the promulgation of standards under this subtitle for hazardous wastes which are generated by any generator who does not generate more than one hundred kilograms of hazardous waste in a calendar month.

"(5) Until the effective date of standards required to be promulgated under paragraph (1), any hazardous waste identified or listed under section 3001 generated by any generator during any calendar month in a total quantity greater than one hundred kilograms but less than one thousand kilograms, which is not treated, stored, or disposed of at a hazardous waste treatment, storage, or disposal facility with a permit under section 3005, shall be disposed of only in a facility which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

42 USC 6925.

"(6) Standards promulgated as provided in paragraph (1) shall, at a minimum, require that all treatment, storage, or disposal of hazardous wastes generated by generators referred to in paragraph (1) shall occur at a facility with interim status or a permit under this subtitle, except that onsite storage of hazardous waste generated by a generator generating a total quantity of hazardous waste greater than one hundred kilograms, but less than one thousand kilograms during a calendar month, may occur without the requirement of a permit for up to one hundred and eighty days. Such onsite storage may occur without the requirement of a permit for not more than six thousand kilograms for up to two hundred and seventy days if such generator must ship or haul such waste over two hundred miles.

"(7)(A) Nothing in this subsection shall be construed to affect or impair the validity of regulations promulgated by the Secretary of Transportation pursuant to the Hazardous Materials Transportation Act.

"(B) Nothing in this subsection shall be construed to affect, modify, or render invalid any requirements in regulations promulgated prior to January 1, 1983 applicable to any acutely hazardous waste identified or listed under section 3001 which is generated by any generator during any calendar month in a total quantity less than one thousand kilograms. 42 USC 6921.

"(8) Effective March 31, 1986, unless the Administrator promulgates standards as provided in paragraph (1) of this subsection prior to such date, hazardous waste generated by any generator in a total quantity greater than one hundred kilograms but less than one thousand kilograms during a calendar month shall be subject to the following requirements until the standards referred to in paragraph (1) of this subsection have become effective:

"(A) the notice requirements of paragraph (3) of this subsection shall apply and in addition, the information provided in the form shall include the name of the waste transporters and the name and address of the facility designated to receive the waste;

"(B) except in the case of the onsite storage referred to in paragraph (6) of this subsection, the treatment, storage, or disposal of such waste shall occur at a facility with interim status or a permit under this subtitle;

"(C) generators of such waste shall file manifest exception reports as required of generators producing greater amounts of hazardous waste per month except that such reports shall be filed by January 31, for any waste shipment occurring in the last half of the preceding calendar year, and by July 31, for any waste shipment occurring in the first half of the calendar year; and Reports.

"(D) generators of such waste shall retain for three years a copy of the manifest signed by the designated facility that has received the waste.

Nothing in this paragraph shall be construed as a determination of the standards appropriate under paragraph (1).

"(9) The last sentence of section 3010(b) shall not apply to regulations promulgated under this subsection.". *Post*, p. 3258.

(b) The Administrator of the Environmental Protection Agency shall undertake activities to inform and educate the waste generators of their responsibilities under the amendments made by this section during the period within thirty months after the enactment 42 USC 6921 note.

of the Hazardous and Solid Waste Amendments of 1984 to help assure compliance.

Study.

(c) The Administrator of the Environmental Protection Agency in cooperation with the States shall conduct a study of hazardous waste identified or listed under section 3001 of the Solid Waste Disposal Act which is generated by individual generators in total quantities for each generator during any calendar month of less than one thousand kilograms. The Administrator may require from such generators information as may be necessary to conduct the study. Such study shall include a characterization of the number and type of such generators, the quantity and characteristics of hazardous waste generated by such generators, State requirements applicable to such generators, the individual and industry waste management practices of such generators, the potential costs of modifying those practices and the impact of such modifications on national treatment and disposal facility capacity, and the threat to human health and the environment and the employees of transporters or others involved in solid waste management posed by such hazardous wastes or such management practices. Such study shall be submitted to the Congress not later than April 1, 1985.

42 USC 6921.

Study.
42 USC 6921 note.

(d) The Administrator of the Environmental Protection Agency shall cause to be studied the existing manifest system for hazardous wastes as it applies to small quantity generators and recommend whether the current system shall be retained or whether a new system should be introduced. The study shall include an analysis of the cost versus the benefits of the system studied as well as an analysis of the ease of retrieving and collating information and identifying a given substance. Finally, any new proposal shall include a list of those standards that are necessary to protect human health and the environment. Such study shall be submitted to the Congress not later than April 1, 1987.

Report.
42 USC 6921 note.

(e) The Administrator of the Environmental Protection Agency, in conjunction with the Secretary of Transportation, shall prepare and submit to the Congress a report on the feasibility of easing the administrative burden on small quantity generators, increasing compliance with statutory and regulatory requirements, and simplifying enforcement efforts through a program of licensing hazardous waste transporters to assume the responsibilities of small quantity generators relating to the preparation of manifests and associated recordkeeping and reporting requirements. The report shall examine the appropriate licensing requirements under such a program including the need for financial assurances by licensed transporters and shall make recommendations on provisions and requirements for such a program including the appropriate division of responsibilities between the Department of Transportation and the Environmental Protection Administration. Such report shall be submitted to the Congress not later than April 1, 1987.

Study.
42 USC 6921 note.

(f)(1) The Administrator of the Environmental Protection Agency shall, in consultation with the Secretary of Education, the States, and appropriate educational associations, conduct a comprehensive study of problems associated with the accumulation, storage and disposal of hazardous wastes from educational institutions. The study shall include an investigation of the feasibility and availability of environmentally sound methods for the treatment, storage or disposal of hazardous waste from such institutions, taking into account the types and quantities of such waste which are generated by these institutions, and the nonprofit nature of these institutions.

(2) The Administrator shall submit a report to the Congress containing the findings of the study carried out under paragraph (1) not later than April 1, 1987. Report.

(3) For purposes of this subsection—

(A) the term "hazardous waste" means hazardous waste which is listed or identified under Section 3001 of the Solid Waste Disposal Act; 42 USC 6921.

(B) the term "educational institution" includes, but shall not be limited to,

(i) secondary schools as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and 20 USC 2854.

(ii) institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965. 20 USC 1141.

LISTING AND DELISTING OF HAZARDOUS WASTE

SEC. 222. (a) Section 3001 of the Solid Waste Disposal Act is amended by inserting the following new subsections at the end thereof: *Ante*, p. 3248.

"(e) SPECIFIED WASTES.—(1) Not later than 6 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall, where appropriate, list under subsection (b)(1), additional wastes containing chlorinated dioxins or chlorinated-dibenzofurans. Not later than one year after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall, where appropriate, list under subsection (b)(1) wastes containing remaining halogenated dioxins and halogenated-dibenzofurans.

"(2) Not later than fifteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall make a determination of whether or not to list under subsection (b)(1) the following wastes: Chlorinated Aliphatics, Dioxin, Dimethyl Hydrazine, TDI (toluene diisocyanate), Carbamates, Bromacil, Linuron, Organo-bromines, solvents, refining wastes, chlorinated aromatics, dyes and pigments, inorganic chemical industry wastes, lithium batteries, coke byproducts, paint production wastes, and coal slurry pipeline effluent.

"(f) DELISTING PROCEDURES.—(1) When evaluating a petition to exclude a waste generated at a particular facility from listing under this section, the Administrator shall consider factors (including additional constituents) other than those for which the waste was listed if the Administrator has a reasonable basis to believe that such additional factors could cause the waste to be a hazardous waste. The Administrator shall provide notice and opportunity for comment on these additional factors before granting or denying such petition. Public information.

"(2)(A) To the maximum extent practicable the Administrator shall publish in the Federal Register a proposal to grant or deny a petition referred to in paragraph (1) within twelve months after receiving a complete application to exclude a waste generated at a particular facility from being regulated as a hazardous waste and shall grant or deny such a petition within twenty-four months after receiving a complete application. Federal Register, publication.

"(B) The temporary granting of such a petition prior to the enactment of the Hazardous and Solid Waste Amendments of 1984 without the opportunity for public comment and the full consideration of such comments shall not continue for more than twenty-

four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984. If a final decision to grant or deny such a petition has not been promulgated after notice and opportunity for public comment within the time limit prescribed by the preceding sentence, any such temporary granting of such petition shall cease to be in effect.

"(g) EP TOXICITY.—Not later than twenty-eight months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 the Administrator shall examine the deficiencies of the extraction procedure toxicity characteristic as a predictor of the leaching potential of wastes and make changes in the extraction procedure toxicity characteristic, including changes in the leaching media, as are necessary to insure that it accurately predicts the leaching potential of wastes which pose a threat to human health and the environment when mismanaged.

Regulations.

"(h) ADDITIONAL CHARACTERISTICS.—Not later than two years after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate regulations under this section identifying additional characteristics of hazardous waste, including measures or indicators of toxicity.".

42 USC 6921.

(b) Section 3001(b)(1) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "The Administrator, in cooperation with the Agency for Toxic Substances and Disease Registry and the National Toxicology Program, shall also identify or list those hazardous wastes which shall be subject to the provisions of this subtitle solely because of the presence in such wastes of certain constituents (such as identified carcinogens, mutagens, or teratagens) at levels in excess of levels which endanger human health.".

CLARIFICATION OF HOUSEHOLD WASTE EXCLUSION

Supra.
42 USC 6921.

SEC. 223. (a) Section 3001 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(i) CLARIFICATION OF HOUSEHOLD WASTE EXCLUSION.—A resource recovery facility recovering energy from the mass burning of municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if—

"(1) such facility—

"(A) receives and burns only—

"(i) household waste (from single and multiple dwellings, hotels, motels, and other residential sources), and

"(ii) solid waste from commercial or industrial sources that does not contain hazardous waste identified or listed under this section, and

"(B) does not accept hazardous wastes identified or listed under this section, and

"(2) the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.".

WASTE MINIMIZATION

42 USC 6922.

SEC. 224. (a) Section 3002 of the Solid Waste Disposal Act is amended by—

(1) inserting "(a) IN GENERAL.—" after "3002.";

(2) adding the following new subsection at the end thereof:

"(b) WASTE MINIMIZATION.—Effective September 1, 1985, the manifest required by subsection (a)(5) shall contain a certification by the generator that—

"(1) the generator of the hazardous waste has a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and

"(2) the proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment."; and

(2) amending subsection (a)(6) to read as follows:

"(6) submission of reports to the Administrator (or the State agency in any case in which such agency carries out a permit program pursuant to this subtitle) at least once every two years, setting out— Reports.

"(A) the quantities and nature of hazardous waste identified or listed under this subtitle that he has generated during the year;

"(B) the disposition of all hazardous waste reported under subparagraph (A);

"(C) the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

"(D) the changes in volume and toxicity of waste actually achieved during the year in question in comparison with previous years, to the extent such information is available for years prior to enactment of the Hazardous and Solid Waste Amendments of 1984.".

(b) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (g): *Ante*, p. 3243.

"(h) WASTE MINIMIZATION.—Effective September 1, 1985, it shall be a condition of any permit issued under this section for the treatment, storage, or disposal of hazardous waste on the premises where such waste was generated that the permittee certify, no less often than annually, that—

"(1) the generator of the hazardous waste has a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and

"(2) the proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment.".

(c) Section 8002 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (g): 42 USC 6982.

"(r) MINIMIZATION OF HAZARDOUS WASTE.—The Administrator shall compile, and not later than October 1, 1986, submit to the Congress, a report on the feasibility and desirability of establishing standards of performance or of taking other additional actions under this Act to require the generators of hazardous waste to reduce the volume or quantity and toxicity of the hazardous waste they generate, and of establishing with respect to hazardous wastes required management practices or other requirements to assure such wastes are managed in ways that minimize present and future risks to human health and the environment. Such report shall Report.

include any recommendations for legislative changes which the Administrator determines are feasible and desirable to implement the national policy established by section 1003.".

42 USC 6902.

BASIS OF AUTHORIZATION

42 USC 6926.

SEC. 225. Section 3006(b) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "In authorizing a State program, the Administrator may base his findings on the Federal program in effect one year prior to submission of a State's application or in effect on January 26, 1983, whichever is later.".

AVAILABILITY OF INFORMATION

42 USC 6926.

SEC. 226. (a) Section 3006 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (e) thereof:

"(f) AVAILABILITY OF INFORMATION.—No State program may be authorized by the Administrator under this section unless—

"(1) such program provides for the public availability of information obtained by the State regarding facilities and sites for the treatment, storage, and disposal of hazardous waste; and

"(2) such information is available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator was carrying out the provisions of this subtitle in such State.".

42 USC 6926 note.

(b) The amendment made by subsection (a) shall apply with respect to State programs authorized under section 3006 before, on, or after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

INTERIM AUTHORIZATION OF STATE PROGRAMS

42 USC 6926.

SEC. 227. Section 3006(c) of the Solid Waste Disposal Act is amended by—

(1) striking out "twenty-four month period beginning on the date six months after the date of promulgation of regulations under sections 3002 through 3005" and inserting in lieu thereof "period ending no later than January 31, 1986";

(2) inserting "(1)" after "Interim Authorization.—"; and

(3) by inserting the following at the end thereof:

Regulation.

"(2) The Administrator shall, by rule, establish a date for the expiration of interim authorization under this subsection.

"(3) Pending interim or final authorization of a State program for any State which reflects the amendments made by the Hazardous and Solid Waste Amendments of 1984, the State may enter into an agreement with the Administrator under which the State may assist in the administration of the requirements and prohibitions which take effect pursuant to such Amendments.

"(4) In the case of a State permit program for any State which is authorized under subsection (b) or under this subsection, until such program is amended to reflect the amendments made by the Hazardous and Solid Waste Amendments of 1984 and such program amendments receive interim or final authorization, the Administrator shall have the authority in such State to issue or deny permits or those portions of permits affected by the requirements and prohibitions established by the Hazardous and Solid Waste Amendments of

1984. The Administrator shall coordinate with States the procedures for issuing such permits.".

APPLICATION OF AMENDMENTS TO AUTHORIZED STATES

SEC. 228. Section 3006 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (f):

Ante, p. 3254.

"(g) AMENDMENTS MADE BY 1984 ACT.—(1) Any requirement or prohibition which is applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste and which is imposed under this subtitle pursuant to the amendments made by the Hazardous and Solid Waste Amendments of 1984 shall take effect in each State having an interim or finally authorized State program on the same date as such requirement takes effect in other States. The Administrator shall carry out such requirement directly in each such State unless the State program is finally authorized (or is granted interim authorization as provided in paragraph (2)) with respect to such requirement.

"(2) Any State which, before the date of the enactment of the Hazardous and Solid Waste Amendments of 1984 has an existing hazardous waste program which has been granted interim or final authorization under this section may submit to the Administrator evidence that such existing program contains (or has been amended to include) any requirement which is substantially equivalent to a requirement referred to in paragraph (1) and may request interim authorization to carry out that requirement under this subtitle. The Administrator shall, if the evidence submitted shows the State requirement to be substantially equivalent to the requirement referred to in paragraph (1), grant an interim authorization to the State to carry out such requirement in lieu of direct administration in the State by the Administrator of such requirement.".

FEDERAL FACILITIES

SEC. 229. Section 3007 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b) thereof:

Public availability. 42 USC 6927.

"(c) FEDERAL FACILITY INSPECTIONS.—Beginning twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall, or in the case of a State with an authorized hazardous waste program the State may, undertake on an annual basis a thorough inspection of each facility for the treatment, storage, or disposal of hazardous waste which is owned or operated by a Federal agency to enforce its compliance with this subtitle and the regulations promulgated thereunder. The records of such inspections shall be available to the public as provided in subsection (b).".

STATE-OPERATED FACILITIES

SEC. 230. Section 3007 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (c):

Supra. 42 USC 6927.

"(d) STATE-OPERATED FACILITIES.—The Administrator shall annually undertake a thorough inspection of every facility for the treatment, storage, or disposal of hazardous waste which is operated by a State or local government for which a permit is required under section 3005 of this title. The records of such inspection shall be available to the public as provided in subsection (b).".

Public availability. 42 USC 6925.

MANDATORY INSPECTIONS

Ante, p. 3255.

SEC. 231. Section 3007 of the Solid Waste Disposal Act is amended by inserting the following new subsection after subsection (d) thereof:

"(e) MANDATORY INSPECTIONS.—(1) The Administrator (or the State in the case of a State having an authorized hazardous waste program under this subtitle) shall commence a program to thoroughly inspect every facility for the treatment, storage, or disposal of hazardous waste for which a permit is required under section 3005 no less often than every two years as to its compliance with this subtitle (and the regulations promulgated under this subtitle). Such inspections shall commence not later than twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984. The Administrator shall, after notice and opportunity for public comment, promulgate regulations governing the minimum frequency and manner of such inspections, including the manner in which records of such inspections shall be maintained and the manner in which reports of such inspections shall be filed. The Administrator may distinguish between classes and categories of facilities commensurate with the risks posed by each class or category.

42 USC 6925.

Regulations.

"(2) Not later than six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit to the Congress a report on the potential for inspections of hazardous waste treatment, storage, or disposal facilities by nongovernmental inspectors as a supplement to inspections conducted by officers, employees, or representatives of the Environmental Protection Agency or States having authorized hazardous waste programs or operating under a cooperative agreement with the Administrator. Such report shall be prepared in cooperation with the States, insurance companies offering environmental impairment insurance, independent companies providing inspection services, and other such groups as appropriate. Such report shall contain recommendations on provisions and requirements for a program of private inspections to supplement governmental inspections.".

Report.

FEDERAL ENFORCEMENT

42 USC 6928.

SEC. 232. (a) Section 3008(d) of the Solid Waste Disposal Act is amended as follows:

(1) in paragraph (1)—

(A) insert after "knowingly transports" the following: "or causes to be transported", and

(B) strike out "section 3005 (or 3006 in case of a State program)" and substitute "this subtitle";

(2) in paragraph (2)—

(A) strike out "either";

(B) strike out "section 3005 (or 3006 in the case of a State program)" and substitute "this subtitle"; and

(C) strike out subparagraph (B) and substitute:

"(B) in knowing violation of any material condition or requirement of such permit; or

"(C) in knowing violation of any material condition or requirement of any applicable interim status regulations or standards;"; and

(3) strike out all after paragraph (2) and substitute:

"(3) knowingly omits material information or makes any false material statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) under this subtitle;

"(4) knowingly generates, stores, treats, transports, disposes of, exports, or otherwise handles any hazardous waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) under this subtitle;

"(5) knowingly transports without a manifest, or causes to be transported without a manifest, any hazardous waste required by regulations promulgated under this subtitle (or by a State in the case of a State program authorized under this subtitle) to be accompanied by a manifest;

shall, upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed two years (five years in the case of a violation of paragraph (1) or (2)), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.". Penalties.

(b) Section 3008(e) of the Solid Waste Disposal Act is amended to read as follows: 42 USC 6928.

"(e) KNOWING ENDANGERMENT.—Any person who knowingly transports, treats, stores, disposes of, or exports any hazardous waste identified or listed under this subtitle in violation of paragraph (1), (2), (3), (4), (5), or (6) of subsection (d) of this section who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment for not more than fifteen years, or both. A defendant that is an organization shall, upon conviction of violating this subsection, be subject to a fine of not more than $1,000,000.". Penalites.

(c) Section 3008(d)(2)(A) of the Solid Waste Disposal Act is amended by striking out "having obtained".

INTERIM STATUS CORRECTIVE ACTION ORDERS

SEC. 233. (a) Section 3008 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (g) thereof: 42 USC 6928.

"(h) INTERIM STATUS CORRECTIVE ACTION ORDERS.—(1) Whenever on the basis of any information the Administrator determines that there is or has been a release of hazardous waste into the environment from a facility authorized to operate under section 3005(e) of this subtitle, the Administrator may issue an order requiring corrective action or such other response measure as he deems necessary to protect human health or the environment or the Administrator may commence a civil action in the United States district court in the district in which the facility is located for appropriate relief, including a temporary or permanent injunction. *Ante*, p. 3241.

"(2) Any order issued under this subsection may include a suspension or revocation of authorization to operate under section 3005(e) of this subtitle, shall state with reasonable specificity the nature of the required corrective action or other response measure, and shall specify a time for compliance. If any person named in an order fails to comply with the order, the Administrator may assess, and such person shall be liable to the United States for, a civil penalty in an amount not to exceed $25,000 for each day of noncompliance with the order.".

42 USC 6928.

(b) Subsection (b) of section 3008 of the Solid Waste Disposal Act is amended by inserting "issued under this section" immediately after "Any order".

EFFECTIVE DATE OF REGULATIONS

42 USC 6930.

SEC. 234. Section 3010(b) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "At the time a regulation is promulgated, the Administrator may provide for a shorter period prior to the effective date, or an immediate effective date for:

"(1) a regulation with which the Administrator finds the regulated community does not need six months to come into compliance;

"(2) a regulation which responds to an emergency situation; or

"(3) other good cause found and published with the regulation.".

SUBTITLE D—NEW SECTIONS IN SUBTITLE C

MANAGEMENT OF USED OIL

Petroleum and petroleum products.
Post, pp. 3276.
42 USC 6935.

SEC. 241. (a) Section 3014 of the Solid Waste Disposal Act (relating to restrictions on recycled oil) as redesignated by section 502 of this Act (relating to technical and clerical amendments) is amended by inserting "(a) IN GENERAL.—" after "3014." and by adding the following at the end thereof:

"(b) IDENTIFICATION OR LISTING OF USED OIL AS HAZARDOUS WASTE.—Not later than twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 the Administrator shall propose whether to list or identify used automobile and truck crankcase oil as hazardous waste under section 3001. Not later than twenty-four months after such date of enactment, the Administrator shall make a final determination whether to list or identify used automobile and truck crankcase oil and other used oil as hazardous wastes under section 3001.

42 USC 6921.

"(c) USED OIL WHICH IS RECYCLED.—(1) With respect to generators and transporters of used oil identified or listed as a hazardous waste under section 3001, the standards promulgated under section 3001(d), 3002, and 3003 of this subtitle shall not apply to such used oil if such used oil is recycled.

Ante, p. 3248; 42 USC 6922, 6923.

"(2)(A) In the case of used oil which is exempt under paragraph (1), not later than twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate such standards under this subsection regarding the generation and transportation of used oil which is recycled as may be necessary to protect human health and the environment. In

promulgating such regulations with respect to generators, the Administrator shall take into account the effect of such regulations on environmentally acceptable types of used oil recycling and the effect of such regulations on small quantity generators and generators which are small businesses (as defined by the Administrator).

"(B) The regulations promulgated under this subsection shall provide that no generator of used oil which is exempt under paragraph (1) from the standards promulgated under section 3001(d), 3002, and 3003 shall be subject to any manifest requirement or any associated recordkeeping and reporting requirement with respect to such used oil if such generator— Regulations. *Ante*, p. 3248; 42 USC 6922, 6923.

"(i) either—

"(I) enters into an agreement or other arrangement (including an agreement or arrangement with an independent transporter or with an agent of the recycler) for delivery of such used oil to a recycling facility which has a permit under section 3005(c) (or for which a valid permit is deemed to be in effect under subsection (d)), or *Ante*, pp. 3241, 3242.

"(II) recycles such used oil at one or more facilities of the generator which has such a permit under section 3005 of this subtitle (or for which a valid permit is deemed to have been issued under subsection (d) of this section);

"(ii) such used oil is not mixed by the generator with other types of hazardous wastes; and

"(iii) the generator maintains such records relating to such used oil, including records of agreements or other arrangements for delivery of such used oil to any recycling facility referred to in clause (i)(I), as the Administrator deems necessary to protect human health and the environment.

"(3) The regulations under this subsection regarding the transportation of used oil which is exempt from the standards promulgated under section 3001(d), 3002, and 3003 under paragraph (1) shall require the transporters of such used oil to deliver such used oil to a facility which has a valid permit under section 3005 of this subtitle or which is deemed to have a valid permit under subsection (d) of this section. The Administrator shall also establish other standards for such transporters as may be necessary to protect human health and the environment. Regulations.

"(d) PERMITS.—(1) The owner or operator of a facility which recycles used oil which is exempt under subsection (c)(1), shall be deemed to have a permit under this subsection for all such treatment or recycling (and any associated tank or container storage) if such owner and operator comply with standards promulgated by the Administrator under section 3004; except that the Administrator may require such owners and operators to obtain an individual permit under section 3005(c) if he determines that an individual permit is necessary to protect human health and the environment. 42 USC 6924.

"(2) Notwithstanding any other provision of law, any generator who recycles used oil which is exempt under subsection (c)(1) shall not be required to obtain a permit under section 3005(c) with respect to such used oil until the Administrator has promulgated standards under section 3004 regarding the recycling of such used oil.".

(b)(1) Section 7006(b) is amended by inserting after "3005" the following "(or in modifying or revoking any permit which is deemed to have been issued under section 3012(d)(1))". 42 USC 6976.

42 USC 6926.

(2) The third sentence of section 3006(b) is amended by inserting after "hazardous waste" the following "(and to enforce permits deemed to have been issued under section 3012(d)(1))".

RECOVERY AND RECYCLING OF USED OIL

Ante, p. 3258.

SEC. 242. Section 3014(a) of the Solid Waste Disposal Act (entitled "Restrictions on Recycled Oil"), as redesignated by section 502 of this Act and amended by section 241 of this Act, is amended by striking out the period at the end thereof and substituting ", consistent with the protection of human health and the environment.".

EXPANSION DURING INTERIM STATUS

SEC. 243. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3014:

"EXPANSION DURING INTERIM STATUS

Ante, p. 3258.
42 USC 6936.
Ante, p. 3241.

"SEC. 3015. (a) WASTE PILES.—The owner or operator of a waste pile qualifying for the authorization to operate under section 3005(e) shall be subject to the same requirements for liners and leachate collection systems or equivalent protection provided in regulations promulgated by the Administrator under section 3004 before October 1, 1982, or revised under section 3004(o) (relating to minimum technological requirements), for new facilities receiving individual permits under subsection (c) of section 3005, with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the waste management area identified in the permit application submitted under section 3005, and with respect to waste received beginning six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

Ante, p. 3233.

Ante, pp. 3241, 3242.

"(b) LANDFILLS AND SURFACE IMPOUNDMENTS.—(1) The owner or operator of a landfill or surface impoundment qualifying for the authorization to operate under section 3005(e) shall be subject to the requirements of section 3004(o) (relating to minimum technological requirements), with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the waste management area identified in the permit application submitted under this section, and with respect to waste received beginning 6 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(2) The owner or operator of each unit referred to in paragraph (1) shall notify the Administrator (or the State, if appropriate) at least sixty days prior to receiving waste. The Administrator (or the State) shall require the filing, within six months of receipt of such notice, of an application for a final determination regarding the issuance of a permit for each facility submitting such notice.

"(3) In the case of any unit in which the liner and leachate collection system has been installed pursuant to the requirements of this section and in good faith compliance with the Administrator's regulations and guidance documents governing liners and leachate collection systems, no liner or leachate collection system which is different from that which was so installed pursuant to this section shall be required for such unit by the Administrator when issuing the first permit under section 3005 to such facility, except that the Administrator shall not be precluded from requiring installation of a new liner when the Administrator has reason to believe that any

liner installed pursuant to the requirements of this section is leaking. The Administrator may, under section 3004, amend the requirements for liners and leachate collection systems required under this section as may be necessary to provide additional protection for human health and the environment.". 42 USC 6924.

(b) The table of contents for such subtitle C is amended by adding the following new item after the item relating to section 3014:

"Sec. 3015. Expansion during interim status.".

(c) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (h): *Ante*, p. 3253. 42 USC 6925.

"(i) INTERIM STATUS FACILITIES RECEIVING WASTES AFTER JULY 26, 1982.—The standards concerning ground water monitoring, unsaturated zone monitoring, and corrective action, which are applicable under section 3004 to new landfills, surface impoundments, land treatment units, and waste-pile units required to be permitted under subsection (c) shall also apply to any landfill, surface impoundment, land treatment unit, or waste-pile unit qualifying for the authorization to operate under subsection (e) which receives hazardous waste after July 26, 1982.".

INVENTORY OF FEDERAL AGENCY HAZARDOUS WASTE FACILITIES

SEC. 244. Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3015:

"INVENTORY OF FEDERAL AGENCY HAZARDOUS WASTE FACILITIES

"SEC. 3016. (a) Each Federal agency shall undertake a continuing program to compile, publish, and submit to the Administrator (and to the State in the case of sites in States having an authorized hazardous waste program) an inventory of each site which the Federal agency owns or operates or has owned or operated at which hazardous waste is stored, treated, or disposed of or has been disposed of at any time. The inventory shall be submitted every two years beginning January 31, 1986. Such inventory shall be available to the public as provided in section 3007(b). Information previously submitted by a Federal agency under section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or under section 3005 or 3010 of this Act, or under this section need not be resubmitted except that the agency shall update any previous submission to reflect the latest available data and information. The inventory shall include each of the following: 42 USC 6937. 42 USC 9603. 42 USC 6925, 6930.

"(1) A description of the location of each site at which any such treatment, storage, or disposal has taken place before the date on which permits are required under section 3005 for such storage, treatment, or disposal, and where hazardous waste has been disposed, a description of hydrogeology of the site and the location of withdrawal wells and surface water within one mile of the site.

"(2) Such information relating to the amount, nature, and toxicity of the hazardous waste in each site as may be necessary to determine the extent of any health hazard which may be associated with any site.

"(3) Information on the known nature and extent of environmental contamination at each site, including a description of the monitoring data obtained.

"(4) Information concerning the current status of the site, including information respecting whether or not hazardous waste is currently being treated, stored, or disposed of at such site (and if not, the date on which such activity ceased) and information respecting the nature of any other activity currently carried out at such site.

"(5) A list of sites at which hazardous waste has been disposed and environmental monitoring data has not been obtained, and the reasons for the lack of monitoring data at each site.

"(6) A description of response actions undertaken or contemplated at contaminated sites.

"(7) An identification of the types of techniques of waste treatment, storage, or disposal which have been used at each site.

"(8) The name and address and responsible Federal agency for each site, determined as of the date of preparation of the inventory.

"(b) ENVIRONMENTAL PROTECTION AGENCY PROGRAM.—If the Administrator determines that any Federal agency under subsection (a) is not adequately providing information respecting the sites referred to in subsection (a), the Administrator shall notify the chief official of such agency. If within ninety days following such notification, the Federal agency has not undertaken a program to adequately provide such information, the Administrator shall carry out the inventory program for such agency.".

EXPORT OF HAZARDOUS WASTE

SEC. 245. (a) Subtitle C of the Solid Waste Disposal Act is amended by inserting the following new section after section 3016:

"EXPORT OF HAZARDOUS WASTE

42 USC 6938.

"SEC. 3017. (a) IN GENERAL.—Beginning twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, no person shall export any hazardous waste identified or listed under this subtitle unless

"(1)(A) such person has provided the notification required in subsection (c) of this section,

"(B) the government of the receiving country has consented to accept such hazardous waste,

"(C) a copy of the receiving country's written consent is attached to the manifest accompanying each waste shipment, and

"(D) the shipment conforms with the terms of the consent of the government of the receiving country required pursuant to subsection (e), or

"(2) the United States and the government of the receiving country have entered into an agreement as provided for in subsection (f) and the shipment conforms with the terms of such agreement.

"(b) REGULATIONS.—Not later than twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate the regulations necessary to implement this section. Such regulations shall become effective one hundred and eighty days after promulgation.

"(c) NOTIFICATION.—Any person who intends to export a hazardous waste identified or listed under this subtitle beginning twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, shall, before such hazardous waste is scheduled to leave the United States, provide notification to the Administrator. Such notification shall contain the following information:

"(1) the name and address of the exporter;

"(2) the types and estimated quantities of hazardous waste to be exported;

"(3) the estimated frequency or rate at which such waste is to be exported; and the period of time over which such waste is to be exported;

"(4) the ports of entry;

"(5) a description of the manner in which such hazardous waste will be transported to and treated, stored, or disposed in the receiving country; and

"(6) the name and address of the ultimate treatment, storage or disposal facility.

"(d) PROCEDURES FOR REQUESTING CONSENT OF THE RECEIVING COUNTRY.—Within thirty days of the Administrator's receipt of a complete notification under this section, the Secretary of State, acting on behalf of the Administrator, shall—

"(1) forward a copy of the notification to the government of the receiving country;

"(2) advise the government that United States law prohibits the export of hazardous waste unless the receiving country consents to accept the hazardous waste;

"(3) request the government to provide the Secretary with a written consent or objection to the terms of the notification; and

"(4) forward to the government of the receiving country a description of the Federal regulations which would apply to the treatment, storage, and disposal of the hazardous waste in the United States.

"(e) CONVEYANCE OF WRITTEN CONSENT TO EXPORTER.—Within thirty days of receipt by the Secretary of State of the receiving country's written consent or objection (or any subsequent communication withdrawing a prior consent or objection), the Administrator shall forward such a consent, objection, or other communication to the exporter.

"(f) INTERNATIONAL AGREEMENTS.—Where there exists an international agreement between the United States and the government of the receiving country establishing notice, export, and enforcement procedures for the transportation, treatment, storage, and disposal of hazardous wastes, only the requirements of subsections (a)(2) and (g) shall apply.

"(g) REPORTS.—After the date of enactment of the Hazardous and Solid Waste Amendments of 1984, any person who exports any hazardous waste identified or listed under section 3001 of this subtitle shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. 42 USC 6921.

"(h) OTHER STANDARDS.—Nothing in this section shall preclude the Administrator from establishing other standards for the export of hazardous wastes under section 3002 or section 3003 of this subtitle.". 42 USC 6922, 6923.

(b) The table of contents for such subtitle C is amended by adding the following new item after the item relating to section 3016:

"Sec. 3017. Export of hazardous waste.".

Ante, p. 3256.

(c) Section 3008(d) of the Solid Waste Disposal Act, as amended by section 232 of this Act, is amended by adding after paragraph (5) "; or" and the following new paragraph:

"(6) knowingly exports a hazardous waste identified or listed under this subtitle (A) without the consent of the receiving country or, (B) where there exists an international agreement between the United States and the government of the receiving country establishing notice, export, and enforcement procedures for the transportation, treatment, storage, and disposal of hazardous wastes, in a manner which is not in conformance with such agreement".

DOMESTIC SEWAGE

SEC. 246. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3017:

"DOMESTIC SEWAGE

42 USC 6939.

"SEC. 3018. (a) REPORT.—The Administrator shall, not later than 15 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, submit a report to the Congress concerning those substances identified or listed under section 3001 which are not regulated under this subtitle by reason of the exclusion for mixtures of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works. Such report shall include the types, size and number of generators which dispose of such substances in this manner, the types and quantities disposed of in this manner, and the identification of significant generators, wastes, and waste constituents not regulated under existing Federal law or regulated in a manner sufficient to protect human health and the environment.

42 USC 6921.

"(b) REVISIONS OF REGULATIONS.—Within eighteen months after submitting the report specified in subsection (a), the Administrator shall revise existing regulations and promulgate such additional regulations pursuant to this subtitle (or any other authority of the Administrator, including section 307 of the Federal Water Pollution Control Act) as are necessary to assure that substances identified or listed under section 3001 which pass through a sewer system to a publicly owned treatment works are adequately controlled to protect human health and the environment.

33 USC 1317.

"(c) REPORT ON WASTEWATER LAGOONS.—The Administrator shall, within thirty-six months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, submit a report to Congress concerning wastewater lagoons at publicly owned treatment works and their effect on groundwater quality. Such report shall include—

"(1) the number and size of such lagoons;

"(2) the types and quantities of waste contained in such lagoons;

"(3) the extent to which such waste has been or may be released from such lagoons and contaminate ground water; and

"(4) available alternatives for preventing or controlling such releases.

The Administrator may utilize the authority of sections 3007 and 3013 for the purpose of completing such report.

42 USC 6927, 6934.

"(d) APPLICATION OF SECTION 3010 AND SECTION 3007.—The provisions of sections 3007 and 3010 shall apply to solid or dissolved materials in domestic sewage to the same extent and in the same manner as such provisions apply to hazardous waste.".

42 USC 6930, 6927.

(c) The table of contents for such subtitle C is amended by adding the following new item at the end thereof:

"Sec. 3018. Domestic sewage.".

EXPOSURE INFORMATION AND HEALTH ASSESSMENTS

SEC. 247. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3018:

"EXPOSURE INFORMATION AND HEALTH ASSESSMENTS

"SEC. 3019. (a) EXPOSURE INFORMATION.—Beginning on the date nine months after the enactment of the Hazardous and Solid Waste Amendments of 1984, each application for a final determination regarding a permit under section 3005(c) for a landfill or surface impoundment shall be accompanied by information reasonably ascertainable by the owner or operator on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

42 USC 6939a.

Ante, pp. 3241, 3242.

"(1) reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

"(2) the potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under paragraph (1); and

"(3) the potential magnitude and nature of the human exposure resulting from such releases.

The owner or operator of a landfill or surface impoundment for which an application for such a final determination under section 3005(c) has been submitted prior to the date of enactment of the Hazardous and Solid Waste Amendments of 1984 shall submit the information required by this subsection to the Administrator (or the State, in the case of a State with an authorized program) no later than the date nine months after such date of enactment.

"(b) HEALTH ASSESSMENTS.—(1) The Administrator (or the State, in the case of a State with an authorized program) shall make the information required by subsection (a), together with other relevant information, available to the Agency for Toxic Substances and Disease Registry established by section 104(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

42 USC 9604.

"(2) Whenever in the judgment of the Administrator, or the State (in the case of a State with an authorized program), a landfill or a surface impoundment poses a substantial potential risk to human health, due to the existence of releases of hazardous constituents, the magnitude of contamination with hazardous constituents which may be the result of a release, or the magnitude of the population exposed to such release or contamination, the Administrator or the State (with the concurrence of the Administrator) may request the

Administrator of the Agency for Toxic Substances and Disease Registry to conduct a health assessment in connection with such facility and take other appropriate action with respect to such risks as authorized by section 104 (b) and (i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980. If funds are provided in connection with such request the Administrator of such Agency shall conduct such health assessment.

42 USC 9604.

"(c) MEMBERS OF THE PUBLIC.—Any member of the public may submit evidence of releases of or exposure to hazardous constituents from such a facility, or as to the risks or health effects associated with such releases or exposure, to the Administrator of the Agency for Toxic Substances and Disease Registry, the Administrator, or the State (in the case of a State with an authorized program).

"(d) PRIORITY.—In determining the order in which to conduct health assessments under this subsection, the Administrator of the Agency for Toxic Substances and Disease Registry shall give priority to those facilities or sites at which there is documented evidence of release of hazardous constituents, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of such Agency existing health assessment data is inadequate to assess the potential risk to human health as provided in subsection (f).

"(e) PERIODIC REPORTS.—The Administrator of such Agency shall issue periodic reports which include the results of all the assessments carried out under this section. Such assessments or other activities shall be reported after appropriate peer review.

"(f) DEFINITION.—For the purposes of this section, the term 'health assessments' shall include preliminary assessments of the potential risk to human health posed by individual sites and facilities subject to this section, based on such factors as the nature and extent of contamination, the existence of potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size and potential susceptibility of the community within the likely pathways of exposure, the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants, and the comparison of existing morbidity and mortality data on diseases that may be associated with the observed levels of exposure. The assessment shall include an evaluation of the risks to the potentially affected population from all sources of such contaminants, including known point or nonpoint sources other than the site or facility in question. A purpose of such preliminary assessments shall be to help determine whether full-scale health or epidemiological studies and medical evaluations of exposed populations shall be undertaken.

"(g) COST RECOVERY.—In any case in which a health assessment performed under this section discloses the exposure of a population to the release of a hazardous substance, the costs of such health assessment may be recovered as a cost of response under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 from persons causing or contributing to such release of such hazardous substance or, in the case of multiple releases contributing to such exposure, to all such release.".

42 USC 9607.

(b) The table of contents for such subtitle C is amended by inserting the following new item after the item relating to section 3018:

"Sec. 3019. Exposure information and health assessments.".

TITLE III—PROVISIONS RELATING TO SUBTITLE D OF THE SOLID WASTE DISPOSAL ACT

SIZE OF WASTE-TO-ENERGY FACILITIES

SEC. 301. (a) Section 4001 of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "In developing such comprehensive plans, it is the intention of this Act that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process.". *Post*, p. 3276.

(b) Section 4003 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof: *Post*, p. 3277.

"(d) SIZE OF WASTE-TO-ENERGY FACILITIES.—Notwithstanding any of the above requirements, it is the intention of this Act and the planning process developed pursuant to this Act that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process.".

SUBTITLE D IMPROVEMENTS

SEC. 302. (a)(1) Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section after section 4009:

"ADEQUACY OF CERTAIN GUIDELINES AND CRITERIA

"SEC. 4010. (a) STUDY.—The Administrator shall conduct a study of the extent to which the guidelines and criteria under this Act (other than guidelines and criteria for facilities to which subtitle C applies) which are applicable to solid waste management and disposal facilities, including, but not limited to landfills and surface impoundments, are adequate to protect human health and the environment from ground water contamination. Such study shall include a detailed assessment of the degree to which the criteria under section 1008(a) and the criteria under section 4004 regarding monitoring, prevention of contamination, and remedial action are adequate to protect ground water and shall also include recommendation with respect to any additional enforcement authorities which the Administrator, in consultation with the Attorney General, deems necessary for such purposes. 42 USC 6949a. 42 USC 6921. 42 USC 6907, 6944.

"(b) REPORT.—Not later than thirty-six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit a report to the Congress setting forth the results of the study required under this section, together with any recommendations made by the Administrator on the basis of such study.

"(c) REVISIONS OF GUIDELINES AND CRITERIA.—Not later than March 31, 1988, the Administrator shall promulgate revisions of the criteria promulgated under paragraph (1) of section 4004(a) and under section 1008(a)(3) for facilities that may receive hazardous household wastes or hazardous wastes from small quantity generators under section 3001(d). The criteria shall be those necessary to protect human health and the environment and may take into account the practicable capability of such facilities. At a minimum *Ante*, p. 3248.

such revisions for facilities potentially receiving such wastes should require ground water monitoring as necessary to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate.".

(2) The table of contents for such subtitle D is amended by adding the following new item after the item relating to 4009:

"Sec. 4010. Adequacy of certain guidelines and criteria.".

42 USC 6944. (b) Section 4004(c) of the Solid Waste Disposal Act is amended by striking all after "subsection (a)" through "later".

42 USC 6945. (c) Section 4005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b):

"(c) CONTROL OF HAZARDOUS DISPOSAL.—(1)(A) Not later than 36 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, each State shall adopt and implement a permit program or other system of prior approval and conditions to assure that each solid waste management facility within such State which may receive hazardous household waste or hazardous waste due to the provision of section 3001(d) for small quantity generators (otherwise not subject to the requirement for a permit under section 3005) will comply with the applicable criteria promulgated under section 4004(a) and section 1008(a)(3).

Ante, p. 3248.
42 USC 6925.
42 USC 6907.

"(B) Not later than eighteen months after the promulgation of revised criteria under subsection 4004(a) (as required by section 4010(c)), each State shall adopt and implement a permit program or other system or prior approval and conditions, to assure that each solid waste management facility within such State which may receive hazardous household waste or hazardous waste due to the provision of section 3001(d) for small quantity generators (otherwise not subject to the requirement for a permit under section 3005) will comply with the criteria revised under section 4004(a).

Ante, p. 3267.

"(C) The Administrator shall determine whether each State has developed an adequate program under this paragraph. The Administrator may make such a determination in conjunction with approval, disapproval or partial approval of a State plan under section 4007.

42 USC 6947.

"(2)(A) In any State that the Administrator determines has not adopted an adequate program for such facilities under paragraph (1)(B) by the date provided in such paragraph, the Administrator may use the authorities available under sections 3007 and 3008 of this title to enforce the prohibition contained in subsection (a) of this section with respect to such facilities.

42 USC 6927, 6928.

"(B) For purposes of this paragraph, the term 'requirement of this subtitle' in section 3008 shall be deemed to include criteria promulgated by the Administrator under sections 1008(a)(3) and 4004(a) of this title, and the term 'hazardous wastes' in section 3007 shall be deemed to include solid waste at facilities that may handle hazardous household wastes or hazardous wastes from small quantity generators.".

TITLE IV—PROVISIONS RELATING PRIMARILY TO SUBTITLE G OF THE SOLID WASTE DISPOSAL ACT

CITIZEN SUITS

42 USC 6972. SEC. 401. (a) Section 7002(a)(1) of the Solid Waste Disposal Act is amended by—

(1) inserting "prohibition," immediately after "requirement,";
(2) inserting "(A)" immediately after "(1)"; and
(3) inserting the following at the end thereof:

"(B) against any person, including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution, and including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment; or".

(b) Section 7002(a) of the Solid Waste Disposal Act is amended by— 42 USC 6972.

(1) inserting "or the alleged endangerment may occur" immediately after "the alleged violation occurred" in the first sentence following paragraph (2); and

(2) striking "to enforce such regulation or order, or to order the Administrator to perform such act or duty as the case may be" in the portion following paragraph (2) and inserting in lieu thereof the following: "to enforce the permit, standard, regulation, condition, requirement, prohibition, or order, referred to in paragraph (1)(A), to restrain any person who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in paragraph (1)(B), to order such person to take such other action as may be necessary, or both, or to order the Administrator to perform the act or duty referred to in paragraph (2), as the case may be, and to apply any appropriate civil penalties under section 3008 (a) and (g)". 42 USC 6928.

(c) Section 7002 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(g) TRANSPORTERS.—A transporter shall not be deemed to have contributed or to be contributing to the handling, storage, treatment, or disposal, referred to in subsection (a)(1)(B) taking place after such solid waste or hazardous waste has left the possession or control of such transporter, if the transportation of such waste was under a sole contractual arrangement arising from a published tariff and acceptance for carriage by common carrier by rail and such transporter has exercised due care in the past or present handling, storage, treatment, transportation and disposal of such waste.".

(d) Section 7002(b) of the Solid Waste Disposal Act is amended to read as follows:

"(b) ACTIONS PROHIBITED.—(1) No action may be commenced under subsection (a)(1)(A) of this section—

"(A) prior to 60 days after the plaintiff has given notice of the violation to—

"(i) the Administrator;

"(ii) the State in which the alleged violation occurs; and

"(iii) to any alleged violator of such permit, standard, regulation, condition, requirement, prohibition, or order,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of subtitle C of this Act; or 42 USC 6921.

"(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with such permit, standard, regulation, condition, requirement, prohibition, or order.

In any action under subsection (a)(1)(A) in a court of the United States, any person may intervene as a matter of right.

"(2)(A) No action may be commenced under subsection (a)(1)(B) of this section prior to ninety days after the plaintiff has given notice of the endangerment to—

"(i) the Administrator;

"(ii) the State in which the alleged endangerment may occur;

"(iii) any person alleged to have contributed or to be contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in subsection (a)(1)(B),

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of subtitle C of this Act.

"(B) No action may be commenced under subsection (a)(1)(B) of this section if the Administrator, in order to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment—

"(i) has commenced and is diligently prosecuting an action under section 7003 of this Act or under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980,

42 USC 6973.

42 USC 9606.

"(ii) is actually engaging in a removal action under section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980;

42 USC 9604.

"(iii) has incurred costs to initiate a Remedial Investigation and Feasibility Study under section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and is diligently proceeding with a remedial action under that Act; or

"(iv) has obtained a court order (including a consent decree) or issued an administrative order under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 980 or section 7003 of this Act pursuant to which a responsible party is diligently conducting a removal action, Remedial Investigation and Feasibility Study (RIFS), or proceeding with a remedial action.

In the case of an administrative order referred to in clause (iv), actions under subsection (a)(1)(B) are prohibited only as to the scope and duration of the administrative order referred to in clause (iv).

"(C) No action may be commenced under subsection (a)(1)(B) of this section if the State, in order to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment—

"(i) has commenced and is diligently prosecuting an action under subsection (a)(1)(B);

"(ii) is actually engaging in a removal action under section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980; or

"(iii) has incurred costs to initiate a Remedial Investigation and Feasibility Study under section 104 of the Comprehensive

Environmental Response, Compensation and Liability Act of 1980 and is diligently proceeding with a remedial action under that Act. 42 USC 9604.

"(D) No action may be commenced under subsection (a)(1)(B) by any person (other than a State or local government) with respect to the siting of a hazardous waste treatment, storage, or a disposal facility, nor to restrain or enjoin the issuance of a permit for such facility.

"(E) In any action under subsection (a)(1)(B) in a court of the United States, any person may intervene as a matter of right when the applicant claims an interest relating to the subject of the action and he is so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest, unless the Administrator or the State shows that the applicant's interest is adequately represented by existing parties.

"(F) Whenever any action is brought under subsection (a)(1)(B) in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and with the Administrator.".

(e) Section 7002(e) of the Solid Waste Disposal Act is amended by striking out "to any party" and substituting in lieu thereof "to the prevailing or substantially prevailing party" and inserting "or section 7006" after "this section". 42 USC 6972.

IMMINENT HAZARD

SEC. 402. Section 7003(a) of the Solid Waste Disposal Act is amended by— 42 USC 6973.

(1) inserting "past or present" after "evidence that the";

(2) striking "to immediately restrain any person" and inserting in lieu thereof "against any person (including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility) who has contributed or who is";

(3) striking "to stop" and inserting in lieu thereof "to restrain such person from";

(4) striking "or to take such other action as may be necessary" and substituting ", to order such person to take such other action as may be necessary, or both"; and

(5) inserting after the first sentence thereof the following: "A transporter shall not be deemed to have contributed or to be contributing to such handling, storage, treatment, or disposal taking place after such solid waste or hazardous waste has left the possession or control of such transporter if the transportation of such waste was under a sole contractural arrangement arising from a published tariff and acceptance for carriage by common carrier by rail and such transporter has exercised due care in the past or present handling, storage, treatment, transportation and disposal of such waste.".

ENFORCEMENT

SEC. 403. (a) Section 7003 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b) thereof: 42 USC 6973.

"(c) IMMEDIATE NOTICE.—Upon receipt of information that there is hazardous waste at any site which has presented an imminent and

substantial endangerment to human health or the environment, the Administrator shall provide immediate notice to the appropriate local government agencies. In addition, the Administrator shall require notice of such endangerment to be promptly posted at the site where the waste is located.".

(b)(1) Subtitle G of the Solid Waste Disposal Act is amended by adding the following new section after section 7011:

"LAW ENFORCEMENT AUTHORITY

Post, p. 3273.
42 USC 6979b.

"SEC. 7012. The Attorney General of the United States shall, at the request of the Administrator and on the basis of a showing of need, deputize qualified employees of the Environmental Protection Agency to serve as special deputy United States marshals in criminal investigations with respect to violations of the criminal provisions of this Act.".

(2) The table of contents for subtitle G of such Act is amended by inserting the following new item after the item relating to section 7011.

"Sec. 7012. Law enforcement authority.".

42 USC 6945.

(c) Section 4005 of the Solid Waste Disposal Act is amended by inserting after the first sentence in subsection (a) the following: "The prohibition contained in the preceding sentence shall be enforceable under section 7002 against persons engaged in the act of open dumping."

42 USC 6972.

42 USC 6928.

(d)(1) Section 3008(a)(1) of the Solid Waste Disposal Act is amended to read as follows: "(1) Except as provided in paragraph (2), whenever on the basis of any information the Administrator determines that any person has violated or is in violation of any requirement of this subtitle, the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.".

(2) Section 3008(a)(3) of such Act is amended to read as follows:

"(3) Any order issued pursuant to this subsection may include a suspension or revocation of any permit issued by the Administrator or a State under this subtitle and shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $25,000 per day of noncompliance for each violation of a requirement of this subtitle. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.".

(3) Section 3008(c) of such Act is amended to read as follows:

"(c) VIOLATION OF COMPLIANCE ORDERS.—If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator (whether issued by the Administrator or the State).".

42 USC 6912.

(4) Section 2002 of such Act is amended by inserting the following at the end thereof:

"(c) CRIMINAL INVESTIGATIONS.—In carrying out the provisions of this Act, the Administrator, and duly-designated agents and employees of the Environmental Protection Agency, are authorized to initiate and conduct investigations under the criminal provisions of

this Act, and to refer the results of these investigations to the Attorney General for prosecution in appropriate cases.".

(5) Section 7006(b) of such Act is amended by inserting the following before the last sentence thereof: "Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.". 42 USC 6976.

PUBLIC PARTICIPATION IN SETTLEMENTS

SEC. 404. Section 7003 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (c) thereof: *Ante*, p. 3271.

"(d) PUBLIC PARTICIPATION IN SETTLEMENTS.—Whenever the United States or the Administrator proposes to covenant not to sue or to forbear from suit or to settle any claim arising under this section, notice, and opportunity for a public meeting in the affected area, and a reasonable opportunity to comment on the proposed settlement prior to its final entry shall be afforded to the public. The decision of the United States or the Administrator to enter into or not to enter into such Consent Decree, covenant or agreement shall not constitute a final agency action subject to judicial review under this Act or the Administrative Procedure Act.". 5 USC note prec. 551.

INTERIM CONTROL OF HAZARDOUS WASTE INJECTION

SEC. 405. (a) Subtitle G of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"INTERIM CONTROL OF HAZARDOUS WASTE INJECTION

"SEC. 7010. (a) UNDERGROUND SOURCE OF DRINKING WATER.—No hazardous waste may be disposed of by underground injection— Prohibition. 42 USC 6979a.

"(1) into a formation which contains (within one-quarter mile of the well used for such underground injection) an underground source of drinking water; or

"(2) above such a formation.

The prohibitions established under this section shall take effect 6 months after the enactment of the Hazardous and Solid Waste Amendments of 1984 except in the case of any State in which identical or more stringent prohibitions are in effect before such date under the Safe Drinking Water Act. 42 USC 201 note.

"(b) ACTIONS UNDER CERCLA.—Subsection (a) shall not apply to the injection of contaminated ground water into the aquifer from which it was withdrawn, if—

"(1) such injection is—

"(A) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or 42 USC 9604, 9606.

"(B) part of corrective action required under this title intended to clean up such contamination;

"(2) such contaminated ground water is treated to substantially reduce hazardous constituents prior to such injection; and

"(3) such response action or corrective action will, upon completion, be sufficient to protect human health and the environment.

"(c) ENFORCEMENT.—In addition to enforcement under sections 7002 and 7003 of this Act, the prohibitions established under para- 42 USC 6972, 6973.

graphs (1) and (2) of subsection (a) shall be enforceable under the Safe Drinking Water Act in any State—

42 USC 201 note.

"(1) which has adopted identical or more stringent prohibitions under part C of the Safe Drinking Water Act and which has assumed primary enforcement responsibility under that Act for enforcement of such prohibitions; or

42 USC 300h.

"(2) in which the Administrator has adopted identical or more stringent prohibitions under the Safe Drinking Water Act and is exercising primary enforcement responsibility under that Act for enforcement of such prohibitions.

"(d) The terms 'primary enforcement responsibility', 'underground source of drinking water', 'formation' and 'well' have the same meanings as provided in regulations of the Administrator under the Safe Drinking Water Act. The term 'Safe Drinking Water Act' means title XIV of the Public Health Service Act.".

42 USC 300f.

(b) TABLE OF CONTENTS.—The table of contents for such subtitle G is amended by inserting the following new item at the end thereof:

"Sec. 7010. Interim control of hazardous waste injection.".

TITLE V—PROVISIONS RELATING TO SEVERAL SUBTITLES OF THE SOLID WASTE DISPOSAL ACT

USE OF RECOVERED MATERIALS BY FEDERAL AGENCIES

42 USC 6962.

SEC. 501. (a) Section 6002 of the Solid Waste Disposal Act is amended by adding the following new subsections after subsection (g) thereof—

"(h) DEFINITION.—As used in this section, in the case of paper products, the term 'recovered materials' includes—

"(1) postconsumer materials such as—

"(A) paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and

"(B) all paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and

"(2) manufacturing, forest residues, and other wastes such as—

"(A) dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

"(B) finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

"(C) fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;

"(D) wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and

"(E) fibers recovered from waste water which otherwise would enter the waste stream.

"(i) PROCUREMENT PROGRAM.—(1) Within one year after the date of publication of applicable guidelines under subsection (e), each procuring agency shall develop an affirmative procurement program which will assure that items composed of recovered materials will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement law.

"(2) Each affirmative procurement program required under this subsection shall, at a minimum, contain—

"(A) a recovered materials preference program;

"(B) an agency promotion program to promote the preference program adopted under subparagraph (A);

"(C) a program for requiring estimates of the total percentage of recovered material utilized in the performance of a contract; certification of minimum recovered material content actually utilized, where appropriate; and reasonable verification procedures for estimates and certifications; and

"(D) annual review and monitoring of the effectiveness of an agency's affirmative procurement program.

In the case of paper, the recovered materials preference program required under subparagraph (A) shall provide for the maximum use of the post consumer recovered materials referred to in subsection (h)(1).

"(3) In developing the preference program, the following options shall be considered for adoption:

"(A) Case-by-Case Policy Development: Subject to the limitations of subsection (c)(1) (A) through (C), a policy of awarding contracts to the vendor offering an item composed of the highest percentage of recovered materials practicable (and in the case of paper, the highest percentage of the post consumer recovered materials referred to in subsection (h)(1)). Subject to such limitations, agencies may make an award to a vendor offering items with less than the maximum recovered materials content.

"(B) Minimum Content Standards: Minimum recovered materials content specifications which are set in such a way as to assure that the recovered materials content (and in the case of paper, the content of post consumer materials referred to in subsection (h)(1)) required is the maximum available without jeopardizing the intended end use of the item, or violating the limitations of subsection (c)(1) (A) through (C).

Procuring agencies shall adopt one of the options set forth in subparagraphs (A) and (B) or a substantially equivalent alternative, for inclusion in the affirmative procurement program.".

(b) Section 6002(e) of the Solid Waste Disposal Act is amended by— 42 USC 6962.

(1) adding the following after "section" in paragraph (1): ", and in the case of paper, provide for maximizing the use of post consumer recovered materials referred to in subsection (h)(1)"; and

(2) striking out "for at least three product categories" and all that follows down through "1982" and substituting "for paper within one hundred and eighty days after the enactment of the Hazardous and Solid Waste Amendments of 1984, and for three

additional product categories (including tires) by October 1, 1985".

42 USC 6962. (c) Section 6002(c)(1) of the Solid Waste Disposal Act is amended by inserting after "highest percentage of recovered materials practicable" the following: "(and in the case of paper, the highest percentage of the postconsumer recovered materials referred to in subsection (h)(1) practicable)".

(d) Section 6002(g) of the Solid Waste Disposal Act is amended by—

(1) striking out "the policy expressed in" and substituting "the requirements of"; and

(2) by inserting before the period at the end thereof the following: ", and to, every two years beginning in 1984, report to the Congress on actions taken by Federal agencies and the progress made in the implementation of this section, including agency compliance with subsection (d)".

Effective date. (e) Section 6002(d)(1) of the Solid Waste Disposal Act is amended by striking out "five years after the date of enactment of this Act" and substituting "eighteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984".

42 USC 6941. (f)(1) Section 4001 of the Solid Waste Disposal Act, as amended by section 301 of this Act, is further amended by inserting ", including *Ante*, p. 3274. those needs created by thorough implementation of section 6002(h)," after "adequate provision shall be given to the present and reasonably anticipated future needs".

Ante, p. 3225. (2) Section 1006(b) of the Solid Waste Disposal Act is amended by adding the following new paragraph after paragraph (2) thereof (as added by section 102 of this Act):

"(3) Notwithstanding any other provisions of law, in developing solid waste plans, it is the intention of this Act that in determining the size of a waste-to-energy facility, adequate provisions shall be given to the present and reasonably anticipated future needs, including those needs created by thorough implementation of section 6002(h), of the recycling and resource recovery interests within the area encompassed by the solid waste plan.".

TECHNICAL AND CLERICAL AMENDMENTS

42 USC 6927. SEC. 502. (a) Section 3007(b) of the Solid Waste Disposal Act is amended by inserting the following after the word "information" : "(including records, reports, or information obtained by representatives of the Environmental Protection Agency)".

42 USC 6915. (b) Section 2006(1) of the Solid Waste Disposal Act is amended by striking out "detail" and substituting "detailed".

42 USC 6945. (c) Section 4005(a) of the Solid Waste Disposal Act is amended by inserting a closing parenthetical mark before the period at the end thereof.

42 USC 6948. (d) The second paragraph (2) in section 4008(d) of the Solid Waste Disposal Act is redesignated as paragraph (3).

(e) Section 4008 of the Solid Waste Disposal Act is amended by redesignating the second subsection (f) (entitled "Assistance to Municipalities for Energy and Materials Conservation and Recovery Planning Activities") as subsection (g).

42 USC 6984. (f) Section 8004(c) of the Solid Waste Disposal Act is amended by inserting "(1)" immediately after "COST SHARING.—".

(g)(1) Section 3012 of the Solid Waste Disposal Act entitled "Restrictions on Recycled Oil," is renumbered as section 3014 and inserted after section 3013. 42 USC 6932, 6935.

(2) The item in the table of contents of such Act relating to 3012 of the Solid Waste Disposal Act and entitled "Restrictions on Recycled Oil," is renumbered as 3014 and inserted after the item relating to section 3013.

(h) Subsection (b) of section 4003 of the Solid Waste Disposal Act, entitled "Energy and Materials Conservation and Recovery Feasibility Planning and Assistance" is redesignated as subsection (c) of such section 4003. 42 USC 6943.

TITLE VI—UNDERGROUND STORAGE TANKS

UNDERGROUND STORAGE TANK REGULATION

SEC. 601. (a) The Solid Waste Disposal Act is amended by adding the following new subtitle after subtitle H:

"Subtitle I—Regulation of Underground Storage Tanks

"DEFINITIONS AND EXEMPTIONS

"SEC. 9001. For the purposes of this subtitle— 42 USC 6991.

"(1) The term 'underground storage tank' means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 per centum or more beneath the surface of the ground. Such term does not include any—

"(A) farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes,

"(B) tank used for storing heating oil for consumptive use on the premises where stored, Petroleum and petroleum products.

"(C) septic tank,

"(D) pipeline facility (including gathering lines) regulated under—

"(i) the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.),

"(ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or

"(iii) which is an intrastate pipeline facility regulated under State laws comparable to the provisions of law referred to in clause (i) or (ii) of this subparagraph,

"(E) surface impoundment, pit, pond, or lagoon,

"(F) storm water or waste water collection system,

"(G) flow-through process tank,

"(H) liquid trap or associated gathering lines directly related to oil or gas production and gathering operations, or

"(I) storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term 'underground storage tank' shall not include any pipes connected to any tank which is described in subparagraphs (A) through (I).

"(2) The term 'regulated substance' means—

"(A) any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C), and

42 USC 9601.
42 USC 6921.

"(B) petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

"(3) The term 'owner' means—

"(A) in the case of an underground storage tank in use on the date of enactment of the Hazardous and Solid Waste Amendments of 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated sustances, and

"(B) in the case of any underground storage tank in use before the date of enactment of the Hazardous and Solid Waste Amendments of 1984, but no longer in use on the date of enactment of such Amendments, any person who owned such tank immediately before the discontinuation of its use.

"(4) The term 'operator' means any person in control of, or having responsibility for, the daily operation of the underground storage tank.

"(5) The term 'release' means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into ground water, surface water or subsurface soils.

"(6) The term 'person' has the same meaning as provided in section 1004(15), except that such term includes a consortium, a joint venture, and a commercial entity, and the United States Government.

"(7) The term 'nonoperational storage tank' means any underground storage tank in which regulated substances will not be deposited or from which regulated substances will not be dispensed after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984.

"NOTIFICATION

42 USC 6991a.

"SEC. 9002. (a) UNDERGROUND STORAGE TANKS.—(1) Within 18 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, each owner of an underground storage tank shall notify the State or local agency or department designated pursuant to subsection (b)(1) of the existence of such tank, specifying the age, size, type, location, and uses of such tank.

"(2)(A) For each underground storage tank taken out of operation after January 1, 1974, the owner of such tank shall, within eighteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, notify the State or local agency, or department designated pursuant to subsection (b)(1) of the existence of such tanks (unless the owner knows the tank subsequently was removed from the ground). The owner of a tank taken out of operation on or before January 1, 1974, shall not be required to notify the State or local agency under this subsection.

"(B) Notice under subparagraph (A) shall specify, to the extent known to the owner—

"(i) the date the tank was taken out of operation,

"(ii) the age of the tank on the date taken out of operation,

"(iii) the size, type and location of the tank, and

"(iv) the type and quantity of substances left stored in such tank on the date taken out of operation.

"(3) Any owner which brings into use an underground storage tank after the initial notification period specified under paragraph (1), shall notify the designated State or local agency or department within thirty days of the existence of such tank, specifying the age, size, type, location and uses of such tank.

"(4) Paragraphs (1) through (3) of this subsection shall not apply to tanks for which notice was given pursuant to section 103(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. 42 USC 9603.

"(5) Beginning thirty days after the Administrator prescribes the form of notice pursuant to subsection (b)(2) and for eighteen months thereafter, any person who deposits regulated substances in an underground storage tank shall reasonably notify the owner or operator of such tank of the owner's notification requirements pursuant to this subsection.

"(6) Beginning thirty days after the Administrator issues new tank performance standards pursuant to section 9003(e) of this subtitle, any person who sells a tank intended to be used as an underground storage tank shall notify the purchaser of such tank of the owner's notification requirements pursuant to this subsection. *Infra.*

"(b) AGENCY DESIGNATION.—(1) Within one hundred and eighty days after the enactment of the Hazardous and Solid Waste Amendments of 1984, the Governors of each State shall designate the appropriate State agency or department or local agencies or departments to receive the notifications under subsection (a) (1), (2), or (3). State and local governments.

"(2) Within twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator, in consultation with State and local officials designated pursuant to subsection (b)(1), and after notice and opportunity for public comment, shall prescribe the form of the notice and the information to be included in the notifications under subsection (a) (1), (2), or (3). In prescribing the form of such notice, the Administrator shall take into account the effect on small businesses and other owners and operators. Public information.

"RELEASE DETECTION, PREVENTION, AND CORRECTION REGULATIONS

"SEC. 9003. (a) REGULATIONS.—The Administrator, after notice and opportunity for public comment, and at least three months before the effective dates specified in subsection (f), shall promulgate release detection, prevention, and correction regulations applicable to all owners and operators of underground storage tanks, as may be necessary to protect human health and the environment. 42 USC 6991b.

"(b) DISTINCTIONS IN REGULATIONS.—In promulgating regulations under this section, the Administrator may distinguish between types, classes, and ages of underground storage tanks. In making such distinctions, the Administrator may take into consideration factors, including, but not limited to: location of the tanks, soil and climate conditions, uses of the tanks, history of maintenance, age of the tanks, current industry recommended practices, national consensus codes, hydrogeology, water table, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from

the tank, the technical capability of the owners and operators, and the compatibility of the regulated substance and the materials of which the tank is fabricated.

"(c) REQUIREMENTS.—The regulations promulgated pursuant to this section shall include, but need not be limited to, the following requirements respecting all underground storage tanks—

"(1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment;

"(2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing or comparable system;

"(3) requirements for reporting of releases and corrective action taken in response to a release from an underground storage tank;

"(4) requirements for taking corrective action in response to a release from an underground storage tank; and

"(5) requirements for the closure of tanks to prevent future releases of regulated substances into the environment.

"(d) FINANCIAL RESPONSIBILITY.—(1) As he deems necessary or desirable, the Administrator shall promulgate regulations containing requirements for maintaining evidence of financial responsibility as he deems necessary and desirable for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an underground storage tank.

"(2) Financial responsibility required by this subsection may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this subtitle.

Courts, U.S.

"(3) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court of the Federal Courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this paragraph such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(4) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the

liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

42 USC 9607, 9611.

"(5) For the purpose of this subsection, the term 'guarantor' means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

"(e) NEW TANK PERFORMANCE STANDARDS.—The Administrator shall, not later than three months prior to the effective date specified in subsection (f), issue performance standards for underground storage tanks brought into use on or after the effective date of such standards. The performance standards for new underground storage tanks shall include, but need not be limited to, design, construction, installation, release detection, and compatibility standards.

"(f) EFFECTIVE DATES.—(1) Regulations issued pursuant to subsection (c) and (d) of this section, and standards issued pursuant to subsection (e) of this section, for underground storage tanks containing regulated substances defined in section 9001(2)(B) (petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure) shall be effective not later than thirty months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(2) Standards issued pursuant to subsection (e) of this section (entitled 'New Tank Performance Standards') for underground storage tanks containing regulated substances defined in section 9001(2)(A) shall be effective not later than thirty-six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(3) Regulations issued pursuant to subsection (c) of this section (entitled 'Requirements') and standards issued pursuant to subsection (d) of this section (entitled 'Financial Responsibility') for underground storage tanks containing regulated substances defined in section 9001(2)(A) shall be effective not later than forty-eight months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(g) INTERIM PROHIBITION.—(1) Until the effective date of the standards promulgated by the Administrator under subsection (e) and after one hundred and eighty days after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, no person may install an underground storage tank for the purpose of storing regulated substances unless such tank (whether of single or double wall construction)—

"(A) will prevent releases due to corrosion or structural failure for the operational life of the tank;

"(B) is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance; and

"(C) the material used in the construction or lining of the tank is compatible with the substance to be stored.

"(2) Notwithstanding paragraph (1), if soil tests conducted in accordance with ASTM Standard G57-78, or another standard approved by the Administrator, show that soil resistivity in an installation location is 12,000 ohm/cm or more (unless a more stringent

standard is prescribed by the Administrator by rule), a storage tank without corrosion protection may be installed in that location during the period referred to in paragraph (1).

"APPROVAL OF STATE PROGRAMS

42 USC 6991c.

"SEC. 9004. (a) ELEMENTS OF STATE PROGRAM.—Beginning 30 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, any State may, submit an underground storage tank release detection, prevention, and correction program for review and approval by the Administrator. The program may cover tanks used to store regulated substances referred to in 9001(2) (A) or (B) or both. A State program may be approved by the Administrator under this section only if the State demonstrates that the State program includes the following requirements and standards and provides for adequate enforcement of compliance with such requirements and standards—

"(1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment;

"(2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing system;

"(3) requirements for reporting of any releases and corrective action taken in response to a release from an underground storage tank;

"(4) requirements for taking corrective action in response to a release from an underground storage tank;

"(5) requirements for the closure of tanks to prevent future releases of regulated substances into the environment;

"(6) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an underground storage tank;

"(7) standards of performance for new underground storage tanks; and

"(8) requirements—

"(A) for notifying the appropriate State agency or department (or local agency or department) designated according to section 9002(b)(1) of the existence of any operational or non-operational underground storage tank; and

"(B) for providing the information required on the form issued pursuant to section 9002(b)(2).

"(b) FEDERAL STANDARDS.—(1) A State program submitted under this section may be approved only if the requirements under paragraphs (1) through (7) of subsection (a) are no less stringent than the corresponding requirements standards promulgated by the Administrator pursuant to section 9003(a).

"(2)(A) A State program may be approved without regard to whether or not the requirements referred to in paragraphs (1), (2), (3), and (5) of subsection (a) are less stringent than the corresponding standards under section 9003(a) during the one-year period commencing on the date of promulgation of regulations under section

9003(a) if State regulatory action but no State legislative action is required in order to adopt a State program.

"(B) If such State legislative action is required, the State program may be approved without regard to whether or not the requirements referred to in paragraphs (1), (2), (3), and (5) of subsection (a) are less stringent than the corresponding standards under section 9003(a) during the two-year period commencing on the date of promulgation of regulations under section 9003(a) (and during an additional one-year period after such legislative action if regulations are required to be promulgated by the State pursuant to such legislative action).

"(c) FINANCIAL RESPONSIBILITY.—(1) Corrective action and compensation programs financed by fees on tank owners and operators and administered by State or local agencies or departments may be submitted for approval under subsection (a)(6) as evidence of financial responsibility.

State and local governments.

"(2) Financial responsibility required by this subsection may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this subtitle.

"(3) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court of the Federal courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this paragraph such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

Claims.

"(4) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

42 USC 9607, 9611.

"(5) For the purpose of this subsection, the term 'guarantor' means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

"(d) EPA DETERMINATION.—(1) Within one hundred and eighty days of the date of receipt of a proposed State program, the Administrator shall, after notice and opportunity for public comment, make

Public information.

a determination whether the State's program complies with the provisions of this section and provides for adequate enforcement of compliance with the requirements and standards adopted pursuant to this section.

State and local governments.

"(2) If the Administrator determines that a State program complies with the provisions of this section and provides for adequate enforcement of compliance with the requirements and standards adopted pursuant to this section, he shall approve the State program in lieu of the Federal program and the State shall have primary enforcement responsibility with respect to requirements of its program.

"(e) WITHDRAWAL OF AUTHORIZATION.—Whenever the Administrator determines after public hearing that a State is not administering and enforcing a program authorized under this subtitle in accordance with the provisions of this section, he shall so notify the State. If appropriate action is not taken within a reasonable time, not to exceed one hundred and twenty days after such notification, the Administrator shall withdraw approval of such program and reestablish the Federal program pursuant to this subtitle.

"INSPECTIONS, MONITORING, AND TESTING

42 USC 6991d.

"Sec. 9005. (a) FURNISHING INFORMATION.—For the purposes of developing or assisting in the development of any regulation, conducting any study, or enforcing the provisions of this subtitle, any owner or operator of an underground storage tank (or any tank subject to study under section 9009 that is used for storing regulated substances) shall, upon request of any officer, employee or representative of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer, employee, or representative of a State with an approved program, furnish information relating to such tanks, their associated equipment, their contents, conduct monitoring or testing, and permit such officer at all reasonable times to have access to, and to copy all records relating to such tanks. For the purposes of developing or assisting in the development of any regulation, conducting any study, or enforcing the provisions of this subtitle, such officers, employees, or representatives are authorized—

"(1) to enter at reasonable times any establishment or other place where an underground storage tank is located;

"(2) to inspect and obtain samples from any person of any regulated substances contained in such tank; and

"(3) to conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water or ground water.

Each such inspection shall be commenced and completed with reasonable promptness.

Records. Reports.

"(b) CONFIDENTIALITY.—(1) Any records, reports, or information obtained from any persons under this section shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or a particular part thereof, to which the Administrator (or the State, as the case may be) or any officer, employee, or representative thereof has access under this section if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, such information or particular portion thereof shall be considered confidential in

accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevent in any proceeding under this Act.

"(2) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than $5,000 or to imprisonment not to exceed one year, or both.

Crimes and misdemeanors.

"(3) In submitting data under this subtitle, a person required to provide such data may—

"(A) designate the data which such person believes is entitled to protection under this subsection, and

"(B) submit such designated data separately from other data submitted under this subtitle.

A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

"(4) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to, or otherwise obtained, by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee (including records, reports, or information obtained by representatives of the Evironmental Protection Agency).

"FEDERAL ENFORCEMENT

"SEC. 9006. (a) COMPLIANCE ORDERS.—(1) Except as provided in paragraph (2), whenever on the basis of any information, the Administrator determines that any person is in violation of any requirement of this subtitle, the Administrator may issue an order requiring compliance within a reasonable specified time period or the Administrator may commence a civil action in the United States district court in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

Crimes and misdemeanors. 42 USC 6991e.

"(2) In the case of a violation of any requirement of this subtitle where such violation occurs in a State with a program approved under section 9004, 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.

Crimes and misdemeanors.

"(d) CIVIL PENALTIES.—(1) Any owner who knowingly fails to notify or submits false information pursuant to section 9002(a) 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 9003;

"(B) any requirement or standard of a State program approved pursuant to section 9004; or

"(C) the provisions of section 9003(g) (entitled 'Interim Prohibition')

shall be subject to a civil penalty not to exceed $10,000 for each tank for each day of violation.

"FEDERAL FACILITIES

42 USC 6991f.

"SEC. 9007. (a) APPLICATION OF SUBTITLE.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any underground storage tank shall be subject to and 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. 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.

President of U.S.

"(b) PRESIDENTIAL EXEMPTION.—The President may exempt any underground storage tanks 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 appropriations. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one 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.

Report.

"STATE AUTHORITY

42 USC 6991g.

"SEC. 9008. Nothing in this subtitle 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 subtitle.

"STUDY OF UNDERGROUND STORAGE TANKS

"SEC. 9009. (a) PETROLEUM TANKS.—Not later than twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall complete a study of underground storage tanks used for the storage of regulated substances defined in section 9001(2)(B). Study. 42 USC 6991h.

"(b) OTHER TANKS.—Not later than thirty-six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall complete a study of all other underground storage tanks. Study.

"(c) ELEMENTS OF STUDIES.—The studies under subsections (a) and (b) 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 the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall conduct a study regarding the tanks referred to in section 9001(1) (A) and (B). 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. Study.

"(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 subtitle.

"(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 2007(g). *Ante*, p. 3223.

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

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 9010. For authorization of appropriations to carry out this subtitle, see section 2007(g).". 42 USC 6991i.

(b) The table of contents of the Solid Waste Disposal Act is amended by inserting the following after the items relating to subtitle H:

"Subtitle I—Regulation of Underground Storage Tanks

"Sec. 9001. Definitions.
"Sec. 9002. Notification.
"Sec. 9003. Release detection, prevention, and correction regulations.
"Sec. 9004. Approval of State programs.
"Sec. 9005. Inspections, monitoring, and testing.
"Sec. 9006. Federal enforcement.
"Sec. 9007. Federal facilities.
"Sec. 9008. State authority.
"Sec. 9009. Study of underground storage tanks.
"Sec. 9010. Authorization of appropriations.".

TITLE VII—OTHER PROVISIONS

REPORT TO CONGRESS ON INJECTION OF HAZARDOUS WASTE

SEC. 701. (a) The Administrator, in cooperation with the States, shall compile and, not later than six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, submit to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, an inventory of all wells in the United States which inject hazardous wastes. The inventory shall include the following information:

(1) the location and depth of each well;

(2) engineering and construction details of each, including the thickness and composition of its casing, the width and content of the annulus, and pump pressure and capacity;

(3) the hydrogeological characteristics of the overlying and underlying strata, as well as that into which the waste is injected;

(4) the location and size of all drinking water aquifers penetrated by the well, or within a one-mile radius of the well or within two hundred feet below the well injection point;

(5) the location, capacity, and population served by each well providing drinking or irrigation water which is within a five-mile radius of the injection well;

(6) the nature and volume of the waste injected during the one-year period immediately preceding the date of the report;

(7) the dates and nature of the inspections of the injection well conducted by independent third parties or agents of State, Federal, or local government;

(8) the name and address of all owners and operators of the well and any disposal facility associated with it;

(9) the identification of all wells at which enforcement actions have been initiated under this Act (by reason of well failure, operator error, ground water contamination or for other reasons) and an identification of the wastes involved in such enforcement actions; and

(10) such other information as the Administrator may, in his discretion, deem necessary to define the scope and nature of hazardous waste disposal in the United States through underground injection.

(b) In fulfilling the requirements of paragraphs (3) through (5) of subsection (a), the Administrator need only submit such information as can be obtained from currently existing State records and from site visits to at least twenty facilities containing wells which inject hazardous waste.

(c) The States shall make available to the Administrator such information as he deems necessary to accomplish the objectives of this section.

EXTENDING THE USEFUL LIFE OF SANITARY LANDFILLS

SEC. 702. Section 8002 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (r) thereof: *Ante*, p. 3253.

"(s) EXTENDING LANDFILL LIFE AND REUSING LANDFILLED AREAS.—The Administrator shall conduct detailed, comprehensive studies of methods to extend the useful life of sanitary landfills and to better use sites in which filled or closed landfills are located. Such studies shall address— Study.

"(1) methods to reduce the volume of materials before placement in landfills;

"(2) more efficient systems for depositing waste in landfills;

"(3) methods to enhance the rate of decomposition of solid waste in landfills, in a safe and environmentally acceptable manner;

"(4) methane production from closed landfill units;

"(5) innovative uses of closed landfill sites, including use for energy production such as solar or wind energy and use for metals recovery;

"(6) potential for use of sewage treatment sludge in reclaiming landfilled areas; and

"(7) methods to coordinate use of a landfill owned by one municipality by nearby municipalities, and to establish equitable rates for such use, taking into account the need to provide future landfill capacity to replace that so used.

The Administrator is authorized to conduct demonstrations in the areas of study provided in this subsection. The Administrator shall periodically report on the results of such studies, with the first such report not later than October 1, 1986. In carrying out this subsection, the Administrator need not duplicate other studies which have been completed and may rely upon information which has previously been compiled.". Report.

URANIUM MILL TAILINGS

SEC. 703. Nothing in the Hazardous and Solid Waste Amendments of 1984 shall be construed to affect, modify, or amend the Uranium Mill Tailings Radiation Control Act of 1978. 42 USC 6905 note. 42 USC 7901 note.

NATIONAL GROUND WATER COMMISSION

SEC. 704. (a) There is established a commission to be known as the National Ground Water Commission (hereinafter in this section referred to as the "Commission"). Establishment.

(b) The duties of the Commission are to:

(1) Assess generally the amount, location, and quality of the Nation's ground water resources.

(2) Identify generally the sources, extent, and types of ground water contamination.

(3) Assess the scope and nature of the relationship between ground water contamination and ground water withdrawal and develop projections of available, usable ground water in future years on a nationwide basis.

(4) Assess the relationship between surface water pollution and ground water pollution.

(5) Assess the need for a policy to protect ground water from degradation caused by contamination.

(6) Assess generally the extent of overdrafting of ground water resources, and the adequacy of existing mechanisms for preventing such overdrafting.

(7) Assess generally the engineering and technological capability to recharge aquifers.

(8) Assess the adequacy of the present understanding of ground water recharge zones and sole source aquifers and assess the adequacy of knowledge regarding the interrelationship of designated aquifers and recharge zones.

(9) Assess the role of land-use patterns as these relate to protecting ground water from contamination.

(10) Assess methods for remedial abatement of ground water contamination as well as the costs and benefits of cleaning up polluted ground water and compare cleanup costs to the costs of substitute water supply methods.

(11) Investigate policies and actions taken by foreign governments to protect ground water from contamination.

(12) Assess the use and effectiveness of existing interstate compacts to address ground water protection from contamination.

(13) Analyze existing legal rights and remedies regarding contamination of ground water.

(14) Assess the adequacy of existing standards for ground water quality under State and Federal law.

(15) Assess monitoring methodologies of the States and the Federal Government to achieve the level of protection of the resource as required by State and Federal law.

(16) Assess the relationship between ground water flow systems (and associated recharge areas) and the control of sources of contamination.

(17) Assess the role of underground injection practices as a means of disposing of waste fluids while protecting ground water from contamination.

(18) Assess methods for abatement and containment of ground water contamination and for aquifer restoration including the costs and benefits of alternatives to abatement and containment.

(19) Assess State and Federal ground water law and mechanisms with which to manage the quality of the ground water resource.

(20) Assess the adequacy of existing ground water research and determine future ground water research needs.

(21) Assess the roles of State, local, and Federal Governments in managing ground water quality.

(c)(1) The Commission shall be composed of nineteen members as follows:

(A) six appointed by the Speaker of the United States House of Representatives from among the Members of the House of Representatives, two of whom shall be members of the Commit-

tee on Energy and Commerce, two of whom shall be members of the Committee on Public Works and Transportation, and two of whom shall be members of the Committee on Interior and Insular Affairs;

(B) four appointed by the majority leaders of the United States Senate from among the Members of the United States Senate;

(C) eight appointed by the President as follows:

(i) four from among a list of nominations submitted to the President by the National Governors Association, two of whom shall be representatives of ground water appropriation States and two of whom shall be representatives of ground water riparian States;

(ii) one from among a list of nominations submitted to the President by the National League of Cities and the United States Conference of Mayors;

(iii) one from among a list of nominations submitted to the President by the National Academy of Science;

(iv) one from among a list of nominations submitted to the President by groups, organizations, or associations of industries the activities of which may affect ground water; and

(v) one from among a list of nominations submitted to the President from groups, organizations, or associations of citizens which are representative of persons concerned with pollution and environmental issues and which have participated, at the State or Federal level, in studies, administrative proceedings, or litigation (or any combination thereof) relating to ground water; and

(D) the Director of the Office of Technology Assessment.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Not more than three of the six members appointed under subparagraph (A) and not more than two of the four members appointed under subparagraph (B) may be of the same political party. No member appointed under paragraph (C) may be an officer or employee of the Federal Government.

(2) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he may continue as a member of the Commission for not longer than the ninety-day period beginning on the date he leaves that office or becomes such an officer or employee, as the case may be.

(3) Members shall be appointed for the life of the Commission

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be entitled (subject to appropriations provided in advance) to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed inter-

5 USC 5332 note.

mittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(B) Members of the Commission who are Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(5) Five members of the Commission shall constitute a quorum but two may hold hearings.

(6) The Chairman of the Commission shall be appointed by the Speaker of the House of Representatives from among members appointed under paragraph (1)(A) of this subsection and the Vice Chairman of the Commission shall be appointed by the majority leader of the Senate from among members appointed under paragraph (1)(B) of this subsection. The Chairman and the Vice Chairman of the Commission shall serve for the life of the Commission unless they cease to be members of the Commission before the termination of the Commission.

(7) The Commission shall meet at the call of the Chairman or a majority of its members.

(d)(1) The Commission shall have a Director who shall be appointed by the Chairman, without regard to section 5311(b) of title 5, United States Code.

(2) The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(3) With the approval of the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(4) The Commission shall request, and the Chief of Engineers and the Director of the Geological Survey are each authorized to detail, on a reimbursable basis, any of the personnel of their respective agencies to the Commission to assist it in carrying out its duties under this section. Upon request of the Commission, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this section.

(e)(1) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(5) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

Report.

(f)(1) The Commission shall transmit to the President and to each House of the Congress a report not later than October 30, 1986. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to each item listed in subsec-

tion (b), together with its recommendations for such legislation; and administrative actions, as it considers appropriate.

(2) Not later than one year after the enactment of the Hazardous and Solid Waste Amendments of 1984, the Commission shall complete a preliminary study concerning ground water contamination from hazardous and other solid waste and submit to the President and to the Congress a report containing the findings and conclusions of such preliminary study. The study shall be continued thereafter, and final findings and conclusions shall be incorporated as a separate chapter in the report required under paragraph (1). The preliminary study shall include an analysis of the extent of ground water contamination caused by hazardous and other solid waste, the regions and major water supplies most significantly affected by such contamination, and any recommendations of the Commission for preventive or remedial measures to protect human health and the environment from the effects of such contamination.

Study. Report.

(g) The Commission shall cease to exist on January 1, 1987.

Termination.

(h) Nothing in this section and no recommendation of the Commission shall affect any rights to quantities of water established under State law, interstate compact, or Supreme Court decree.

(i) There is authorized to be appropriated for the fiscal years 1985 through 1987 not to exceed $7,000,000 to carry out this section.

Appropriation authorization.

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 2867:

HOUSE REPORTS: No. 98-198, Pts. 1 and 2 (Comm. on Energy and Commerce), Pt. 3 (Comm. on the Judiciary) and No. 98-1133 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Aug. 4, Oct. 6, 31, Nov. 3, considered and passed House.

Vol. 130 (1984): July 25, considered and passed Senate, amended.

Oct. 3, House agreed to conference report.

Oct. 5, Senate agreed to conference report.