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SURVEY OF STATE GROUND-WATER QUALITY PROTECTION LEGISLATION ENACTED FROM 1985 THROUGH 1987

U.S. Environmental Protection Agency
Office of Water
Office of Ground-Water Protection
Washington, DC 20460

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ACKNOWLEDGMENTS

This report was prepared by the National Conference of State Legislatures (NCSL) under grant number 814754-01-0 from the Office of Ground-Water Protection (OGWP), U.S. Environmental Protection Agency (EPA), Washington, DC. Larry Morandi and Paul Doyle were NCSL project staff. Clare Donaher and Norma Hughes in the OGWP, coordinated the project for EPA.

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EXECUTIVE SUMMARY

In August 1984, the U.S. Environmental Protection Agency (EPA) released its Ground-Water Protection Strategy. The strategy emphasizes the predominant role of states in protecting ground-water quality, and commits EPA to assisting the states in building the institutional capability to protect ground water. Part of this effort includes providing states with information on alternative policy approaches.

A majority of states have developed some form of ground-water protection policy (as noted in EPA's March 1985 publication entitled, Overview of State Ground-Water Program Summaries), but few have comprehensive programs comparable to those protecting surface-water quality. To achieve the same level of effectiveness, additional state efforts may be required. Legislative involvement is important if the necessary policy direction, management authority, and funding to support program development and implementation is to be assured.

In order to provide information that may assist states in policy development, this report surveys state legislation designed to protect ground-water quality enacted during the 1985, 1986, and 1987 sessions (the three complete legislative sessions following publication of EPA's Ground-Water Protection Strategy). The summaries of 1985 legislation that appeared in EPA's April 1987 publication entitled, Survey of State Ground-Water Quality Protection Legislation, 1985, are incorporated into this report to provide continuity.

Eight major categories of legislation are summarized: statewide strategies, ground-water classification, standard setting, land use management, ground-water funds, agricultural chemicals, underground storage tanks, and water use management. The first five categories were selected because they represent the principal components of state and local ground-water quality protection programs that have evolved since the late 1970s. The next two categories address emerging issues contained in EPA's Ground-Water Protection Strategy that have received significant congressional consideration. The final category represents a recognition that unmanaged water use can affect water quality by dissolving and transporting pollutants into aquifers or inducing salt-water intrusion. Legislation primarily designed to allocate ground water, however, is not included.

During the 1985-87 legislative sessions, 37 states enacted legislation that could be placed in at least one of the eight major categories described above. The breakdown of states by category of legislation is as follows: statewide strategies--12; ground-water classification--3; standard setting--5; land use management--6; ground-water funds--3; agricultural chemicals--25; underground storage tanks--27; and water use management--3.

An assessment of the survey results suggests that states are using legislative approaches to develop ground-water protection strategies more in response to specific problems, e.g., pesticide contamination and leaking underground storage tanks, than through comprehensive programs capable of addressing a range of problems. Congressional policy also has focused state attention on specific issues; the inclusion of a national underground storage tank program in the 1984 amendments to the Resource Conservation and Recovery Act (RCRA) and the 1986 Superfund Amendments and Reathorization Act

(SARA) has provided an incentive (the assumption of state primacy over program administration) for state action. Equally noteworthy, however, is the state initiative taken in response to ground-water problems caused by agricultural chemical use in the absence of clear federal direction.

Although statewide strategies' legislation may not be as pervasive as that dealing with specific ground-water concerns, the lack of legislation should not be taken as an indication of limited comprehensive state program development. Many of the state ground-water protection programs developed prior to the release of EPA's Ground-Water Protection Strategy--those in New York, Connecticut, and New Mexico, for example--were formulated under general water quality enabling statutes that were designed primarily to protect surface water but also authorized a state agency to regulate discharges to ground water (usually under the definition of "waters of the state," which includes ground water).

As a result of executive agency action, ground-water classification and standard setting programs have been developed in several states (see EPA's May 1985 publication entitled, Selected State and Territory Ground-Water Classification Systems). Legislatures, nonetheless, have monitored such program development through the budgetary and regulation review processes.

Statewide Strategies

Twelve states enacted legislation in this category during the 1985-87 sessions--Connecticut, Maine, Rhode Island, Vermont, Maryland, Virginia, Illinois, Minnesota, Iowa, Arizona, Hawaii, and Washington. The strategies exhibited a range of regulatory (ground-water classification, standard setting, land use management, discharge permits) and nonregulatory (data collection, aquifer mapping, ground-water monitoring, studies) features. Arizona's 1986 Environmental Quality Act (Chapter 368) perhaps comes closest to incorporating the full range of policy options into a single ground-water protection strategy. Illinois' 1987 Ground-Water Protection Act (Public Act 85-863) initiated a program that eventually may encompass a comparable blend of regulatory and nonregulatory components. Iowa's 1987 Ground-Water Protection Act (Chapter 225) contains virtually no regulatory provisions, concentrating instead on research, education and demonstration projects as the framework for future policymaking.

In addition to Arizona, two states--Rhode Island and Vermont--emphasized ground-water classification and standard setting provisions in their legislation. Four states--Connecticut, Maryland, Virginia, and Hawaii--set up executive agency studies to determine the most appropriate ground-water protection approach for the state with a requirement that the agency report its findings and recommendations to the legislature for action. Other approaches integrated state and local governments in the development and implementation of a comprehensive ground-water protection program.

Ground-Water Classification

Three states enacted legislation in this category during the 1985-87 sessions as part of comprehensive ground-water protection strategies--Rhode Island, Vermont, and Arizona. The legislation requires an executive agency to classify ground water by present and future water use in order to accord protection sufficient to maintain such use. Water quality standards and

land use regulation typically are utilized to protect the designated uses of classified ground water.

Standard Setting

Five states enacted legislation in this category during the 1985-87 sessions, generally as part of comprehensive ground-water protection strategies--Rhode Island, Vermont, Illinois, Arizona, and Hawaii. The legislation requires the establishment of water quality or drinking water standards--threshold levels beyond which contamination of an aquifer will occur--as the basis for regulation of point and nonpoint source discharges into ground water. If the standards for a particular contaminant are breached, the pollution source may be required to alter or curtail its discharge activities.

Land Use Management

Six states enacted legislation in this category during the 1985-87 sessions--Connecticut, Rhode Island, New York, Florida, Minnesota, and Washington. Land use management generally entails the adoption of local government regulations to control activities that contribute to nonpoint source pollution in aquifer recharge zones. Regulation may take the form of zoning ordinances or facility siting procedures to control the density of development, or the employment of best management practices aimed at specific land disturbing activities. New York's 1987 Chapter 628 establishes a regional planning mechanism and state financial assistance for ground-water protection areas in sole source aquifers. Local land use regulation on Long Island was an important precedent in developing New York's legislation. The potential availability of federal funds contained in the 1986 Safe Drinking Water Act amendments to protect aquifer recharge zones also provided an incentive.

Ground-Water Funds

Three states enacted legislation in this category during the 1985-87 sessions (funds designed specifically to address pesticide pollution or leaking underground storage tanks are described within those categories)--Maine, Wisconsin, and Iowa. Ground-water funds primarily are designed to finance the cleanup of ground-water contamination or the provision of alternate drinking water supplies necessitated by pollution. They also may be used to defray the costs of developing or implementing a ground-water protection program.

Agricultural Chemicals

Twenty-five states enacted legislation in this category during the 1985-87 sessions.

Connecticut	Mississippi	Kansas
Maine	North Carolina	Nebraska
New Hampshire	South Carolina	Colorado
Rhode Island	Illinois	North Dakota
Vermont	Minnesota	South Dakota
Maryland	Wisconsin	Arizona
Pennsylvania	Louisiana	California
West Virginia	Iowa	Hawaii
Florida		

The legislation included establishing registration, licensing, and permitting standards for pesticide applicators; granting the necessary administrative authority to an appropriate state agency; and regulating the presence of agricultural chemicals in ground water.

The most significant regulatory measures aimed specifically at groundwater protection were passed in California and Arizona. They require the submission of data on a chemical's effect on ground water; the adoption of numeric values related to the substance's leaching capacity; and the strict regulation of those pesticides with the potential to enter an aquifer. Iowa chose an alternative comprehensive approach emphasizing research, education and demonstration projects financed largely by user fees; the newly created Leopold Center for Sustainable Agriculture is charged with developing alternatives to excessive chemical applications.

Four states heavily dependent on irrigation for crop production--Kansas, Nebraska, Colorado, and North Dakota--enacted legislation regulating chemigation, the process of applying agricultural chemicals to crops through irrigation systems. Two less irrigation-dependent states--South Carolina and Minnesota--also set up chemigation programs.

Underground Storage Tanks

The 1984 amendments to the Resource Conservation and Recovery Act (RCRA), created a new, comprehensive federal program for the regulation of underground storage tanks. Under the federal provisions, states can adopt their own programs by establishing state standards that are at least as stringent as the federal regulations. State programs must include the minimum federal standards for notification procedures, leak detection systems, record maintenance, release reporting, corrective action, tank closure, financial responsibility, and new tank performance standards.

Twenty-seven states (the largest number in any category) enacted underground storage tank legislation during the 1985-87 sessions.

Maine	Illinois	Montana
New Hampshire	Indiana	North Dakota
Vermont	Minnesota	South Dakota
New Jersey	Wisconsin	Utah
Delaware	Louisiana	Arizona
Virginia	New Mexico	California
Florida	Texas	Hawaii
Kentucky	Iowa	Oregon
North Carolina	Nebraska	Washington

All but seven of those states--New Jersey, Florida, Illinois, Wisconsin, Louisiana, California, and Washington--established new state programs covering most of the federal requirements. To ensure state primacy over program administration, legislation in 12 of the states--Vermont, Virginia, North Carolina, Indiana, Minnesota, Texas, Iowa, North Dakota, Utah, Arizona, Hawaii, and Oregon--specifies that the state program must be at least as stringent as the federal regulations (New Jersey and Louisiana amended their existing legislation to comply with RCRA standards).

The Congress adopted a provision in the Superfund Amendments and Reauthorization Act (SARA) of 1986 mandating that $500 million be raised and

dispersed to the states over the following five years to help mitigate the effects of leaking underground storage tanks. Nine states--Maine, New Hampshire, Vermont, Delaware, Virginia, Florida, Minnesota, Wisconsin, and Oregon--have developed trust funds specifically targeted for clean-up activities.

Water Use Management

Three states enacted legislation in this category during the 1985-87 sessions--Texas, Nebraska, and Montana. Water use management is comparable to land use management in that the activity causing pollution is regulated. For example, agricultural irrigation can dissolve natural and man-made contaminants and leach them through the soil into ground water; Nebraska's 1986 LB 894 attempts to resolve a nitrate problem by managing irrigation practices in critical areas. Unmanaged ground-water withdrawals likewise can induce salt-water intrusion, especially in coastal areas.

INTRODUCTION

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The report is divided into three sections. Part One compares legislation enacted in each state during the 1985-87 sessions by category of legislation in matrix form. Part Two summarizes all categories of legislation enacted on a state-by-state basis. Part Three summarizes legislation on a category-by-category basis.

The states are classified by EPA Region (Regions I-X), with the New England states (Region I) appearing first. Legislation summarized under each state appears in the following order: (1) category of legislation (statewide strategies, ground-water classification, standard setting, land use management, ground-water funds, agricultural chemicals, underground storage tanks, and water use management); (2) year of enactment (1985, 1986, 1987); and (3) chronological number of act or chapter.

Not all states adopted legislation during the 1985-87 sessions pertaining to the eight categories selected. Additionally, not every bill passed in each category is summarized; for inclusion in the survey, there must be a reasonably ascertainable intent to protect ground-water quality. For each bill enacted, the session law number (act or chapter) and the citation as codified in the state's statutes are provided. The report concludes with an appendix listing the relevant state legislative staff from whom additional information on the legislation enacted may be obtained.

PART ONE:

COMPARISON OF STATE LEGISLATION, 1985-87

SUMMARY AND ANALYSIS

This section compares state ground-water quality protection legislation enacted during the 1985-87 sessions by category of legislation in a matrix format. The eight categories are statewide strategies, ground-water classification, standard setting, land use management, ground-water funds, agricultural chemicals, underground storage tanks, and water use management.

The eight major categories of legislation are defined as follows:

(1) Statewide Strategies: requiring a state agency or group of agencies to develop a comprehensive plan to protect ground-water quality from contaminant sources in any area of the state. The strategy may apply existing regulatory authority to ground-water problems or recommend the enactment of new legislation. Specific components may include ground-water classification, standard setting, land use management, or other options described in this report.

(2) Ground-Water Classification: identifying and categorizing ground-water sources by current and future uses to determine the degree of protection necessary to maintain ground-water quality at levels sufficient to continue such uses. Classification can be used as a planning tool to set water quality standards, discharge permit requirements, and land use controls.

(3) Standard Setting: ground-water quality standards are used to set threshold levels beyond which contamination of an aquifer from a discharge may occur. Violation of standards can affect the designated uses of a ground-water source established by a classification system.

(4) Land Use Management: planning and regulatory mechanisms to control land-disturbing activities that may contaminate an aquifer. Land use management is primarily a local government function, and may include zoning ordinances or the acquisition or transfer of development rights to prevent unreasonable development in aquifer recharge zones.

(5) Ground-Water Funds: specific financial accounts established for the purposes of protecting ground-water quality and providing compensation for damages to underground drinking water supplies. Revenue in these funds may be used for ground-water cleanup, replacement of drinking water supplies, or monitoring ground-water quality. General environmental response funds or state "superfunds" are not included.

(6) Agricultural Chemicals: regulation of the use, sale, labeling, and disposal of pesticides, herbicides, and fertilizers.

(7) Underground Storage Tanks: establishing criteria for the registration, construction, installation, monitoring, repair, closure, financial responsibility, and leaks associated with underground tanks storing hazardous wastes or materials.

(8) Water Use Management: including ground-water quality protection in the criteria used to justify more stringent water allocation measures in designated critical areas.

During the 1985-87 legislative sessions, 37 states enacted legislation that could be placed in at least one of the eight major categories described above. The breakdown of states by category of legislation is as follows: statewide strategies--12; ground-water classification--3; standard setting--5; land use management--6; ground-water funds--3; agricultural chemicals--25; underground storage tanks--27; and water use management--3.

An assessment of the survey results suggests that states are using legislative approaches to develop ground-water protection strategies more in response to specific problems, e.g., pesticide contamination and leaking underground storage tanks, than through comprehensive programs capable of addressing a range of problems. Congressional policy also has focused state attention on specific issues; the inclusion of a national underground storage tank program in the 1984 amendments to the Resource Conservation and Recovery Act (RCRA) and the 1986 Superfund Amendments and Reauthorization Act (SARA) has provided an incentive (the assumption of state primacy over program administration) for state action. Equally noteworthy, however, is the state initiative taken in response to ground-water problems caused by agricultural chemical use in the absence of clear federal direction.

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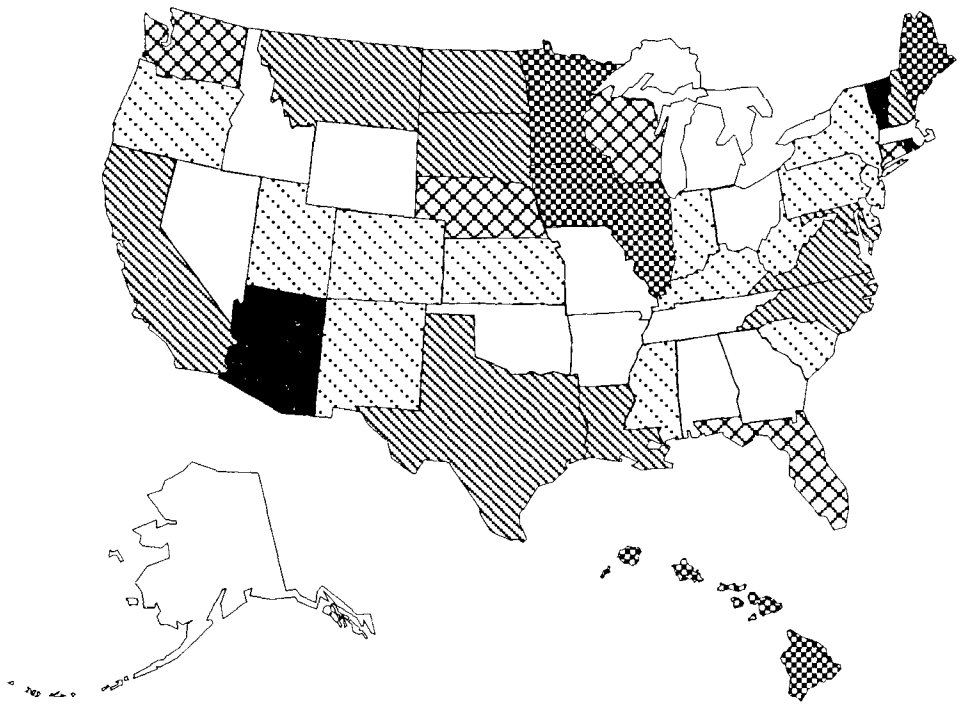
As a result of executive agency action, ground-water classification and standard setting programs have been developed in several states (see EPA's May 1985 publication entitled, Selected State and Territory Ground-Water Classification Systems). Legislatures, nonetheless, have monitored such program development through the budgetary and regulation review processes.

The following map and table compare state ground-water quality protection legislation enacted during the 1985 through 1987 sessions by category of legislation. More detailed assessments of state legislation appear in the sections preceding the summaries in Part Three of this report.

Comparison of State Legislation, 1985-87



Categories of Legislation (8 Possible)

Five	Two
Four	One
Three	None

COMPARISON OF STATE LEGISLATION, 1985-87

Region-State	Statewide Strategies	Ground-Water Classification	Standard Setting	Land Use Management	Ground-Water Funds	Agricultural Chemicals	Underground Storage Tanks	Water Use Management
I - CT	X			X		X		
MA								
ME	X				X	X	X	
NH						X	X	
RI	X	X	X	X		X		
VT	X	X	X			X	X	
II - NJ							X	
NY				X				
III - DE							X	
MD	X					X		
PA						X		
VA	X						X	
WV						X		
IV - AL								
FL				X		X	X	
GA							X	
KY						X		
MS						X	X	
NC						X		
SC						X		
TN								
V - IL	X		X			X	X	
IN							X	
MI								
MN	X			X		X	X	
OH					X	X	X	
WI								

COMPARISON OF STATE LEGISLATION, 1985-87

Region-State	Statewide Strategies	Ground-Water Classification	Standard Setting	Land Use Management	Ground-Water Funds	Agricultural Chemicals	Underground Storage Tanks	Water Use Management
VI - AR								
LA						X	X	
NM							X	
OK								
TX							X	X
VII - IA	X				X	X	X	
KS						X		
MO								
NE						X	X	X
VIII- CO						X		
MT							X	X
ND						X	X	
SD						X	X	
UT							X	
WY								
IX - AZ	X	X	X			X	X	
CA						X	X	
HI	X		X			X	X	
NV								
X - AK								
ID								
OR							X	
WA	X			X			X	

PART TWO:

SUMMARIES OF LEGISLATION BY STATE, 1985-87

REGION I

CONNECTICUT

Statewide Strategies
Special Act 85-84 (1985); not codified

Requires the Commissioner of Environmental Protection to report to the legislature by January 15, 1987, on options to protect public underground drinking water supplies. The report must include a map of ground-water areas needing protection and a management strategy to protect watersheds and recharge zones from land use activities.

Land Use Management
Public Act 85-279 (1985); G.S.C., 8-2, 8-23

Requires local development plans and zoning regulations to consider protection of underground drinking water supplies.

Agricultural Chemicals
Public Act 85-273 (1985); G.S.C., 22a-50, 22a-52, 22a-53, 22a-58

Authorizes the Commissioner of Environmental Protection to reclassify general use pesticides to a restricted use category, thereby requiring a permit for their use. Also requires private applicators--principally farmers--to maintain records of restricted pesticide use.

Public Act 86-353 (1986); G.S.C., 22a-66b et seq.

Authorizes the Commissioner of Environmental Protection to develop a registration program for pesticide application businesses. The act requires such businesses to apply to the commissioner for a registration certificate and sets standards by which applications will be considered.

MAINE

Statewide Strategies
Chapter 491 (1987); M.R.S.A., 38:569

Requires the Department of Environmental Protection to set standards for the cleanup and removal of discharges into ground water. Authorizes the department to issue clean-up orders, establish enforcement procedures and penalties, and determine third-party damages.

Ground-Water Funds
Chapter 491 (1987); M.R.S.A., 23:3659

Enables the owner of a private water supply that has been contaminated by a political subdivision to apply for compensation. The act sets standards for an application and the conditions and procedures to be used in reaching a settlement. It also establishes limits on the liability of political subdivisions for compensation.

Agricultural Chemicals
Chapter 465 (1985); M.R.S.A., 38-402

Requires the Maine Geological Survey to conduct a 3-year study assessing the impact of agricultural practices and chemicals on ground-water quality. The study will address the extent and level of pesticide contamination; the movement of pesticides into ground water; and the synergistic effects of pesticides and their persistence in ground water. An annual report must be submitted to the legislature's Joint Committee on Energy and Natural Resources.

Underground Storage Tanks

Chapter 496 (1985); M.R.S.A., 38-561 et seq.

Requires the Board of Environmental Protection to develop an underground oil storage tank program. The program requirements include (1) registration of all underground oil tanks; (2) design, installation, maintenance, operating, and monitoring standards; and (3) tank replacement and abandonment procedures.

The chapter creates a Ground-Water Oil Clean-up Fund comprised of registration fees, penalties, and reimbursements. The fund will be used to defray expenses for research and development, third party damages from leaking underground storage tanks, and arbitration costs encountered in settling disputes.

The chapter also establishes joint and several liability for ground-water contamination, and relaxes the proof of causation requirement when the state determines liability.

Chapter 626 (1986); M.R.S.A., 38:564

Sets additional design and installation standards for underground storage tanks.

Chapter 410 (1987); M.R.S.A., 32:10001 et seq.

Expands the underground oil storage tank installers certification program to include the storage of hazardous substances and sets specific certification requirements.

Chapter 491 (1987); M.R.S.A., 38:563-A, 563-B, 565, 566-A

Requires the Department of Environmental Protection to develop a compliance schedule by which all nonconforming underground oil storage tanks must be replaced. Authorizes the department to set standards for tank removal, testing, leak detection, and financial responsibility.

The chapter further requires all underground storage tanks to be precision-tested every five years or, as an alternative, to have ground-water monitoring wells installed.

Chapter 521 (1987); M.R.S.A., 10:963-A, 1023-D, 1024, 1026

Creates a nonlapsing, revolving "storage facility replacement fund" to financially assist in the removal of leaking underground storage tanks. Authorizes the state Finance Authority to set rules and regulations for distributing money in the fund. Financial assistance may include direct loans for underground storage tank replacement projects or insuring the mortgage payments with respect to such projects.

NEW HAMPSHIRE
Agricultural Chemicals
Chapter 375 (1985); N.H.R.S.A., 430:28 et seq.

Recodifies and generally amends existing law that establishes a Pesticide Control Board authorized, among other powers, to adopt rules regulating the time, place and conditions for commercial pesticide use; restrict or prohibit the application of certain pesticides; regulate the handling, transport, and disposal of pesticides; and set container labeling requirements.

Requires a permit from the Division of Pesticide Control in the Department of Agriculture for the commercial application of all pesticides and the private application of restricted use pesticides. Pesticide dealers must be licensed by the division, and all pesticides sold in the state must be registered with the division.

The domestic use of pesticides is exempt from the provisions of the chapter provided that "a person applying pesticides. . .shall not allow any pesticides to enter any stream or body of water by reason of such application."

Underground Storage Tanks
Chapter 182 (1986); N.H.R.S.A., 146-C:1 et seq.

Requires the Water Supply and Pollution Control Commission to develop an underground storage facility program. The commission must set standards for (1) registering and permitting underground storage facilities; (2) constructing new facilities; (3) recordkeeping and inspection; (4) transferring the ownership of a facility; and (5) assessing financial responsibility.

The chapter also sets up an interim study committee to examine financing mechanisms for an underground storage tank replacement revolving loan fund.

Chapter 377 (1987); N.H.R.S.A., 146-A:11-a et seq.

Establishes an Oil Pollution Control Fund to mitigate the adverse effects from leaking underground storage tanks. The fund may be used to provide emergency replacement water supplies, cover pollution clean-up costs, and remove leaking and install new underground storage tanks. The Division of Water Supply and Pollution Control is authorized to make low-interest loans for tank removal and installation not to exceed $50,000 per applicant. The act also provides strict liability for corrective measures, and tort liability to third parties for negligent or intentional discharges of oil into ground water.

The act establishes an interim study committee charged with assessing financing mechanisms for an underground storage tank replacement revolving loan fund and other means for tank owners to meet financial responsibility requirements. The committee must report its findings to the governor and legislature by November 1, 1987.

RHODE ISLAND
Statewide Strategies
Chapter 494 (1985); G.L.R.I., 46-13.1-1 et seq.

Requires the Director of Environmental Management to classify all groundwater sources according to the following system: (1) Class GAA--suitable for public drinking water without treatment; (2) Class GA--may be suitable for

public or private drinking water without treatment; (3) Class GB--may not be suitable for public or private drinking water without treatment because of pollution; and (4) Class GC--may be suitable for waste disposal because of pollution.

The director must develop water quality standards containing maximum contaminant levels for each classification. The standards will be used to restore ground water to drinking water quality without treatment except where it is in a zone of discharge permitted by law or is classified as GB or GC. The classification and standard-setting program must be completed by February 28, 1988.

The Department of Environmental Management is authorized to conduct a statewide ground-water protection study to include an identification of aquifers capable of providing water for drinking water purposes; a determination of present and projected ground-water demands; and various legislative and other policy recommendations. The results of the study must be reported to the legislature by February 28, 1987.

Standard Setting
Chapter 298 (1986); G.L.R.I., 46-13.1-3, 4

Requires the director of the Department of Environmental Management to establish preventive action limits for contaminants found in ground water. A preventive action limit is defined as "a specified percentage of a maximum contaminant level."

Land Use Management
Chapter 335 (1987); G.L.R.I., 45-24.5-1 et seq.

Authorizes local governments to adopt ordinances establishing waste water management districts to prevent ground-water contamination from malfunctioning or failed septic tank systems. A district may require landowners to maintain and pump septic tanks under its jurisdiction. The act also establishes a revolving fund to make grants or low-interest loans to individuals for the maintenance or replacement of septic tanks.

Chapter 409 (1987); 46-15.3-1 et seq.

Requires each water supplier to impose a water quality protection charge on the receipts from its sales at a rate of one cent per 100 gallons sold. The revenue raised from such assessments is to be deposited in one of two water quality protection funds administered by the state Water Resources Board and the city of Providence, respectively. Disbursements from the funds to water suppliers are to be used for measures to protect drinking water quality, with 55 percent of the revenue going toward land acquisition to protect aquifer recharge zones and watersheds.

The act also authorizes the issuance of $10 million in bonds--subject to voter approval--to provide additional fund revenue. To be eligible for disbursements, a water supplier must prepare a water quality protection plan by July 1, 1988, which describes desirable land use regulations and identifies potential land acquisitions for buffer zones to protect surface- and ground-water quality.

Agricultural Chemicals
Chapter 260 (1985); G.L.R.I., 23-25.2-1 et seq.

Establishes a Pesticide Relief Advisory Board responsible for making recommendations to the Director of Environmental Management concerning pesticide use, primarily emergency response to pesticide contamination and grants for integrated pest management (nonchemical use) projects. The board also must "evaluate and make recommendations. . .regarding chemicals and pesticides which require application setbacks from domestic water wells."

The act further establishes a Pesticide Relief Fund--comprised of pesticide registration fees--for use in testing and monitoring pesticides, and for developing alternative water supplies to replace contaminated wells.

VERMONT
Statewide Strategies
Act 53 (1985); V.S.A., 48-1390 et seq.

Requires the Secretary of Environmental Conservation to develop a comprehensive ground-water protection program which will include, among other provisions: (a) data compilation on the quality, quantity, and location of aquifers; (b) identification and mapping of present and potential underground public water supplies; (c) classification of ground-water sources by use; and (d) adoption of criteria and standards to manage activities that may affect such uses.

The classification system consists of four groups: (1) Class I--suitable for public water supply and currently not exposed to activities that might affect its classification; (2) Class II--suitable for public water supply but exposed to activities that could affect its classification; (3) Class III--suitable for individual domestic water supply, irrigation, other agricultural use and industrial and commercial use; and (4) Class IV--not suitable for potable water supply but may be used for agricultural, industrial, and commercial use.

All ground water initially is classified as Class III subject to reclassification by the secretary. Considerations for classifying ground water include: its current or potential use; the extent of activities that may affect its classification; its present water quality; and the classification of adjacent surface waters. In order to permanently protect Class I aquifers, the secretary is empowered to prohibit certain activities on land overlying such aquifers.

Agricultural Chemicals
Act 72 (1985); V.S.A., 6-929, 6-1110

Establishes a Pesticide Monitoring Revolving Fund--comprised of pesticide registration fees--to monitor pesticide use. Also requires the Commissioner of Agriculture to develop a monitoring plan.

Underground Storage Tanks
Act 66 (1985); V.S.A., 10-1921 et seq.

Requires the Secretary of Environmental Conservation to develop and operate an underground storage tank program. The standards developed by the secretary must be consistent with, or more stringent than, federal regulations

promulgated under Title VI of the federal Resource Conservation and Recovery Act amendments of 1984.

Underground storage tanks are classified into two categories: (1) fuel oil storage tanks used for on-premises heating purposes, and farm or residential tanks used for storing motor fuel; and (2) all other types of underground storage tanks (referred to as Category 1 tanks).

All underground storage tank owners must notify the agency of the existence and location of each tank. The agency must issue five-year permits for Category 1 tanks specifying proper underground tank design and installation standards; leak detection, monitoring, and reporting procedures; financial responsibility requirements; and corrective action and tank closure methods. Similar but separate standards are to be established for the remaining tanks that reflect their unique use in homes and farms.

The secretary is authorized to inspect and require tank tests when necessary. Civil and criminal penalties are provided for violations of the act.

Act 85 (1987); V.S.A., 10-1921 et seq.

Creates a nonlapsing "underground storage tank trust fund" composed of money received from the federal underground storage tank trust fund to be administered by the Secretary of Environmental Conservation. The act also requires the commissioner of the Department of Banking and Insurance to adopt rules and assist in formulating underground storage tank risk pools.

The act further establishes an underground storage tank incentive program for the owners of gasoline outlets that sell less than 20,000 gallons of gasoline per month. Those owners that qualify may apply for a grant up to $5,000 to help defray the costs of replacing underground storage tanks.

REGION II

NEW JERSEY
Underground Storage Tanks
Chapter 102 (1986); N.J.S.A., 58:10A-21 et seq.

Requires the Department of Environmental Protection to develop criteria to be used in determining if local underground storage tank regulations that are more stringent than the state's regulations are permissible. Where the criteria are met, local governments may petition the department for approval of local administration of underground storage tank programs. The act also directs the department to establish underground storage tank registration fees to defray the costs of program administration and redefines exempt tanks to be farm or residential tanks storing less than 1,100 gallons of motor fuel for noncommercial purposes to comply with the federal Resource Conservation and Recovery Act.

NEW YORK
Land Use Management
Chapter 305 (1986); E.C.L., 1-0303 (24), 15-0514 (1) (d)

Expands the definition of "sole source aquifer" to include multiple aquifer systems (as found on Long Island) and empowers the Commissioner of Environmental Conservation to prohibit incompatible land uses above sole source aquifers.

Chapter 628 (1987); E.C.L., 55-0101 et seq.

Authorizes any municipality or person to petition the Commissioner of Environmental Conservation to establish a special ground-water protection area within a federally designated sole source aquifer in a county with a population of one million or more. The petition must contain information concerning the area's recharge zone capabilities; its ground-water quality; and the economic, social, ecological, recreational and aesthetic benefits/costs of ground-water protection/degradation.

If the commissioner approves the petition, a designated planning agency for the area becomes eligible for state funds (up to 75 percent of the costs) to develop a ground-water protection plan. Among other components, the plan must include a determination of the amount and type of development activity the area can sustain without degrading the aquifer; proposed limits on federal, state and local government financial assistance to projects that may affect the ground-water quality; proposed land use regulations; designated areas suitable for public acquisition; and a program for local government implementation of the plan. The commissioner must approve the plan.

In addition to the petition process, the act designates nine areas on Long Island as a single ground-water protection project under the planning jurisdiction of the Long Island Regional Planning Board.

REGION III

DELAWARE

Underground Storage Tanks

Chapter 161 (1985); D.C.A., 7-7401 et seq.

Requires the Department of Natural Resources and Environmental Control to develop and administer an underground storage tank program. The department must issue regulations pertaining to inventory control systems adequate to detect leaks; corrective action measures that tank operators must follow once a leak is detected; tank closure standards; permits for specific classes of tanks and those in environmentally sensitive areas; and financial responsibility requirements for damages associated with tank leaks.

The statute sets a timetable for the registration of new and existing tanks with the department and establishes enforcement standards that include civil penalties for violations. The department also is empowered to inspect and monitor any facility where an underground storage tank is located.

The department further is required to study the feasibility of establishing a "response fund" to cover cleanup costs and damages attributable to underground storage tank leaks where the owner or operator cannot be identified or where the cleanup costs exceed the owner's financial capacity. A select committee is created to guide the department in developing its regulations and to oversee the state program. The committee consists of a diverse set of affected interests, including members of the legislature.

Chapter 187 (1987); D.C.A., 7-7402 et seq.

Establishes the Delaware Underground Petroleum Storage Tank Response Fund to be administered by the Department of Natural Resources and Environmental Control and capitalized by an annual tank registration fee. Revenue in the fund is to be used to cover the costs of investigating underground storage tank leaks; restoring or replacing drinking water supplies contaminated by petroleum releases; corrective measures associated with releases to the environment; and third-party compensation for damages.

The act attempts to encourage voluntary rehabilitation of sites contaminated by leaking underground storage tanks by providing financial reimbursement of certain costs incurred in such remedial action. It further requires the department to adopt regulations regarding minimum levels of financial responsibility for owners and operators of underground storage tanks.

MARYLAND

Statewide Strategies

Joint Resolution No. 5 (1985); not codified

Requires the Department of Health and Mental Hygiene, in cooperation with the departments of Agriculture and Natural Resources, to develop a comprehensive ground-water protection strategy aimed at the following contaminant sources: underground storage tanks; landfills and hazardous waste sites; acid mine drainage; salt-water intrusion; nitrates, herbicides and pesticides; and septic tanks. The department also is mandated to develop a plan to integrate

and coordinate protection of ground-water quantity and quality. It must report on July 1, 1986, and annually thereafter, on the status of development and implementation of its strategy.

Agricultural Chemicals
Chapter 36 (1985); A.C.M., Agr., 5-206, 5-207

Requires a person who sells or distributes a restricted use pesticide or a public agency that applies a pesticide to obtain a permit from the Secretary of Agriculture. Authorizes the secretary to adopt rules and regulations governing such permits.

Chapter 301 (1987); A.C.M., Agr., 5-208 (D)

Requires the applicator of an experimental use pesticide permitted by the U.S. Environmental Protection Agency to provide the state Department of Agriculture with information concerning the location of the application; the pesticide's active ingredients; and the pesticide's toxicological profile.

Chapter 302 (1987); A.C.M., Agr., 5-201 et seq.

Authorizes the Secretary of Agriculture to enter into cooperative agreements and adopt pesticide use classifications to carry out state pesticide application laws. Sets additional criteria by which the secretary may grant pesticide applicators certificates of use, including proof of liability insurance. Pesticide applicators are required to provide customers with specific information regarding pesticide use. The act also authorizes the secretary to establish rules and regulations imposing civil penalties for any violation of pesticide laws.

PENNSYLVANIA
Agricultural Chemicals
Act 167 (1986); P.S.A., 3-111.21 et seq.

Requires every pesticide distributed in the state to be registered with the Secretary of Agriculture. The act empowers the secretary to require specific information relating to the registration of a pesticide, including the submission of a list of all active or inert ingredients and a full description of any tests that have been conducted.

The act further requires each commercial pesticide application business to be licensed by the secretary in those categories for which it is doing business. The secretary may categorize different types of application licenses and set criteria for the granting of licenses, such as requiring applicators to provide evidence of financial responsibility. The secretary is authorized to suspend, revoke or modify any license.

The secretary also must promulgate rules and regulations for the certification of commerical, private and public pesticide applicators. The act sets specific pesticide use criteria for noncertified applicators and for application technicians. It prohibits the purchase of any restricted use pesticide by a non-certified applicator or the application of a restricted use pesticide within 100 feet of a publicly owned area unless a waiver is granted by the secretary.

VIRGINIA
Statewide Strategies
H.J.R. 324 (1987); not codified

Directs the State Water Commission to study the quality of ground water in Virginia. The commission must consider ways to protect the quality of private drinking water supplies and the relationship of ground-water management to drinking water quality. The commission is required to submit its recommendations to the 1988 General Assembly.

Underground Storage Tanks
Chapter 528 (1987); V.C., 36-99.6, 62.1-44.34:8-9

Requires the Water Control Board to develop and administer an underground storage tank program. The rules and regulations developed by the board must include proper notification of new and existing tanks and corrective action measures that tank operators must follow once a leak is detected. The board also is required to enforce the interim federal installation underground storage tank standards until state regulations are promulgated. All standards developed under this act are to be in accordance with all applicable federal laws and regulations.

Chapter 677 (1987); V.C., 62.1-44.34:5, 8-10

Requires the Water Control Board to adopt financial responsibility requirements for owners and operators of underground storage tanks. The minimum financial responsibility standards are $100,000 per occurrence for corrective action needed to mitigate the effects of leaking underground storage tanks and $300,000 per occurrence for compensation to third parties for bodily injury and property damage. The act enables owners and operators of underground storage tanks who are unable to demonstrate these minimum standards to establish insurance pools. The State Corporation Commission is required to oversee the development of such pools.

The act also creates a nonlapsing, revolving "Underground Petroleum Storage Tank Fund" to financially assist the Water Control Board in administering the state underground storage tank program. All expenses, costs and judgements recovered under the underground storage tank program and moneys received as reimbursements are to be deposited in the fund. Fund disbursements include the costs of corrective action and compensation for third parties in excess of the minimum financial responsibility requirements up to $1 million each; the costs of mitigating the effects of leaking underground storage tanks when the owner or operator cannot be determined or is incapable of carrying out such action; and the administrative costs incurred by the board in administering the state underground storage tank program.

WEST VIRGINIA
Agricultural Chemicals
Chapter 131 (1986); W.V.C., 19-16B-2

Recodifies and generally amends the Pesticide Use and Application Act. The act requires all pesticide application businesses to be licensed by the Commissioner of Agriculture. It sets criteria by which a license and its renewal can be granted and authorizes the commissioner to suspend, revoke or modify any license provision under certain conditions. It further establishes

penalties for violations of the act and authorizes the commissioner to promulgate rules and regulations permitting consent agreements or negotiated settlements for civil penalties. The act also prohibits municipalities or counties from enacting laws or ordinances regarding the regulation of pesticide use and application.

REGION IV

FLORIDA

Land Use Management

Chapter 85-42 (1985); F.S., 163.3177 (6) (c)

Requires local governments' comprehensive plans to include a natural ground-water aquifer recharge element and aquifer recharge protection requirements. Such areas are to be given special consideration in future zoning and land use decisions.

Agricultural Chemicals

Chapter 86-116 (1986); F.S., 487.158 (r)

Expands the grounds for disciplinary action for violation of pesticides law to include the failure to disclose records of pesticides used, and prohibiting access and inspection of pesticides and the area to which they have been applied, to representatives of the Department of Environmental Regulation.

Underground Storage Tanks

Chapter 86-159 (1986); F.S., 206.9915 et seq., 376.3071

Establishes an Inland Protection Trust Fund to help protect ground water and inland surface water. The fund is to be comprised of money raised through an excise tax levied on each barrel of pollutant produced or imported into the state, and is to be administered by the Department of Environmental Regulation.

The fund may be used for the investigation, maintenance, restoration and rehabilitation of sites contaminated by stored petroleum products. The department must establish rules to prioritize contaminated sites and may seek reimbursement of costs incurred in cleanup. The department may contract with local governments to achieve the act's objectives.

The act also establishes an Early Detection Incentive Program within the fund. It provides a 15-month grace period for leaking underground storage tanks reported to the department between July 1, 1986 and October 1, 1987. All costs incurred to replace underground storage tanks and to restore the contaminated area will be covered by the fund during the grace period.

Chapter 87-374 (1987); F.S., 206.9935, 376.3071

Extends the deadline on the excise tax levied for the Inland Protection Trust Fund to 1997. Requires the registration of stationary tanks with storage capacities of 550 gallons or less at nonresidential areas with the Department of Environmental Regulation by December 31, 1987. Authorizes the department to approve or deny local ordinances regulating underground storage tanks.

KENTUCKY

Underground Storage Tanks

Chapter 237 (1986); K.R.S. 224.810, 224.814

Requires the Natural Resources and Environmental Protection Cabinet to develop a program to regulate underground storage tanks. In developing the program, the cabinet is authorized to establish standards for underground storage tank construction, monitoring, repair, closure and financial responsibility.

MISSISSIPPI
Agricultural Chemicals
Chapter 523 (1987); M.C.A., 49-17-19, 69-23-7, 75-47-7

Requires the Mississippi Air and Water Pollution Control Commission, when adopting ground-water quality standards for pesticides and fertilizers, to use existing federal standards. If no federal standard exists, the commission may petition the U.S. Environmental Protection Agency to set one or consult with the agency in devising its own standard.

The act also empowers the commission to cancel or suspend the registration of any pesticide (and grants the Commissioner of Agriculture the same authority relating to fertilizers) in violation of state law or which poses an immenent health hazard or threat to ground-water quality. It places a portion of the fertilizer registration fee in a special fund to be used for implementing programs to protect ground water from contamination by fertilizer use.

NORTH CAROLINA
Agricultural Chemicals
Chapter 559 (1987); G.S.N.C., 143-442 et seq.

Authorizes the state Pesticide Board to request a full description of the tests made and the results of such tests for any pesticide to be used in the state. Prohibits the sale or distribution of a restricted use pesticide to any unlicensed dealer. The chapter further empowers the board to stop the sale or use of any pesticide whose application is inconsistent with its labeling requirements or the disposal of any pesticide in violation of the act.

Underground Storage Tanks
Chapter 551 (1985); G.S.N.C., 143-215.3, 143B-222

Empowers the Environmental Management Commission to develop an underground storage tank program in accordance with mandated federal programs under the Resource Conservation and Recovery Act (RCRA). In developing the program, the commisssion is authorized to establish standards and adopt regulations concerning underground storage tank registration, construction, installation, monitoring, repair, closure, financial responsibility, and leaks.

SOUTH CAROLINA
Agricultural Chemicals
Act 495 (1986); C.L.S.C., 46-1-140

Requires any irrigation system designed or used for the application of fertilizers, pesticides or chemicals to be equipped with an anti-syphon device adequate to protect ground-water quality. The act sets design criteria for such a device. The Division of Regulatory and Public Service Programs at Clemson University must promulgate rules and regulations necessary to implement and enforce the law.

REGION V

ILLINOIS

Statewide Strategies

Public Act 85-863 (1987); I.A.S., 111 1/2-7451 et seq., 111 1/2-116.116b, 111 1/2-1014.1 et seq., 111 1/2-1017.1 et seq., 111 1/2-1022.2

Establishes an Interagency Coordinating Committee on Ground Water composed of 10 state agency heads and chaired by the Illinois Environmental Protection Agency (IEPA) empowered to review and evaluate the state's ground-water protection policy and make recommendations for new legislation and regulations. IEPA must propose ground-water quality standards to the Pollution Control Board by July 1, 1989. The board must promulgate standards within two years of receipt from the agency. The Department of Energy and Natural Resources is required to develop a data collection and ground-water monitoring program with specific emphasis on assessing the impact of agricultural chemicals on ground water.

The act requires the source of contamination of an underground drinking water supply to provide the well owner with an alternative drinking water source or treatment sufficient to render the water potable. It establishes minimum setback requirements for sources or potential sources of contamination from community water wells and prohibits the construction of such wells within comparable distances of existing sources or potential sources of contamination.

The act further requires IEPA to propose regulations to the Pollution Control Board for activities that may pollute ground water such as landfills and storage of pesticides. The board must adopt appropriate regulations within two years of their receipt from the agency.

IEPA must establish a regional ground-water protection planning program and designate priority ground-water protection planning regions based upon the mapping of recharge areas. The agency may recommend a regulation establishing the boundary of a regulated recharge area if there is a demonstrated need for regional protection of the aquifer due to its suseptibility to pollution over a wide geographic area.

The act also allows up to 30 percent of the fees deposited in the state's Hazardous Waste Fund to be used for ground-water protection purposes.

Agricultural Chemicals

Public Act 84-153 (1985); I.A.S., 5-822.1

Establishes a Pesticide Control Fund comprised of pesticide registration and license fees to be used for public education programs on the proper use of pesticides.

Public Act 84-358 (1985); I.A.S., 5-803, 5-809, 5-811

Expands the Department of Agriculture's authority to control the purchase, use, storage, and disposal of pesticides. Requires the department to certify pesticide applicators as being competent and knowledgeable in the use of pesticides as a condition for licensure, with recertification required every five

years. Further requires a license from the department for restricted use pesticides.

Underground Storage Tanks
Public Act 85-861 (1987); I.A.S., 111 1/2-1004, 111 1/2-1022.13, 111 1/2-1022.18, 127 1/2-154, 127 1/2-156

Requires the state Fire Marshal to register and permit all underground storage tanks and assess and collect specific fees on certain types of tanks. The act also authorizes the state Environmental Protection Agency to notify and require the owner or operator of an underground storage tank to undertake preventive or corrective action when there is a leak or threatened leak.

The act sets liability standards and penalties for violations of the underground storage tank program. All revenues generated from underground storage tanks are to be placed in a trust fund to administer the program.

INDIANA
Underground Storage Tanks
Public Law 172 (1987); I.S.A., 13-7-20-1 et seq.

Requires the Solid Waste Management Board to develop and operate an underground storage tank program. The board is authorized to establish rules and regulations regarding leak detection standards, reporting requirements once a leak has been detected, corrective action measures including the closing of leaking tanks, and recordkeeping standards.

The act also sets specific financial responsibility standards for tank owners and mandates certain requirements for new tanks. All standards under this act must be developed in accordance with federal regulations adopted under Subtitle I of the Resource Conservation and Recovery Act. A special fund is established to defray the cost of administering the program.

MINNESOTA
Statewide Strategies
Chapter 207 (1987); M.S., 112.60

Authorizes metropolitan counties to prepare ground-water plans. The act sets certain standards for county ground-water plans and requires each plan be reviewed by local entities, the Metropolitan Council and certain state agencies. The Metropolitan Council is responsible for mediating differences between the local plans.

Land Use Management
Chapter 236 (1985); M.S., 112.36 (2) (14)

Authorizes watershed districts to be formed for the purpose of protecting ground-water quality.

Agricultural Chemicals
Chapter 358 (1987); M.S., 18.53

Authorizes the Commissioner of Agriculture to develop and administer state regulations relating to pesticides. The commissioner must determine the impact of pesticides on surface and ground water and develop standards for pesticide management. The act sets specific pesticide standards in the following

areas: (1) sale, use and storage of pesticides; (2) posting of warning signs when a pesticide has been used; (3) licensing of pesticide applicators; (4) recordkeeping and liability requirements for pesticide activities; (5) corrective action when a pesticide is released into the environment; and (6) enforcement and penalties for violations of the pesticide laws.

The act requires all pesticides used or distributed in the state to be registered with the commissioner. It further establishes a chemigation program requiring a permit from the commissioner for pesticides applied through an irrigation system. Additionally, the commissioner, in conjunction with the Pollution Control Agency, must develop a pesticide container deposit and return program for certain pesticide containers.

Underground Storage Tanks
Chapter 13, Sections 235-239, First Special Session (1985); M.S., 116.46 et seq.

Empowers the state Pollution Control Agency to establish an underground storage tank program. The rules and regulations developed by the agency will not become effective until the U.S. Environmental Protection Agency publishes its final regulations for underground storage tanks or until February 8, 1987, whichever is first.

The statute establishes interim standards that require all underground storage tanks to be designed in a manner that prevents the release of any stored substance. It sets a timetable for owners of new, existing, or abandoned tanks to notify the agency of each tank's existence. Additional requirements apply to changing ownership and the storage of regulated substances in underground tanks. Rules and regulations promulgated under the act preempt conflicting local rules regulating underground tanks.

Chapter 388 (1987); M.S., 115C.01

Authorizes the Director of the Pollution Control Agency to take corrective action or order the responsible parties to take corrective action in response to a leaking underground storage tank. Makes the responsible parties liable for cleanup costs.

The act also establishes a petroleum tank release cleanup fee imposed on the use of petroleum tanks. All money collected from this fee, and revenue generated from the cleanup of underground storage tanks, are to be placed in the newly created Petroleum Tank Release Cleanup Fund. The fund is to be used to defray the costs of state cleanup activities.

WISCONSIN
Ground-Water Funds
Act 85-22 (1985); W.S.A., 144.028

Expands the eligibility of the state's well compensation fund by authorizing municipalities to apply to the state Department of Natural Resources for grants to cover up to 60 percent of the costs of replacing private contaminated underground drinking water supplies.

Agricultural Chemicals
Act 206 (1986); W.S.A., 94.709

Expands the formula for calculating the boundary of areas in which aldicarb use is prohibited. The Department of Agriculture, Trade and Consumer Protection must deny any permit for the application of pesticides containing aldicarb in prohibition areas unless it determines that concentrations of aldicarb have been below the enforcement standard for at least two years and its use would not cause the standard to be exceeded. The act further requires the department to appoint a committee, whose membership shall include state legislators, to assess the state's experience in regulating agricultural chemicals and to make appropriate policy recommendations.

Act 27 (1987); W.S.A., 94.68 (3) et seq., 94.685, 94.703 et seq.

Requires applicants for a license to sell or distribute pesticides to submit a report to the Department of Agriculture, Trade and Consumer Protection listing every pesticide proposed for sale or distribution. License fees are to be deposited in the state's ground-water fund. The act further prohibits the sale of restricted-use pesticides without a license, and requires a license for commercial applicators.

Underground Storage Tanks
Act 27 (1987); W.S.A., 25.47

Creates a separate, nonlapsing Petroleum Storage Cleanup Fund to defray the costs of administering the state underground storage tank cleanup program.

REGION VI

LOUISIANA

Agricultural Chemicals
Act 167 (1985); L.R.S., 3:3221 (B)

Requires a person who is reregistering a pesticide for which the label has been changed to submit the same type of information as required for the initial registration of a pesticide.

Act 510 (1986); L.R.S., 3:3210

Creates a pesticide fund to finance state pesticide programs and activities.

Underground Storage Tanks
Act 493 (1985); L.R.S., 30:1141.2-1141.3

Requires the Secretary of Environmental Quality to issue rules and regulations and to set fees for the registration of underground storage tanks. The act also establishes an Underground Storage Tank Trust Fund to defray the costs of administering the state's underground storage tank program.

Act 421 (1986); L.R.S., 30:1141.2 (C)

Amends the definition of an underground storage tank to comply with the federal definition under the Resource Conservation and Recovery Act.

NEW MEXICO

Underground Storage Tanks
Chapter 179 (1987); N.M.S.A., 74-4-3 et seq.

Requires the Environmental Improvement Board to develop a program to register underground storage tanks. The board may require tank installers to obtain certification from the Environmental Improvement Division of the Health and Environment Department. The act sets general guidelines by which the board may suspend or revoke an installer's certification. It also establishes penalties for violations of the state program.

A Hazardous Waste and Underground Storage Tank Fund is created to defray the costs of the state program's activities. All funds collected by the state relating to underground storage tanks must be credited to the fund.

TEXAS

Underground Storage Tanks
Chapter 277 (1987); T.C.A., Water, 26.341 et seq.

Requires the state Water Commission to develop and operate an underground storage tank program. The standards established by the commissioner must be at least as stringent as the federal regulations promulgated under Title VI of the federal Resource Conservation and Recovery Act.

In developing the underground storage tank program, the commission must establish rules and regulations concerning tank standards; leak detection and

recordkeeping requirements; reporting requirements once a leak has been detected; corrective action and tank closure measures; and financial responsibility. The commissioner is authorized to enter the premises containing an underground storage tank for inspection and testing.

The act also establishes an annual fee on facilities operating underground storage tanks. The fees collected, together with other revenues related to underground storage tanks, are to be placed in an Underground Storage Tank Fund to help defray the costs of the state program.

Water Use Management
Chapter 133 (1985); T.C.A., Water, 52.051 et seq.

Requires the Department of Water Resources to monitor the state's ground water and to identify geographic areas where ground-water quantity or quality problems exist or may occur. The department may recommend to the Texas Water Commisssion the designation of critical ground-water areas based upon its findings. After holding hearings, the commission may propose that a critical area be formed and submit the question to a vote of the affected electorate.

IOWA

Statewide Strategies

Chapter 225 (1987); C.I., 455E.1 et seq., 455E.11, 200.8, 266.38, 455B.473, 507D.3

Creates a comprehensive program of research, education and demonstration projects to address ground-water pollution problems caused by agricultural chemicals, underground storage tanks, solid waste landfills, and household hazardous wastes. It establishes a Ground-Water Protection Fund capitalized by user fees on products and discharges that contribute to ground-water contamination. Separate acccounts are set up in the fund for each major pollution source.

The agriculture management account is made up of a pesticide dealer fee (based on an assessment of one-fifth of one percent of gross annual sales in Iowa); a manufacturer's pesticide product registration fee (one-tenth of one percent of gross annual sales); and a nitrogen fertilizer tax ($0.75 per ton). The underground storage tank account is composed of tank registration and management fees. The solid waste account is funded by "tipping" fees on waste disposed at landfills. The household hazardous waste account comprises permit fees on retailers.

The act stipulates the expenditure of revenue in each fund account to finance related ground-water protection programs administered primarily by the Department of Natural Resources (DNR) and the Department of Agriculture and Land Stewardship (DALS). DNR is responsible for developing a comprehensive ground-water monitoring network and data collection program; completing a ground-water hazard mapping of the state; registering agricultural drainage wells; managing the state solid waste program; developing educational material on household hazardous waste; and implementing the underground storage tank program.

DALS is charged with encouraging the employment of best management practices by farmers to lessen chemical use in order to protect ground water and conserve the soil. It must also develop rules for pesticide management areas and for handling used pesticide containers.

The act also establishes the Leopold Center for Sustainable Agriculture at Iowa State University. The center's mandate is to conduct research and educational programs on sustainable agriculture (the balancing of economically viable farming with ground-water quality protection and land resource conservation).

The act expands the state's underground storage tank program by requiring the Insurance Division in the Department of Commerce to prepare a financial responsibility plan for damages caused by leaking underground storage tanks. The plan may include an insurance pool capable of meeting the insurance needs of policy holders up to $1 million dollars for corrective action and $1 million for financial compensation to third parties for property damage and bodily injury. It also creates a legislative committee charged with recommending legislation to the 1988 session to implement the division's plan.

Ground-Water Funds
Chapter 241 (1985); C.I., 455B.309

Creates a ground-water fund comprised of solid waste tonnage fees to be used for monitoring ground-water quality; developing ground-water quality standards; conducting research on alternative solid waste disposal methods; and abatement and cleanup of sanitary landfills.

Underground Storage Tanks
Chapter 162 (1985); C.I., 455B.471 et seq.

Empowers the Department of Water, Air and Waste Management to develop and operate an underground storage tank program. Standards developed under the program must be consistent with and may not exceed federal regulations under the Resource Conservation and Recovery Act (RCRA).

The Commission on Water, Air and Waste Management within the department is required to issue regulations pertaining to: new tank standards; leak detection and monitoring systems; reporting and recordkeeping requirements; corrective action and tank closure procedures; and rules for financial responsibility.

The statute also sets a timetable for the registration of new, existing, and nonoperating tanks, and establishes enforcement standards that include civil penalties for violations. The department further is empowered to inspect and monitor any facility where an underground storage tank is located.

KANSAS
Agricultural Chemicals
Chapter 5 (1985); K.S.A., 2-3301 et seq.

Regulates the application of agricultural chemicals through chemigation, a process whereby pesticides or other chemicals are added to irrigation water applied to the land or crops through an irrigation distribution system. The act requires persons using chemigation to register with and obtain a permit from the Secretary of the State Board of Agriculture; use functional anti-pollution devices; and keep records and file reports as deemed necessary by the secretary. Anti-pollution devices include waterline check valves, chemical line devices, interlock systems, vacuum relief devices, automatic low pressure drains, and separate injection systems.

The act also requires the secretary to provide on a periodic basis chemigation safety information to all those holding a user's permit. The secretary further is empowered to enter any premises to inspect chemigation equipment or application procedures. Penalties are set for violations of the act.

Chapter 12 (1985); K.S.A., 2-2438a

Requires pesticide dealers to register with the State Board of Agriculture.

Chapter 13 (1985); K.S.A., 2-2440

Removes the exemption from licensing requirements for pesticide businesses that apply general use pesticides to agricultural land.

NEBRASKA

Agricultural Chemicals

LB 284 (1986); R.S.N., 46-1101 et seq.

Requires irrigators to obtain an annual chemigation permit from the local natural resources district with jurisdiction. Chemigation is the process whereby agricultural chemicals are applied to crops through irrigation systems. Chemigators must be certified by the state Department of Environmental Control before commencing operations.

The statute specifies required chemigation equipment to prevent ground-water contamination, including a check valve and vacuum relief valve; an inspection port; an automatic low-pressure drain; and a simultaneous interlock device to shut off the system. The law requires chemigators to report a chemical spill within 24 hours to the department. If the 24-hour compliance deadline is met, along with all other chemigation requirements, the chemigator responsible for the spill will not be held liable for polluting a neighboring well.

Underground Storage Tanks

LB 217 (1986); R.S.N., 81-15,117 et seq.

Requires the state Fire Marshal to establish rules and regulations for detecting, preventing and correcting leaking underground storage tanks. The regulations must include standards for the constuction, design, installation and replacement of tanks; recordkeeping procedures; reporting requirements when a leak is found; and financial responsibility standards. The Fire Marshal also must establish separate registration, permit and inspection programs which are to include fee systems. In administering the underground storage tank program, the Fire Marshal must consider the location, storage capacity, use and age of a tank; the type of substances stored in a tank; and the soil and climate conditions surrounding a tank.

The act also creates a Petroleum Products and Hazardous Substances Storage and Handling Fund. The fund is to be administered by the Department of Environmental Control and be used to operate the state underground storage tank program.

LB 365 (1987); R.S.N., 81-15,119

Amends the definition of an underground storage tank to comply with the federal definition contained in Subtitle I of the Resource Conservation and Recovery Act.

Water Use Management

LB 894 (1986); R.S.N., 46-656 et seq.

Empowers the Department of Environmental Control to designate special ground-water protection areas where irrigation practices are causing agricultural chemicals to leach into ground water. Once designated, the local natural resources district with jurisdiction must prepare a ground-water management plan (to be approved by the department) to prevent the nonpoint source pollution. The plan may entail irrigation scheduling and timing of agricultural chemical applications. If the local district does not prepare an approved plan, the department may enforce its own water use program.

REGION VIII

COLORADO

Agricultural Chemicals
Chapter 260 (1987); C.R.S., 35-11-101 et seq.

Requires a permit from the Department of Agriculture after January 1, 1990, for chemigation, the process of applying agricultural chemicals to crops through irrigation systems. The department must issue regulations governing the installation and use of chemigation equipment; permit fees; and criteria for the entry of inspectors to check for compliance with the law.

The statute lists required devices for chemigation equipment, including a backflow prevention check valve and vacuum relief valve; an inspection port; an automatic low-pressure drain; and a simultaneous interlock device. It requires permitted chemigation systems to be inspected at least once every two years, and empowers the department to revoke a permit if ground-water contamination is discovered.

Chapter 261 (1987); C.R.S., 35-9-104 (2) (c)

Establishes the Colorado Pesticide Fund to be comprised of fees collected under the state's pesticide laws. Revenue in the fund is to be appropriated annually by the legislature to the Department of Agriculture to defray the costs of administering the state's pesticide program.

MONTANA

Underground Storage Tanks
Chapter 633 (1985); M.C.A., 75-10-403, 75-10-405, 75-10-409

Authorizes the Department of Health and Environmental Science to adopt rules regarding: underground storage tank reporting requirements; financial responsibility; release detection, prevention, and correction; and standards for the design, construction, and installation of underground storage tanks. The act also requires tank owners or operators to report leaks to the department.

Water Use Management
Chapter 189 (1985); M.C.A., 85-2-506 (2) (e)

Authorizes the Board of Natural Resources and Conservation to designate controlled ground-water areas where ground-water use would be limited upon a showing that excessive ground-water withdrawals would cause ground-water contamination.

NORTH DAKOTA

Agricultural Chemicals
Chapter 103 (1985); N.D.C.C., 4-35-12.1, 4-35-21.1

Requires a person alleging damage to his property from another's pesticide application to submit a loss report to the Commissioner of Agriculture as a condition for bringing a civil action against the pesticide applicator. Empowers the commissioner to stop the sale of any pesticide sold in violation of this chapter.

Chapter 93 (1987); N.D.C.C., 4-35.1-01 et seq.

Requires the Commissioner of Agriculture to adopt rules regulating chemigation, a process by which chemicals are applied to crops through irrigation systems. The rules must include standards for the design, installation, use and maintenance of irrigation equipment used in chemigation, and for the application of pesticides and fertilizers through irrigation systems. The commissioner also is authorized to periodically inspect chemigation equipment and operations.

Underground Storage Tanks
Chapter 306 (1987); N.D.C.C., 23-20.3-01 et seq.

Requires the Department of Health to establish an underground storage tank program. The standards developed by the department must be consistent with and may not exceed the federal regulations promulgated under Title VI of the federal Resource Conservation and Recovery Act amendments of 1984. The department must issue rules and regulations for leak detection standards; reporting requirements once a leak has been detected; corrective action measures including the closing of leaking tanks; financial responsibility requirements; and recordkeeping standards.

The act also requires the department to set specific construction and performance standards for new tanks and adopt procedures to enable underground storage tank owners to notify the agency of existing tanks. In addition, the act authorizes the department to inspect underground storage tank facilities when deemed necessary. A permit fee system is created to defray the cost of the state program. All counties, cities and townships are prohibited from developing underground storage tank ordinances more stringent than the state standards.

SOUTH DAKOTA
Agricultural Chemicals
Chapter 377 (1985); S.D.C.L.A., 38-21-27

Requires the licensing of aerial pesticide applicators by the Secretary of Agriculture.

Underground Storage Tanks
Chapter 284 (1985); S.D.C.L.A., 34A-2-98, 34A-2-99

Requires the Board of Water Management to develop an underground storage tank program. The board must establish rules and standards regarding: (1) notification requirements for existing tanks; (2) performance standards for new tanks; (3) leak detection, tank testing, and recordkeeping requirements; (4) reporting, corrective action, and tank closure procedures; and (5) financial responsibility for leaking tanks.

UTAH
Underground Storage Tanks
Chapter 217 (1987); U.C.A., 26-14-2 et seq.

Authorizes the Department of Health's Solid and Hazardous Wastes Committee to establish an underground storage tank program in conformance with federal regulations to achieve state primacy over program administration. The program

may include provisions requiring a tank owner or operator to provide information, records, and access to inspect, monitor and test tanks for leaks. The act assesses a tank registration fee to cover program administration costs.

REGION IX

ARIZONA

Statewide Strategies
Chapter 368 (1986); A.R.S.A., 36-3501 et seq., 49-301 et seq.

Requires the newly created Department of Environmental Quality to classify aquifers by use and to adopt ground-water quality standards to protect such uses. All aquifers initially are classified as suitable for drinking water. The ground-water quality standards are to be the same as the U.S. Environmental Protection Agency's primary Maximum Contaminant Levels (MCLs); the department may adopt numeric standards for additional contaminants.

The act requires a permit for most discharges to ground water from point and nonpoint sources. General permits utilizing best management practices are permissible for nonpoint sources such as agriculture, urban runoff, small septic systems, and forestry practices.

The act sets up a separate regulatory program for agricultural chemicals. It requires a pesticide registrant to submit data on the substance's environmental fate to the Department of Environmental Quality. The department must adopt numeric values for those physical characteristics (water solubility, soil adsorption, field dissipation, hydrolysis, aerobic and anaerobic soil metabolism) that affect the agricultural chemical's leaching ability, and publish a list of those chemicals that may pollute ground water. After conducting ground-water monitoring tests, the department may cancel the registration (or take other restrictive measures) of any listed agricultural chemical found in ground water.

Agricultural Chemicals
Chapter 368 (1985); A.R.S.A., 32-2301 et seq.

Authorizes the Structural Pest Control Board to request specific records from persons applying pesticides; expands the board's enforcement authority; and establishes additional powers and duties. The statute also amends the continuing education requirements for renewal of a pesticide applicator's license.

Underground Storage Tanks
Chapter 230 (1986); A.R.S.A., 36-3301 et seq.

Requires the Director of the Department of Health Services to develop and operate an underground storage tank program. The act stipulates that all rules developed by the director must be approved by the U.S. Environmental Protection Agency under Title VI of the federal Resource Conservation and Recovery Act (RCRA) amendments of 1984.

The director must issue regulations relating to notification procedures for new and existing tanks; leak detection and monitoring systems; reporting and recordkeeping requirements; corrective action and tank closure procedures; and rules for financial responsibility. The department also is empowered to inspect and monitor any facility or its records where an underground storage tank is located.

The statute sets interim standards until final regulations are promulgated under RCRA for reporting leaking underground storage tanks to the department; new tank construction and performance standards; and enforcement measures that include civil penalties. The act also preempts any local regulations pertaining to underground storage tanks and establishes confidentiality of business records.

CALIFORNIA

Agricultural Chemicals

Chapter 1298 (1985); A.C.C., Food and Agriculture, 13141 et seq.

Requires each person who has registered an economic poison for agricultural use to submit to the director of the Department of Food and Agriculture information regarding the substance's effect on ground water no later than December 1, 1986. The registration or reregistration of an economic poison without such information is prohibited.

The act requires the department to establish numeric standards for economic poisons in ground water by December 1, 1986. No later than December 1, 1987, and annually thereafter, the director of the department must report information on economic poisons in ground water to the legislature, the Department of Health Services, and the Water Resources Control Board. The director also must establish a list of economic poisons with the potential to pollute ground water and regulate their use.

The act further requires the director to conduct a soil and ground-water monitoring program statewide. The registration for any economic poison that has contaminated ground water must be canceled unless the director finds that the health effects are not carcinogenic, mutagenic, teratogenic, or neurotoxic.

Chapter 744 (1986); A.C.C., Food and Agriculture, 12113

Empowers the director of the Department of Food and Agriculture, after conducting a hearing, to refuse, revoke or suspend a pesticide dealer license for violation of the state's pesticide laws.

Chapter 932 (1986); A.C.C., Food and Agriculture, 221

Deletes the requirement that the director of the Department of Food and Agriculture conduct investigations and hearings prior to issuing regulations when such regulations are adopted on an emergency basis.

Chapter 1234 (1986); A.C.C., Food and Agriculture, 12825 et seq.

Requires a pesticide registrant, during or after the registration process, to notify the Department of Food and Agriculture of any evidence indicating any adverse effects associated with the pesticide. The department director may cancel the registration of such a pesticide.

Underground Storage Tanks

Chapter 1228 (1985); A.C.C., Health and Safety, 25283, 25284.5, 25291, 25299.1

Sets a January 1, 1986 deadline for cities and local government agencies to assume responsibility for implementing the state-mandated local underground storage tank permit program. The act requires local agencies to issue interim

permits to tank owners or operators if a final permit decision has not been reached within 30 days after receipt of a permit application. The local agency must approve an interim monitoring program by March 1, 1986, and the owner or operator must install the system within six months thereafter. The legislation also requires a local agency to issue a final permit by September 1, 1986.

Chapter 1535 (1985); A.C.C., Health and Safety, 25284.7, 25291

Authorizes specified underground storage tank owners and operators with interim permits requiring annual tank testing to conduct initial tests before March 1, 1986. If the monitoring procedure is approved by the local agency, the next test is not required until 30 months after the first test with subsequent testing required annually.

Chapter 935 (1986); A.C.C., Health and Safety, 25281 et seq.

Exempts underground storage tanks located on farms that store motor vehicle or heating fuel used primarily for agricultural purposes and have less than a 1,100 gallon capacity from state regulations. The act also establishes an alternative method for monitoring such tanks installed after January 1, 1984.

Chapter 1025 (1986); A.C.C., Health and Safety, 25281.5 et seq.

Requires the Water Resources Control Board to review existing regulations for pipes used in connection with underground storage tanks by July 1, 1987. The board must revise the regulations by April 1, 1988, and submit its findings to the legislature by May 1, 1988. The act also mandates certain design standards for pipes and systems to more effectively detect leaks from underground storage tanks.

Chapter 1317 (1987); A.C.C., Health and Safety, 25297.1

Requires the Water Resources Control Board and the Department of Health Services to develop and implement a pilot program for local agencies to abate and clean up the effects of leaking underground storage tanks.

Chapter 1372 (1987); A.C.C., Health and Safety, 25281 et seq.

Requires all underground storage tanks to undergo a "tank integrity test" designed to detect leaks. The act further requires tests after January 1, 1989, to be performed by tank testers licensed by the Water Resources Control Board. It sets licensing requirements for tank testers and establishes penalties for violations of the standards.

HAWAII
Statewide Strategies
Act 220 (1986); not codified

Requires the director of the Department of Health to submit a draft ground-water strategy and plan to the legislature by January 1987. The plan must set goals for a ground-water program; outline potential ways of achieving those goals; and identify the resources necessary to implement a program. Within two years of the plan's adoption, the department director must have in

operation a program to predict, monitor and prevent ground-water contamination.

Standard Setting
Chapter 297 (1987); H.R.S., 340E-21 et seq.

Requires the director of the Department of Health to set interim action levels for those contaminants posing a health concern in public drinking water supplies which have not had maximum contamination levels set by the U.S. Environmental Protection Agency. The interim action levels may be superseded by standards adopted by the director. The act also sets procedures for water suppliers to notify the department and the public of a contaminated underground drinking water supply.

Agricultural Chemicals
Act 127 (1985); not codified

Authorizes the Office of Environmental Quality Control to develop an approach for monitoring ground and surface water for the presence of pesticides and chemical byproducts. The office also is required to assess the feasibility and usefulness of establishing a statewide reporting system for all pesticides sold and distributed, and of developing criteria to assess risks associated with pesticide use.

Act 131 (1985); H.R.S., 149A-32.5

Requires the chairperson of the Board of Agriculture, in consultation with the Advisory Committee on Pesticides and with the approval of the Director of Health, to suspend, cancel, or restrict the use of specific pesticides when their use is determined to have unreasonable adverse impacts on the environment (e.g., when pesticide residues appear in drinking water).

Act 167 (1987); H.R.S., 149A-31

Requires any equipment used to disperse pesticides to be equipped with an air gap or reduced-pressure back-flow device adequate to protect water quality.

Act 310 (1987); H.R.S., 149A-2 et seq.

Sets additional requirements for pesticide licensing. Specifically prohibits a pesticide from being sold, resold or distributed in the state prior to license renewal.

Underground Storage Tanks
Act 197 (1986); H.R.S., 342-61 et seq.

Requires the Department of Health to develop and operate an underground storage tank program. The department must establish rules and regulations regarding leak detection standards; reporting requirements once a leak has been detected; corrective action measures, including the closing of tanks; and recordkeeping procedures. The department also is authorized to inspect and monitor any facility where an underground storage tank is located.

The act sets a timetable for the department to register all new and existing tanks. It also sets specific financial responsibility standards for tank

REGION X

OREGON
Underground Storage Tanks
Chapter 737 (1985); O.R.S., 468.901 et seq.

Requires the Environmental Quality Commission to develop and administer an underground storage tank program. The commission is authorized to establish rules and regulations concerning leak detection standards, reporting requirements once a leak has been detected, corrective action measures, and financial responsibility requirements. The Department of Environmental Quality is empowered to enter the premises containing an underground storage tank to inspect and require tank tests when necessary.

The act requires standards set under the act to be "established to gain state authorization under the Resource Conservation and Recovery Act." The legislation exempts farm or residential tanks storing less than 10,000 gallons of motor fuel from the new requirements, however, which is above the 1,500 gallon threshold contained in RCRA. Finally, a revolving fund is set up to defray state inspection expenses incurred under the act.

Chapter 539 (1987); O.R.S., 468.901 et seq.

Generally amends the state's underground storage tank enabling legislation with prescribed language that mandates the development of a comprehensive state program. The Environmental Quality Commission is directed to adopt a statewide underground storage tank program that preempts all local government tank standards. The act also requires all state rules and regulations to be in conformance with federal standards adopted under Subtitle I of the Resource Conservation and Recovery Act Amendments of 1984.

In developing the program, the act authorizes the commission to establish standards relating to the design, construction and installation of tanks; recordkeeping requirements; leak detection standards; corrective action procedures once a leak is found, including the closure of tanks; and reporting requirements.

The act amends the definition of an underground storage tank to comply with federal law. It also establishes an annual fee; sets specific standards for developing a permit system; establishes strict liability standards; and requires tank owners to maintain financial responsibility. It creates an Underground Storage Tank Insurance Fund to help meet the financial responsibility requirements. Financial responsibility rules must be reviewed by the legislature before adoption.

The act also delineates procedural requirements for the cleanup of a site contaminated by a leaking underground storage tank. It creates a separate Leaking Underground Storage Tank Cleanup Fund to assist in defraying the costs of cleanup efforts.

WASHINGTON
Statewide Strategies
Chapter 453 (1985); R.C.W., 90.44.400 et seq.

Requires the Department of Ecology to establish standards, criteria, and a process for the designation of specific ground-water areas where a ground-water management program will be developed by state or local government. The department's rules must be adopted no later than January 1, 1986.

The department further is required to identify specific ground-water areas where contamination or depletion are imminent, or where the aquifer is the sole source of drinking water for a community. The department must appoint an advisory committee for each designated area. The management program developed for each area must be submitted to the department for review prior to going into effect.

Land Use Management
Chapter 98 (1985); R.C.W., 56.08.013

Authorizes a sewer district to regulate sources of ground-water contamination in accordance with the district's comprehensive plan.

Chapter 425 (1985); R.C.W., 36.36.010 et seq.

Authorizes a county to create aquifer protection areas to finance the protection, preservation, and rehabilitation of ground water. In establishing such areas, the county's legislative body must submit the question to the electorate for approval. If approved, the county may impose fees on ground-water withdrawals and onsite sewage disposal systems to be used for the preparation of comprehensive plans and the construction of ground-water protection facilities.

Underground Storage Tanks
Chapter 289 (1986); not codified

Requires the Department of Ecology to submit a report to the legislature describing and assessing the nature of the leaking underground storage tank problem in the state by December 31, 1986. The report must include information on the number and location of underground storage tanks in the state; types of substances stored in the tanks; age, size and materials used to construct tanks that have been identified; and types of leak detection measures used.

PART III:

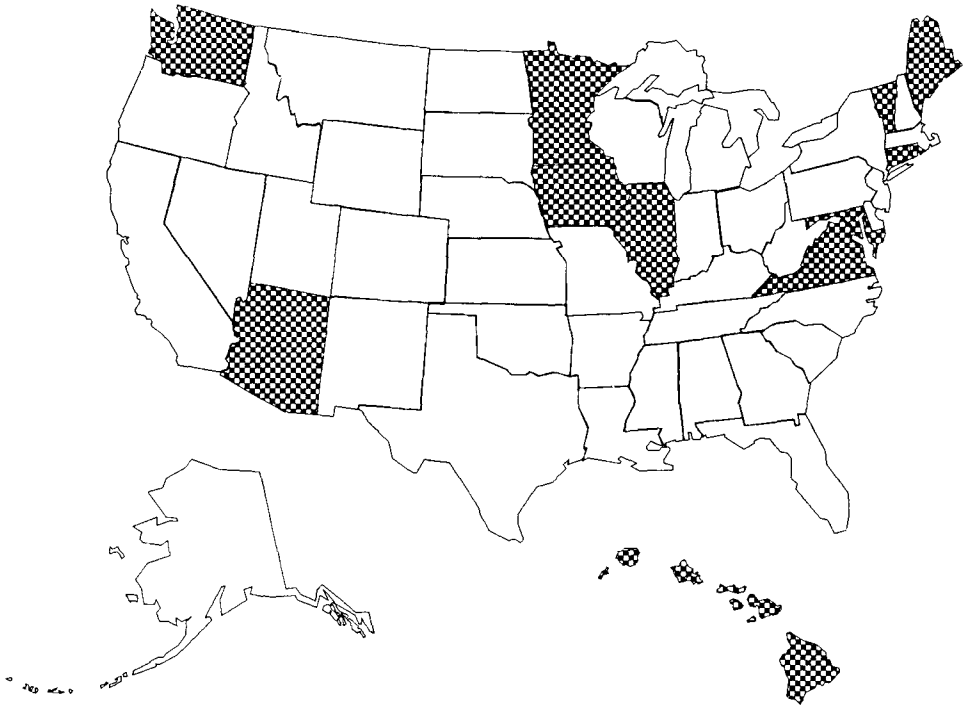
SUMMARIES OF LEGISLATION BY CATEGORY, 1985-87

STATEWIDE STRATEGIES

Twelve states enacted legislation in this category during the 1985-87 sessions. The strategies exhibited a range of regulatory (ground-water classification, standard setting, land use management, discharge permits) and nonregulatory (data collection, aquifer mapping, ground-water monitoring, studies) features. Arizona's 1986 Environmental Quality Act (Chapter 368) perhaps comes closest to incorporating the full range of policy options into a single ground-water protection strategy. Illinois' 1987 Ground-Water Protection Act (Public Act 85-863) initiated a program that eventually may encompass a comparable blend of regulatory and nonregulatory components. Iowa's 1987 Ground-Water Protection Act (Chapter 225) contains virtually no regulatory provisions, concentrating instead on research, education and demonstration projects as the framework for future policymaking.

In addition to Arizona, two states--Rhode Island and Vermont--emphasized ground-water classification and standard setting provisions in their legislation. Four states--Connecticut, Maryland, Virginia, and Hawaii--set up executive agency studies to determine the most appropriate ground-water protection approach for the state with a requirement that the agency report its findings and recommendations to the legislature for action. Other approaches integrated state and local governments in the development and implementation of a comprehensive ground-water protection program.

Statewide Strategies Legislation



States with Legislation

REGION I

Connecticut

Special Act 85-84 (1985); not codified

Requires the Commissioner of Environmental Protection to report to the legislature by January 15, 1987, on options to protect public underground drinking water supplies. The report must include a map of ground-water areas needing protection and a management strategy to protect watersheds and recharge zones from land use activities.

Maine

Chapter 491 (1987); M.R.S.A., 38:569

Requires the Department of Environmental Protection to set standards for the cleanup and removal of discharges into ground water. Authorizes the department to issue clean-up orders, establish enforcement procedures and penalties, and determine third-party damages.

Rhode Island

Chapter 494 (1985); G.L.R.I., 46-13.1-1 et seq.

Requires the Director of Environmental Management to classify all ground-water sources according to the following system: (1) Class GAA--suitable for public drinking water without treatment; (2) Class GA--may be suitable for public or private drinking water without treatment; (3) Class GB--may not be suitable for public or private drinking water without treatment because of pollution; and (4) Class GC--may be suitable for waste disposal because of pollution.

The director must develop water quality standards containing maximum contaminant levels for each classification. The standards will be used to restore ground water to drinking water quality without treatment except where it is in a zone of discharge permitted by law or is classified as GB or GC. The classification and standard-setting program must be completed by February 28, 1988.

The Department of Environmental Management is authorized to conduct a statewide ground-water protection study to include an identification of aquifers capable of providing water for drinking water purposes; a determination of present and projected ground-water demands; and various legislative and other policy recommendations. The results of the study must be reported to the legislature by February 28, 1987.

Vermont

Act 53 (1985); V.S.A., 48-1390 et seq.

Requires the Secretary of Environmental Conservation to develop a comprehensive ground-water protection program which will include, among other provisions: (a) data compilation on the quality, quantity, and location of aquifers; (b) identification and mapping of present and potential underground public water supplies; (c) classification of ground-water sources by use; and (d) adoption of criteria and standards to manage activities that may affect such uses.

The classification system consists of four groups: (1) Class I--suitable for public water supply and currently not exposed to activities that might affect its classification; (2) Class II--suitable for public water supply but exposed to activities that could affect its classification; (3) Class III--suitable for individual domestic water supply, irrigation, other agricultural use and industrial and commercial use; and (4) Class IV--not suitable for potable water supply but may be used for agricultural, industrial, and commercial use.

All ground water initially is classified as Class III subject to reclassification by the secretary. Considerations for classifying ground water include: its current or potential use; the extent of activities that may affect its classification; its present water quality; and the classification of adjacent surface waters. In order to permanently protect Class I aquifers, the secretary is empowered to prohibit certain activities on land overlying such aquifers.

REGION III
Maryland
Joint Resolution No. 5 (1985); not codified

Requires the Department of Health and Mental Hygiene, in cooperation with the departments of Agriculture and Natural Resources, to develop a comprehensive ground-water protection strategy aimed at the following contaminant sources: underground storage tanks; landfills and hazardous waste sites; acid mine drainage; salt-water intrusion; nitrates, herbicides and pesticides; and septic tanks. The department also is mandated to develop a plan to integrate and coordinate protection of ground-water quantity and quality. It must report on July 1, 1986, and annually thereafter, on the status of development and implementation of its strategy.

Virginia
H.J.R. 324 (1987); not codified

Directs the State Water Commission to study the quality of ground water in Virginia. The commission must consider ways to protect the quality of private drinking water supplies and the relationship of ground-water management to drinking water quality. The commission is required to submit its recommendations to the 1988 General Assembly.

REGION V
Illinois
Public Act 85-863 (1987); I.A.S., 111 1/2-7451 et seq., 111 1/2-116.116b, 111 1/2-1014.1 et seq., 111 1/2-1017.1 et seq., 111 1/2-1022.2

Establishes an Interagency Coordinating Committee on Ground Water composed of 10 state agency heads and chaired by the Illinois Environmental Protection Agency (IEPA) empowered to review and evaluate the state's ground-water protection policy and make recommendations for new legislation and regulations. IEPA must propose ground-water quality standards to the Pollution Control Board by July 1, 1989. The board must promulgate standards within two years of receipt from the agency. The Department of Energy and Natural Resources is required to develop a data collection and ground-water monitoring program with specific emphasis on assessing the impact of agricultural chemicals on ground water.

The act requires the source of contamination of an underground drinking water supply to provide the well owner with an alternative drinking water source or treatment sufficient to render the water potable. It establishes minimum setback requirements for sources or potential sources of contamination from community water wells and prohibits the construction of such wells within comparable distances of existing sources or potential sources of contamination.

The act further requires IEPA to propose regulations to the Pollution Control Board for activities that may pollute ground water such as landfills and storage of pesticides. The board must adopt appropriate regulations within two years of their receipt from the agency.

IEPA must establish a regional ground-water protection planning program and designate priority ground-water protection planning regions based upon the mapping of recharge areas. The agency may recommend a regulation establishing the boundary of a regulated recharge area if there is a demonstrated need for regional protection of the aquifer due to its suseptibility to pollution over a wide geographic area.

The act also allows up to 30 percent of the fees deposited in the state's Hazardous Waste Fund to be used for ground-water protection purposes.

Minnesota
Chapter 207 (1987); M.S., 112.60

Authorizes metropolitan counties to prepare ground-water plans. The act sets certain standards for county ground-water plans and requires each plan be reviewed by local entities, the Metropolitan Council and certain state agencies. The Metropolitan Council is responsible for mediating differences between the local plans.

REGION VII
Iowa
Chapter 225 (1987); C.I., 455E.1 et seq., 455E.11, 200.8, 266.38, 455B.473, 507D.3

Creates a comprehensive program of research, education and demonstration projects to address ground-water pollution problems caused by agricultural chemicals, underground storage tanks, solid waste landfills, and household hazardous wastes. It establishes a Ground-Water Protection Fund capitalized by user fees on products and discharges that contribute to ground-water contamination. Separate acccounts are set up in the fund for each major pollution source.

The agriculture management account is made up of a pesticide dealer fee (based on an assessment of one-fifth of one percent of gross annual sales in Iowa); a manufacturer's pesticide product registration fee (one-tenth of one percent of gross annual sales); and a nitrogen fertilizer tax ($0.75 per ton). The underground storage tank account is composed of tank registration and management fees. The solid waste account is funded by "tipping" fees on waste disposed at landfills. The household hazardous waste account comprises permit fees on retailers.

The act stipulates the expenditure of revenue in each fund account to finance related ground-water protection programs administered primarily by the

Department of Natural Resources (DNR) and the Department of Agriculture and Land Stewardship (DALS). DNR is responsible for developing a comprehensive ground-water monitoring network and data collection program; completing a ground-water hazard mapping of the state; registering agricultural drainage wells; managing the state solid waste program; developing educational material on household hazardous waste; and implementing the underground storage tank program.

DALS is charged with encouraging the employment of best management practices by farmers to lessen chemical use in order to protect ground water and conserve the soil. It must also develop rules for pesticide management areas and for handling used pesticide containers.

The act also establishes the Leopold Center for Sustainable Agriculture at Iowa State University. The center's mandate is to conduct research and educational programs on sustainable agriculture (the balancing of economically viable farming with ground-water quality protection and land resource conservation).

The act expands the state's underground storage tank program by requiring the Insurance Division in the Department of Commerce to prepare a financial responsibility plan for damages caused by leaking underground storage tanks. The plan may include an insurance pool capable of meeting the insurance needs of policy holders up to $1 million dollars for corrective action and $1 million for financial compensation to third parties for property damage and bodily injury. It also creates a legislative committee charged with recommending legislation to the 1988 session to implement the division's plan.

REGION IX
Arizona
Chapter 368 (1986); A.R.S.A., 36-3501 et seq., 49-301 et seq.

Requires the newly created Department of Environmental Quality to classify aquifers by use and to adopt ground-water quality standards to protect such uses. All aquifers initially are classified as suitable for drinking water. The ground-water quality standards are to be the same as the U.S. Environmental Protection Agency's primary Maximum Contaminant Levels (MCLs); the department may adopt numeric standards for additional contaminants.

The act requires a permit for most discharges to ground water from point and nonpoint sources. General permits utilizing best management practices are permissible for nonpoint sources such as agriculture, urban runoff, small septic systems, and forestry practices.

The act sets up a separate regulatory program for agricultural chemicals. It requires a pesticide registrant to submit data on the substance's environmental fate to the Department of Environmental Quality. The department must adopt numeric values for those physical characteristics (water solubility, soil adsorption, field dissipation, hydrolysis, aerobic and anaerobic soil metabolism) that affect the agricultural chemical's leaching ability, and publish a list of those chemicals that may pollute ground water. After conducting ground-water monitoring tests, the department may cancel the registration (or take other restrictive measures) of any listed agricultural chemical found in ground water.

Hawaii
Act 220 (1986); not codified

Requires the director of the Department of Health to submit a draft ground-water strategy and plan to the legislature by January 1987. The plan must set goals for a ground-water program; outline potential ways of achieving those goals; and identify the resources necessary to implement a program. Within two years of the plan's adoption, the department director must have in operation a program to predict, monitor and prevent ground-water contamination.

REGION X
Washington
Chapter 453 (1985); R.C.W., 90.44.400 et seq.

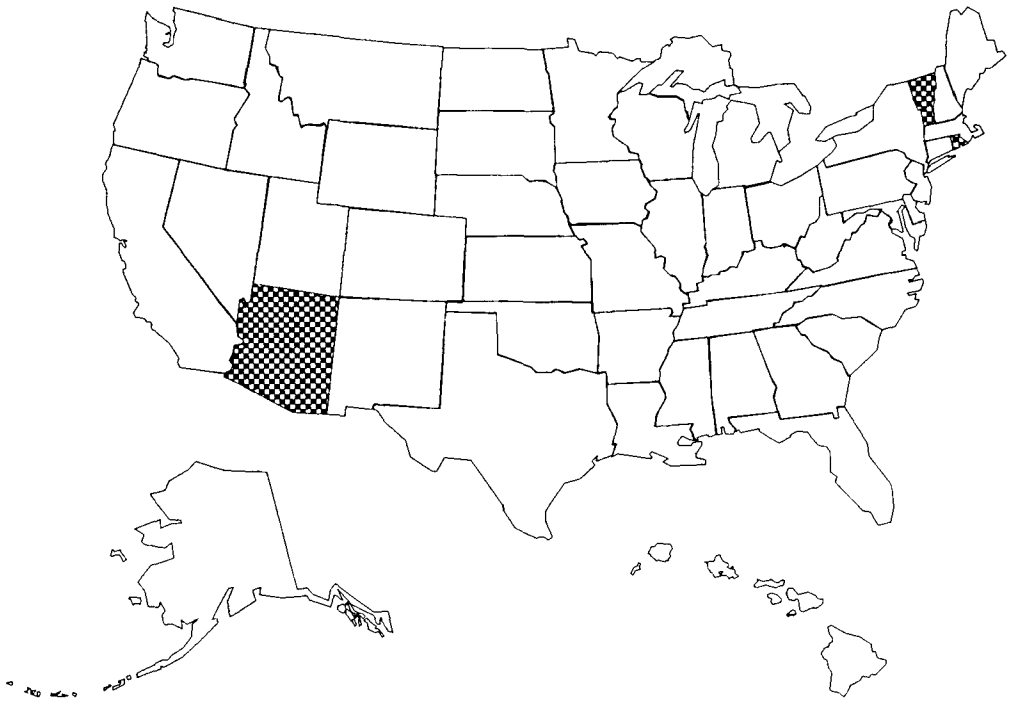
Requires the Department of Ecology to establish standards, criteria, and a process for the designation of specific ground-water areas where a ground-water management program will be developed by state or local government. The department's rules must be adopted no later than January 1, 1986.

The department further is required to identify specific ground-water areas where contamination or depletion are imminent, or where the aquifer is the sole source of drinking water for a community. The department must appoint an advisory committee for each designated area. The management program developed for each area must be submitted to the department for review prior to going into effect.

GROUND-WATER CLASSIFICATION

Three states enacted legislation in this category during the 1985-87 sessions as part of comprehensive ground-water protection strategies. The legislation requires an executive agency to classify ground water by present and future water use in order to accord protection sufficient to maintain such use. Water quality standards and land use regulation typically are utilized to protect the designated uses of classified ground-water sources.

Ground-Water Classification Legislation



States with Legislation

REGION I
Rhode Island
Chapter 494 (1985); G.L.R.I., 46-13.1-1 et seq.

See summary under **Statewide Strategies.**

Vermont
Act 53 (1985); V.S.A., 48-1390 et seq.

See summary under **Statewide Strategies.**

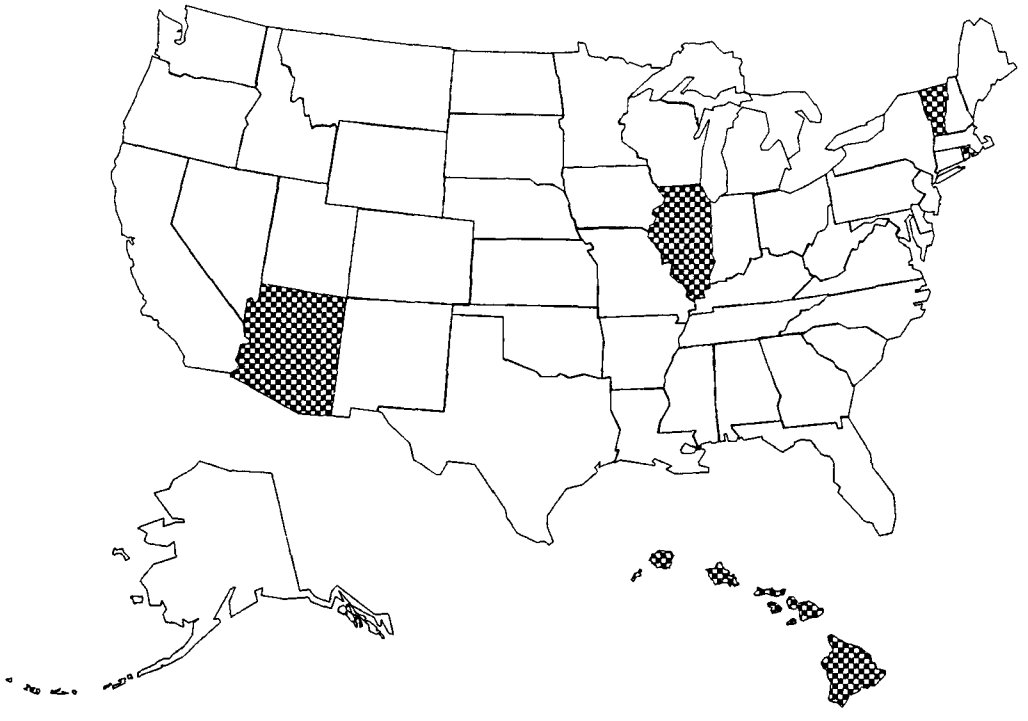
REGION IX
Arizona
Chapter 368 (1986); A.R.S.A., 36-3501 et seq.

See summary under **Statewide Strategies.**

STANDARD SETTING

Five states enacted legislation in this category during the 1985-87 sessions, generally as part of comprehensive ground-water protection strategies. The legislation requires the establishment of water quality or drinking water standards--threshold levels beyond which contamination of an aquifer will occur--as the basis for regulation of point and nonpoint source discharges into ground water. If the standards for a particular contaminant are breached, the pollution source may be required to alter or curtail its discharge activities.

Standard Setting Legislation



States with Legislation

REGION I
Rhode Island
Chapter 494 (1985); G.L.R.I., 46-13.1-1 et seq.

See summary under **Statewide Strategies.**

Chapter 298 (1986); G.L.R.I., 46-13.1-3, 4

Requires the director of the Department of Environmental Management to establish preventive action limits for contaminants found in ground water. A preventive action limit is defined as "a specified percentage of a maximum contaminant level."

Vermont
Act 53 (1985); V.S.A., 48-1390 et seq.

See summary under **Statewide Strategies.**

REGION V
Illinois
Public Act 85-863 (1987); I.A.S., 111 1/2-7451 et seq.

See summary under **Statewide Strategies.**

REGION IX
Arizona
Chapter 368 (1986); A.R.S.A., 36-3501 et seq.

See summary under **Statewide Strategies.**

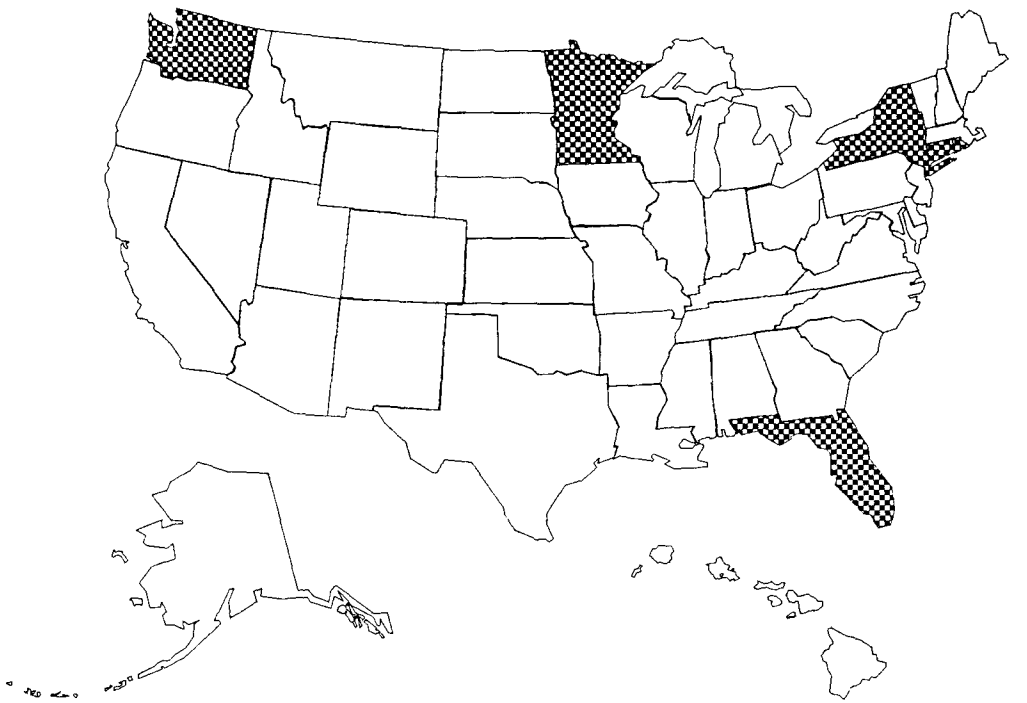
Hawaii
Chapter 297 (1987); H.R.S., 340E-21 et seq.

Requires the director of the Department of Health to set interim action levels for those contaminants posing a health concern in public drinking water supplies which have not had maximum contamination levels set by the U.S. Environmental Protection Agency. The interim action levels may be superseded by standards adopted by the director. The act also sets procedures for water suppliers to notify the department and the public of a contaminated underground drinking water supply.

LAND USE MANAGEMENT

Six states enacted legislation in this category during the 1985-87 sessions. Land use management generally entails the adoption of local government regulations to control activities that contribute to nonpoint source pollution in aquifer recharge zones. Regulation may take the form of zoning ordinances or facility siting procedures to control the density of development, or the employment of best management practices aimed at specific land disturbing activities. New York's 1987 Chapter 628 establishes a regional planning mechanism and state financial assistance for ground-water protection areas in sole source aquifers. Local land use regulation on Long Island was an important precedent in developing New York's legislation. The potential availability of federal funds contained in the 1986 Safe Drinking Water Act amendments to protect aquifer recharge zones also provided an incentive.

Land Use Management Legislation



States with Legislation

REGION I
Connecticut
Public Act 85-279 (1985); G.S.C., 8-2, 8-23

Requires local development plans and zoning regulations to consider protection of underground drinking water supplies.

Rhode Island
Chapter 335 (1987); G.L.R.I., 45-24.5-1 et seq.

Authorizes local governments to adopt ordinances establishing waste water management districts to prevent ground-water contamination from malfunctioning or failed septic tank systems. A district may require landowners to maintain and pump septic tanks under its jurisdiction. The act also establishes a revolving fund to make grants or low-interest loans to individuals for the maintenance or replacement of septic tanks.

Chapter 409 (1987); 46-15.3-1 et seq.

Requires each water supplier to impose a water quality protection charge on the receipts from its sales at a rate of one cent per 100 gallons sold. The revenue raised from such assessments is to be deposited in one of two water quality protection funds administered by the state Water Resources Board and the city of Providence, respectively. Disbursements from the funds to water suppliers are to be used for measures to protect drinking water quality, with 55 percent of the revenue going toward land acquisition to protect aquifer recharge zones and watersheds.

The act also authorizes the issuance of $10 million in bonds--subject to voter approval--to provide additional fund revenue. To be eligible for disbursements, a water supplier must prepare a water quality protection plan by July 1, 1988, which describes desirable land use regulations and identifies potential land acquisitions for buffer zones to protect surface- and ground-water quality.

REGION II
New York
Chapter 305 (1986); E.C.L., 1-0303 (24), 15-0514 (1) (d)

Expands the definition of "sole source aquifer" to include multiple aquifer systems (as found on Long Island) and empowers the Commissioner of Environmental Conservation to prohibit incompatible land uses above sole source aquifers.

Chapter 628 (1987); E.C.L., 55-0101 et seq.

Authorizes any municipality or person to petition the Commissioner of Environmental Conservation to establish a special ground-water protection area within a federally designated sole source aquifer in a county with a population of one million or more. The petition must contain information concerning the area's recharge zone capabilities; its ground-water quality; and the economic, social, ecological, recreational and aesthetic benefits/costs of ground-water protection/degradation.

If the commissioner approves the petition, a designated planning agency for the area becomes eligible for state funds (up to 75 percent of the costs) to develop a ground-water protection plan. Among other components, the plan must include a determination of the amount and type of development activity the area can sustain without degrading the aquifer; proposed limits on federal, state and local government financial assistance to projects that may affect the ground-water quality; proposed land use regulations; designated areas suitable for public aquisition; and a program for local government implementation of the plan. The commissioner must approve the plan.

In addition to the petition process, the act designates nine areas on Long Island as a single ground-water protection project under the planning jurisdiction of the Long Island Regional Planning Board.

REGION IV
Florida
Chapter 85-42 (1985); F.S., 163.3177 (6) (c)

Requires local governments' comprehensive plans to include a natural ground-water aquifer recharge element and aquifer recharge protection requirements. Such areas are to be given special consideration in future zoning and land use decisions.

REGION V
Minnesota
Chapter 236 (1985); M.S., 112.36 (2) (14)

Authorizes watershed districts to be formed for the purpose of protecting ground-water quality.

REGION X
Washington
Chapter 98 (1985); R.C.W., 56.08.013

Authorizes a sewer district to regulate sources of ground-water contamination in accordance with the district's comprehensive plan.

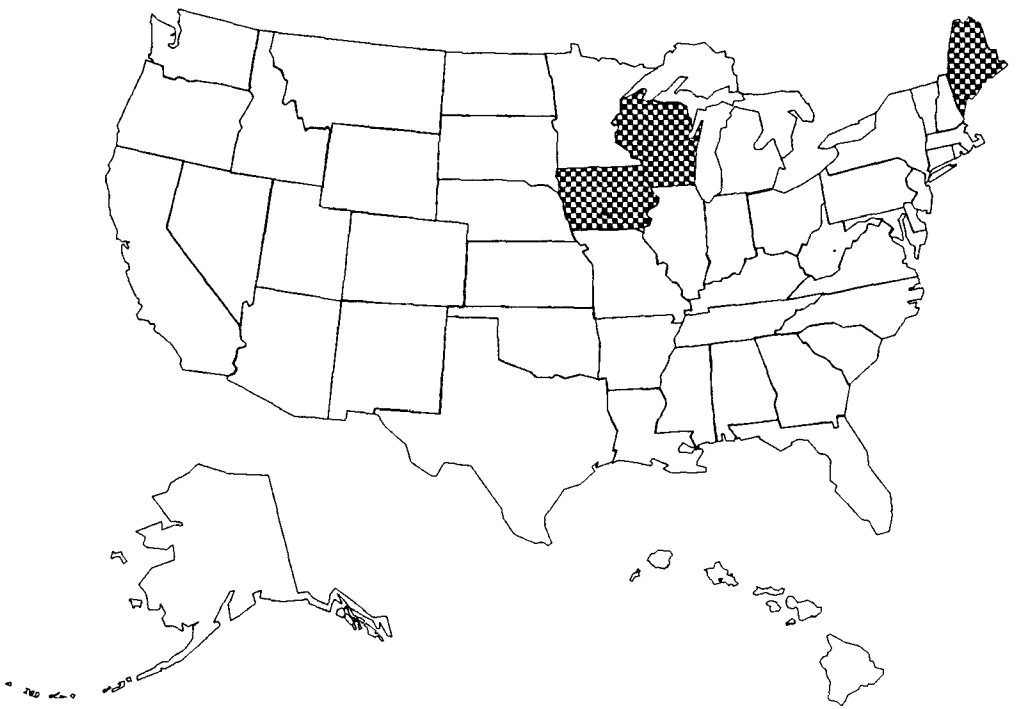
Chapter 425 (1985); R.C.W., 36.36.010 et seq.

Authorizes a county to create aquifer protection areas to finance the protection, preservation, and rehabilitation of ground water. In establishing such areas, the county's legislative body must submit the question to the electorate for approval. If approved, the county may impose fees on ground-water withdrawals and onsite sewage disposal systems to be used for the preparation of comprehensive plans and the construction of ground-water protection facilities.

GROUND-WATER FUNDS

Three states enacted legislation in this category during the 1985-87 sessions (funds designed specifically to address pesticide pollution or leaking underground storage tanks are described within those categories). Ground-water funds primarily are designed to finance the cleanup of ground-water contamination or the provision of alternate drinking water supplies necessitated by pollution. They also may be used to defray the costs of developing or implementing a ground-water protection program.

Ground-Water Funds Legislation



States with Legislation

REGION I
Maine
Chapter 491 (1987); M.R.S.A., 23:3659, 38:404

Enables the owner of a private water supply that has been contaminated by a political subdivision to apply for compensation. The act sets standards for an application and the conditions and procedures to be used in reaching a settlement. It also establishes limits on the liability of political subdivisions for compensation.

REGION V
Wisconsin
Act 85-22 (1985); W.S.A., 144.028

Expands the eligibility of the state's well compensation fund by authorizing municipalities to apply to the state Department of Natural Resources for grants to cover up to 60 percent of the costs of replacing private contaminated underground drinking water supplies.

REGION VII
Iowa
Chapter 241 (1985); C.I., 455B.309

Creates a ground-water fund comprised of solid waste tonnage fees to be used for monitoring ground-water quality; developing ground-water quality standards; conducting research on alternative solid waste disposal methods; and abatement and cleanup of sanitary landfills.

Chapter 225 (1987); C.I., 455E.11

See summary under **Statewide Strategies.**

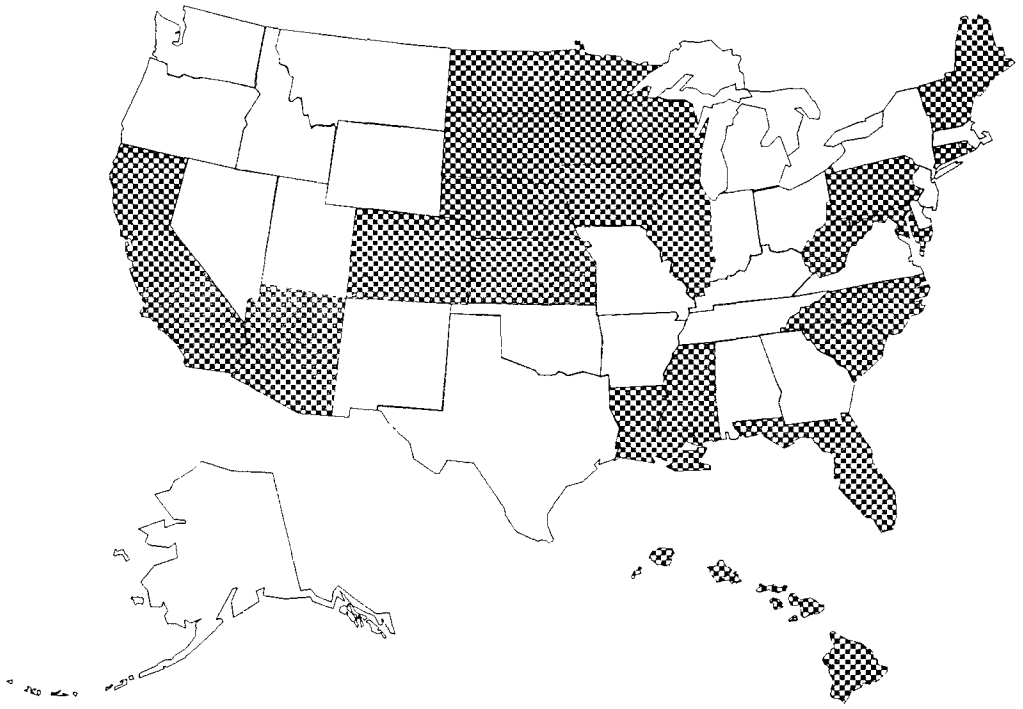
AGRICULTURAL CHEMICALS

Twenty-five states enacted legislation in this category during the 1985-87 sessions. The legislation included establishing registration, licensing, and permitting standards for pesticide applicators; granting the necessary administrative authority to an appropriate state agency; and regulating the presence of agricultural chemicals in ground water.

The most significant regulatory measures aimed specifically at groundwater protection were passed in California and Arizona. They require the submission of data on a chemical's effect on ground water; the adoption of numeric values related to the substance's leaching capacity; and the strict regulation of those pesticides with the potential to enter an aquifer. Iowa chose an alternative comprehensive approach emphasizing research, education and demonstration projects financed largely by user fees; the newly created Leopold Center for Sustainable Agriculture is charged with developing alternatives to excessive chemical applications.

Four states heavily dependent on irrigation for crop production--Kansas, Nebraska, Colorado and North Dakota--enacted legislation regulating chemigation, the process of applying agricultural chemicals to crops through irrigation systems. Two less irrigation-dependent states--South Carolina and Minnesota--also set up chemigation programs.

Agricultural Chemicals Legislation



States with Legislation

REGION I

Connecticut

Public Act 85-273 (1985); G.S.C., 22a-50, 22a-52, 22a-53, 22a-58

Authorizes the Commissioner of Environmental Protection to reclassify general use pesticides to a restricted use category, thereby requiring a permit for their use. Also requires private applicators--principally farmers--to maintain records of restricted pesticide use.

Public Act 86-353 (1986); G.S.C., 22a-66b et seq.

Authorizes the Commissioner of Environmental Protection to develop a registration program for pesticide application businesses. The act requires such businesses to apply to the commissioner for a registration certificate and sets standards by which applications will be considered.

Maine

Chapter 465 (1985); M.R.S.A., 38-402

Requires the Maine Geological Survey to conduct a 3-year study assessing the impact of agricultural practices and chemicals on ground-water quality. The study will address the extent and level of pesticide contamination; the movement of pesticides into ground water; and the synergistic effects of pesticides and their persistence in ground water. An annual report must be submitted to the legislature's Joint Committee on Energy and Natural Resources.

New Hampshire

Chapter 375 (1985); N.H.R.S.A., 430:28 et seq.

Recodifies and generally amends existing law that establishes a Pesticide Control Board authorized, among other powers, to adopt rules regulating the time, place and conditions for commercial pesticide use; restrict or prohibit the application of certain pesticides; regulate the handling, transport, and disposal of pesticides; and set container labeling requirements.

Requires a permit from the Division of Pesticide Control in the Department of Agriculture for the commercial application of all pesticides and the private application of restricted use pesticides. Pesticide dealers must be licensed by the division, and all pesticides sold in the state must be registered with the division.

The domestic use of pesticides is exempt from the provisions of the chapter provided that "a person applying pesticides. . .shall not allow any pesticide to enter any stream or body of water by reason of such application."

Rhode Island

Chapter 260 (1985); G.L.R.I., 23-25.2-1 et seq.

Establishes a Pesticide Relief Advisory Board responsible for making recommendations to the Director of Environmental Management concerning pesticide use, primarily emergency response to pesticide contamination and grants for integrated pest management (nonchemical use) projects. The board also must "evaluate and make recommendations. . .regarding chemicals and pesticides which require application setbacks from domestic water wells."

The act further establishes a Pesticide Relief Fund--comprised of pesticide registration fees--for use in testing and monitoring pesticides, and for developing alternative water supplies to replace contaminated wells.

Vermont
Act 72 (1985); V.S.A., 6-929, 6-1110

Establishes a Pesticide Monitoring Revolving Fund--comprised of pesticide registration fees--to monitor pesticide use. Also requires the Commissioner of Agriculture to develop a monitoring plan.

REGION III
Maryland
Chapter 36 (1985); A.C.M., Agr., 5-206, 5-207

Requires a person who sells or distributes a restricted use pesticide or a public agency that applies a pesticide to obtain a permit from the Secretary of Agriculture. Authorizes the secretary to adopt rules and regulations governing such permits.

Chapter 301 (1987); A.C.M., Agr., 5-208 (D)

Requires the applicator of an experimental use pesticide permitted by the U.S. Environmental Protection Agency to provide the state Department of Agriculture with information concerning the location of the application; the pesticide's active ingredients; and the pesticide's toxicological profile.

Chapter 302 (1987); A.C.M., Agr., 5-201 et seq.

Authorizes the Secretary of Agriculture to enter into cooperative agreements and adopt pesticide use classifications to carry out state pesticide application laws. Sets additional criteria by which the secretary may grant pesticide applicators certificates of use, including proof of liability insurance. Pesticide applicators are required to provide customers with specific information regarding pesticide use. The act also authorizes the secretary to establish rules and regulations imposing civil penalties for any violation of pesticide laws.

Pennsylvania
Act 167 (1986); P.S.A., 3-111.21 et seq.

Requires every pesticide distributed in the state to be registered with the Secretary of Agriculture. The act empowers the secretary to require specific information relating to the registration of a pesticide, including the submission of a list of all active or inert ingredients and a full description of any tests that have been conducted.

The act further requires each commercial pesticide application business to be licensed by the secretary in those categories for which it is doing business. The secretary may categorize different types of application licenses and set criteria for the granting of licenses, such as requiring applicators to provide evidence of financial responsibility. The secretary is authorized to suspend, revoke or modify any license.

The secretary also must promulgate rules and regulations for the certification of commerical, private and public pesticide applicators. The act

sets specific pesticide use criteria for noncertified applicators and for application technicians. It prohibits the purchase of any restricted use pesticide by a non-certified applicator or the application of a restricted use pesticide within 100 feet of a publicly owned area unless a waiver is granted by the secretary.

West Virginia
Chapter 131 (1986); W.V.C., 19-16B-2

Recodifies and generally amends the Pesticide Use and Application Act. The act requires all pesticide application businesses to be licensed by the Commissioner of Agriculture. It sets criteria by which a license and its renewal can be granted and authorizes the commissioner to suspend, revoke or modify any license provision under certain conditions. It further establishes penalties for violations of the act and authorizes the commissioner to promulgate rules and regulations permitting consent agreements or negotiated settlements for civil penalties. The act also prohibits municipalities or counties from enacting laws or ordinances regarding the regulation of pesticide use and application.

REGION IV
Florida
Chapter 86-116 (1986); F.S., 487.158 (r)

Expands the grounds for disciplinary action for violation of pesticides law to include the failure to disclose records of pesticides used, and prohibiting access and inspection of pesticides and the area to which they have been applied, to representatives of the Department of Environmental Regulation.

Mississippi
Chapter 523 (1987); M.C.A., 49-17-19, 69-23-7, 75-47-7

Requires the Mississippi Air and Water Pollution Control Commission, when adopting ground-water quality standards for pesticides and fertilizers, to use existing federal standards. If no federal standard exists, the commission may petition the U.S. Environmental Protection Agency to set one or consult with the agency in devising its own standard.

The act also empowers the commission to cancel or suspend the registration of any pesticide (and grants the Commissioner of Agriculture the same authority relating to fertilizers) in violation of state law or which poses an imminent health hazard or threat to ground-water quality. It places a portion of the fertilizer registration fee in a special fund to be used for implementing programs to protect ground water from contamination by fertilizer use.

North Carolina
Chapter 559 (1987); G.S.N.C., 143-442 et seq.

Authorizes the state Pesticide Board to request a full description of the tests made and the results of such tests for any pesticide to be used in the state. Prohibits the sale or distribution of a restricted use pesticide to any unlicensed dealer. The chapter further empowers the board to stop the sale or use of any pesticide whose application is inconsistent with its labeling requirements or the disposal of any pesticide in violation of the act.

South Carolina
Act 495 (1986); C.L.S.C., 46-1-140

Requires any irrigation system designed or used for the application of fertilizers, pesticides or chemicals to be equipped with an anti-syphon device adequate to protect ground-water quality. The act sets design criteria for such a device. The Division of Regulatory and Public Service Programs at Clemson University must promulgate rules and regulations necessary to implement and enforce the law.

REGION V
Illinois
Public Act 84-153 (1985); I.A.S., 5-822.1

Establishes a Pesticide Control Fund comprised of pesticide registration and license fees to be used for public education programs on the proper use of pesticides.

Public Act 84-358 (1985); I.A.S., 5-803, 5-809, 5-811

Expands the Department of Agriculture's authority to control the purchase, use, storage, and disposal of pesticides. Requires the department to certify pesticide applicators as being competent and knowledgeable in the use of pesticides as a condition for licensure, with recertification required every five years. Further requires a license from the department for restricted use pesticides.

Minnesota
Chapter 358 (1987); M.S., 18.53

Authorizes the Commissioner of Agriculture to develop and administer state regulations relating to pesticides. The commissioner must determine the impact of pesticides on surface and ground water and develop standards for pesticide management. The act sets specific pesticide standards in the following areas: (1) sale, use and storage of pesticides; (2) posting of warning signs when a pesticide has been used; (3) licensing of pesticide applicators; (4) recordkeeping and liability requirements for pesticide activities; (5) corrective action when a pesticide is released into the environment; and (6) enforcement and penalties for violations of the pesticide laws.

The act requires all pesticides used or distributed in the state to be registered with the commissioner. It further establishes a chemigation program requiring a permit from the commissioner for pesticides applied through an irrigation system. Additionally, the commissioner, in conjunction with the Pollution Control Agency, must develop a pesticide container deposit and return program for certain pesticide containers.

Wisconsin
Act 206 (1986); W.S.A., 94.709

Expands the formula for calculating the boundary of areas in which aldicarb use is prohibited. The Department of Agriculture, Trade and Consumer Protection must deny any permit for the application of pesticides containing aldicarb in prohibition areas unless it determines that concentrations of aldicarb have been below the enforcement standard for at least two years and its use would not cause the standard to be exceeded. The act further requires the

department to appoint a committee, whose membership shall include state legislators, to assess the state's experience in regulating agricultural chemicals and to make appropriate policy recommendations.

Act 27 (1987); W.S.A., 94.68 (3) et seq., 94.685, 94.703 et seq.

Requires applicants for a license to sell or distribute pesticides to submit a report to the Department of Agriculture, Trade and Consumer Protection listing every pesticide proposed for sale or distribution. License fees are to be deposited in the state's ground-water fund. The act further prohibits the sale of restricted-use pesticides without a license, and requires a license for commercial applicators.

REGION VI
Louisiana
Act 167 (1985); L.R.S., 3:3221 (B)

Requires a person who is reregistering a pesticide for which the label has been changed to submit the same type of information as required for the initial registration of a pesticide.

Act 510 (1986); L.R.S., 3:3210

Creates a pesticide fund to finance state pesticide programs and activities.

REGION VII
Iowa
Chapter 225 (1987); C.I., 200.8, 266.38

See summary under **Statewide Strategies.**

Kansas
Chapter 5 (1985); K.S.A., 2-3301 et seq.

Regulates the application of agricultural chemicals through chemigation, a process whereby pesticides or other chemicals are added to irrigation water applied to the land or crops through an irrigation distribution system. The act requires persons using chemigation to register with and obtain a permit from the Secretary of the State Board of Agriculture; use functional anti-pollution devices; and keep records and file reports as deemed necessary by the secretary. Anti-pollution devices include waterline check valves, chemical line devices, interlock systems, vacuum relief devices, automatic low pressure drains, and separate injection systems.

The act also requires the secretary to provide on a periodic basis chemigation safety information to all those holding a user's permit. The secretary further is empowered to enter any premises to inspect chemigation equipment or application procedures. Penalties are set for violations of the act.

Chapter 12 (1985); K.S.A., 2-2438a

Requires pesticide dealers to register with the State Board of Agriculture.

Chapter 13 (1985); K.S.A., 2-2440

Removes the exemption from licensing requirements for pesticide businesses that apply general use pesticides to agricultural land.

NEBRASKA
Agricultural Chemicals
LB 284 (1986); R.S.N., 46-1101 et seq.

Requires irrigators to obtain an annual chemigation permit from the local natural resources district with jurisdiction. Chemigation is the process whereby agricultural chemicals are applied to crops through irrigation systems. Chemigators must be certified by the state Department of Environmental Control before commencing operations.

The statute specifies required chemigation equipment to prevent ground-water contamination, including a check valve and vacuum relief valve; an inspection port; an automatic low-pressure drain; and a simultaneous interlock device to shut off the system. The law requires chemigators to report a chemical spill within 24 hours to the department. If the 24-hour compliance deadline is met, along with all other chemigation requirements, the chemigator responsible for the spill will not be held liable for polluting a neighboring well.

REGION VIII
Colorado
Chapter 260 (1987); C.R.S., 35-11-101 et seq.

Requires a permit from the Department of Agriculture after January 1, 1990, for chemigation, the process of applying agricultural chemicals to crops through irrigation systems. The department must issue regulations governing the installation and use of chemigation equipment; permit fees; and criteria for the entry of inspectors to check for compliance with the law.

The statute lists required devices for chemigation equipment, including a backflow prevention check valve and vacuum relief valve; an inspection port; an automatic low-pressure drain; and a simultaneous interlock device. It requires permitted chemigation systems to be inspected at least once every two years, and empowers the department to revoke a permit if ground-water contamination is discovered.

Chapter 261 (1987); C.R.S., 35-9-104 (2) (c)

Establishes the Colorado Pesticide Fund to be comprised of fees collected under the state's pesticide laws. Revenue in the fund is to be appropriated annually by the legislature to the Department of Agriculture to defray the costs of administering the state's pesticide program.

North Dakota
Chapter 103 (1985); N.D.C.C., 4-35-12.1, 4-35-21.1

Requires a person alleging damage to his property from another's pesticide application to submit a loss report to the Commissioner of Agriculture as a condition for bringing a civil action against the pesticide applicator. Empowers the commissioner to stop the sale of any pesticide sold in violation of this chapter.

Chapter 93 (1987); N.D.C.C., 4-35.1-01 et seq.

Requires the Commissioner of Agriculture to adopt rules regulating chemigation, a process by which chemicals are applied to crops through irrigation systems. The rules must include standards for the design, installation, use and maintenance of irrigation equipment used in chemigation, and for the application of pesticides and fertilizers through irrigation systems. The commissioner also is authorized to periodically inspect chemigation equipment and operations.

South Dakota
Chapter 377 (1985); S.D.C.L.A., 38-21-27

Requires the licensing of aerial pesticide applicators by the Secretary of Agriculture.

REGION IX
Arizona
Chapter 368 (1985); A.R.S.A., 32-2301 et seq.

Authorizes the Structural Pest Control Board to request specific records from persons applying pesticides; expands the board's enforcement authority; and establishes additional powers and duties. The statute also amends the continuing education requirements for renewal of a pesticide applicator's license.

Chapter 368 (1986); A.R.S.A., 49-301 et seq.

See summary under **Statewide Strategies.**

California
Chapter 1298 (1985); A.C.C., Food and Agriculture, 13141 et seq.

Requires each person who has registered an economic poison for agricultural use to submit to the director of the Department of Food and Agriculture information regarding the substance's effect on ground water no later than December 1, 1986. The registration or reregistration of an economic poison without such information is prohibited.

The act requires the department to establish numeric standards for economic poisons in ground water by December 1, 1986. No later than December 1, 1987, and annually thereafter, the director of the department must report information on economic poisons in ground water to the legislature, the Department of Health Services, and the Water Resources Control Board. The director also must establish a list of economic poisons with the potential to pollute ground water and regulate their use.

The act further requires the director to conduct a soil and ground-water monitoring program statewide. The registration for any economic poison that has contaminated ground water must be canceled unless the director finds that the health effects are not carcinogenic, mutagenic, teratogenic, or neurotoxic.

Chapter 744 (1986); A.C.C., Food and Agriculture, 12113

Empowers the director of the Department of Food and Agriculture, after conducting a hearing, to refuse, revoke or suspend a pesticide dealer license for violation of the state's pesticide laws.

Chapter 932 (1986); A.C.C., Food and Agriculture, 221

Deletes the requirement that the director of the Department of Food and Agriculture conduct investigations and hearings prior to issuing regulations when such regulations are adopted on an emergency basis.

Chapter 1234 (1986); A.C.C., Food and Agriculture, 12825 et seq.

Requires a pesticide registrant, during or after the registration process, to notify the Department of Food and Agriculture of any evidence indicating any adverse effects associated with the pesticide. The department director may cancel the registration of such a pesticide.

Hawaii

Act 127 (1985); not codified

Authorizes the Office of Environmental Quality Control to develop an approach for monitoring ground and surface water for the presence of pesticides and chemical byproducts. The office also is required to assess the feasibility and usefulness of establishing a statewide reporting system for all pesticides sold and distributed, and of developing criteria to assess risks associated with pesticide use.

Act 131 (1985); H.R.S., 149A-32.5

Requires the chairperson of the Board of Agriculture, in consultation with the Advisory Committee on Pesticides and with the approval of the Director of Health, to suspend, cancel, or restrict the use of specific pesticides when their use is determined to have unreasonable adverse impacts on the environment (e.g., when pesticide residues appear in drinking water).

Act 167 (1987); H.R.S., 149A-31

Requires any equipment used to disperse pesticides to be equipped with an air gap or reduced-pressure back-flow device adequate to protect water quality.

Act 310 (1987); H.R.S., 149A-2 et seq.

Sets additional requirements for pesticide licensing. Specifically prohibits a pesticide from being sold, resold or distributed in the state prior to license renewal.

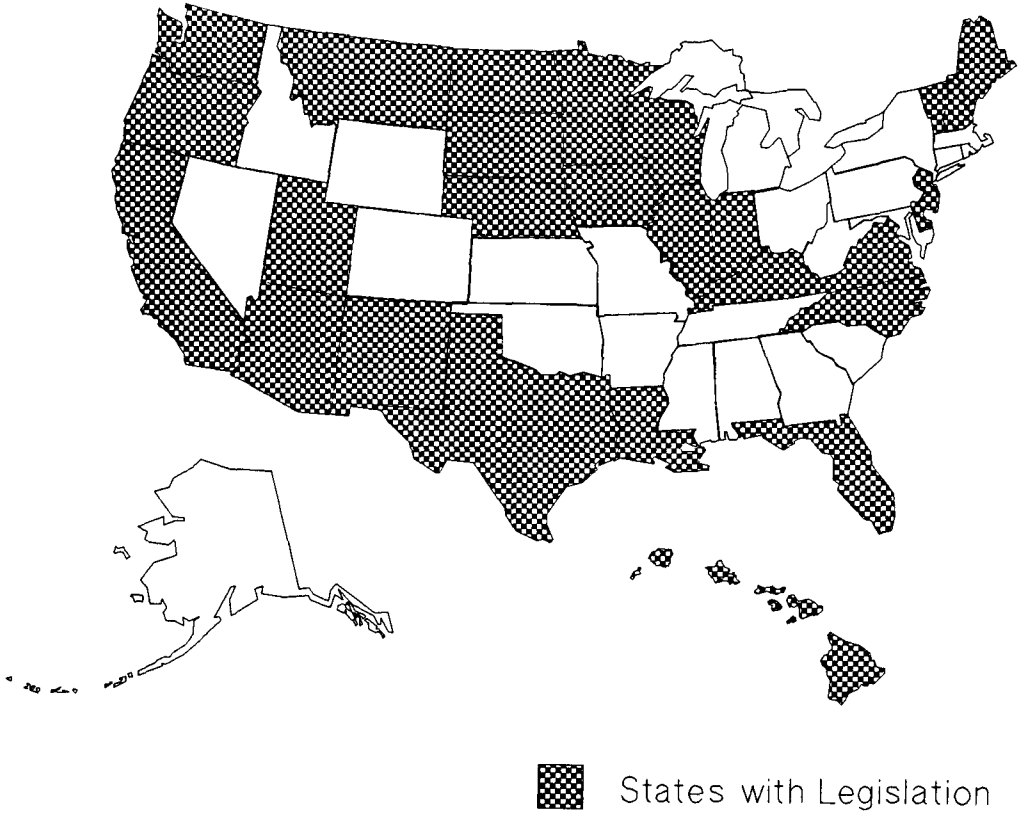
UNDERGROUND STORAGE TANKS

The 1984 amendments to the Resource Conservation and Recovery Act (RCRA), created a new, comprehensive federal program for the regulation of underground storage tanks. Under the federal provisions, states can adopt their own programs by establishing state standards that are at least as stringent as the federal regulations. State programs must include the minimum federal standards for notification procedures, leak detection systems, record maintenance, release reporting, corrective action, tank closure, financial responsibility, and new tank performance standards.

Twenty-seven states (the largest number in any category) enacted underground storage tank legislation during the 1985-87 sessions. All but seven of those states--New Jersey, Florida, Illinois, Wisconsin, Louisiana, California, and Washington--established new state programs covering most of the federal requirements. To ensure state primacy over program administration, legislation in 12 of the states--Vermont, Virginia, North Carolina, Indiana, Minnesota, Texas, Iowa, North Dakota, Utah, Arizona, Hawaii, and Oregon--specifies that the state program must be at least as stringent as the federal regulations (New Jersey and Louisiana amended their existing legislation to comply with RCRA standards).

The Congress adopted a provision in the Superfund Amendments and Reauthorization Act (SARA) of 1986 mandating that $500 million be raised and dispersed to the states over the following five years to help mitigate the effects of leaking underground storage tanks. Nine states--Maine, New Hampshire, Vermont, Delaware, Virginia, Florida, Minnesota, Wisconsin, and Oregon--have developed trust funds specifically targeted for clean-up activities.

Underground Storage Tank Legislation



States with Legislation

REGION I

Maine

Chapter 496 (1985); M.R.S.A., 38-561 et seq.

Requires the Board of Environmental Protection to develop an underground oil storage tank program. The program requirements include (1) registration of all underground oil tanks; (2) design, installation, maintenance, operating, and monitoring standards; and (3) tank replacement and abandonment procedures.

The chapter creates a Ground-Water Oil Clean-up Fund comprised of registration fees, penalties, and reimbursements. The fund will be used to defray expenses for research and development, third party damages from leaking underground storage tanks, and arbitration costs encountered in settling disputes.

The chapter also establishes joint and several liability for ground-water contamination, and relaxes the proof of causation requirement when the state determines liability.

Chapter 626 (1986); M.R.S.A., 38:564

Sets additional design and installation standards for underground storage tanks.

Chapter 410 (1987); M.R.S.A., 32:10001 et seq.

Expands the underground oil storage tank installers certification program to include the storage of hazardous substances and sets specific certification requirements.

Chapter 491 (1987); M.R.S.A., 38:563-A, 563-B, 565, 566-A

Requires the Department of Environmental Protection to develop a compliance schedule by which all nonconforming underground oil storage tanks must be replaced. Authorizes the department to set standards for tank removal, testing, leak detection, and financial responsibility.

The chapter further requires all underground storage tanks to be precision-tested every five years or, as an alternative, to have ground-water monitoring wells installed.

Chapter 521 (1987); M.R.S.A., 10:963-A, 1023-D, 1024, 1026

Creates a nonlapsing, revolving "storage facility replacement fund" to financially assist in the removal of leaking underground storage tanks. Authorizes the state Finance Authority to set rules and regulations for distributing money in the fund. Financial assistance may include direct loans for underground storage tank replacement projects or insuring the mortgage payments with respect to such projects.

New Hampshire

Chapter 182 (1986); N.H.R.S.A., 146-C:1 et seq.

Requires the Water Supply and Pollution Control Commission to develop an underground storage facility program. The commission must set standards for (1) registering and permitting underground storage facilities; (2) constructing new facilities; (3) recordkeeping and inspection; (4) transferring the ownership of a facility; and (5) assessing financial responsibility.

The chapter also sets up an interim study committee to examine financing mechanisms for an underground storage tank replacement revolving loan fund.

Chapter 377 (1987); N.H.R.S.A., 146-A:11-a et seq.

Establishes an Oil Pollution Control Fund to mitigate the adverse effects from leaking underground storage tanks. The fund may be used to provide emergency replacement water supplies, cover pollution clean-up costs, and remove leaking and install new underground storage tanks. The Division of Water Supply and Pollution Control is authorized to make low-interest loans for tank removal and installation not to exceed $50,000 per applicant. The act also provides strict liability for corrective measures, and tort liability to third parties for negligent or intentional discharges of oil into ground water.

The act establishes an interim study committee charged with assessing financing mechanisms for an underground storage tank replacement revolving loan fund and other means for tank owners to meet financial responsibility requirements. The committee must report its findings to the governor and legislature by November 1, 1987.

Vermont
Act 66 (1985); V.S.A., 10-1921 et seq.

Requires the Secretary of Environmental Conservation to develop and operate an underground storage tank program. The standards developed by the secretary must be consistent with, or more stringent than, federal regulations promulgated under Title VI of the federal Resource Conservation and Recovery Act amendments of 1984.

Underground storage tanks are classified into two categories: (1) fuel oil storage tanks used for on-premises heating purposes, and farm or residential tanks used for storing motor fuel; and (2) all other types of underground storage tanks (referred to as Category 1 tanks).

All underground storage tank owners must notify the agency of the existence and location of each tank. The agency must issue five-year permits for Category 1 tanks specifying proper underground tank design and installation standards; leak detection, monitoring, and reporting procedures; financial responsibility requirements; and corrective action and tank closure methods. Similar but separate standards are to be established for the remaining tanks that reflect their unique use in homes and farms.

The secretary is authorized to inspect and require tank tests when necessary. Civil and criminal penalties are provided for violations of the act.

Act 85 (1987); V.S.A., 10-1921 et seq.

Creates a nonlapsing "underground storage tank trust fund" composed of money received from the federal underground storage tank trust fund to be administered by the Secretary of Environmental Conservation. The act also requires the commissioner of the Department of Banking and Insurance to adopt rules and assist in formulating underground storage tank risk pools.

The act further establishes an underground storage tank incentive program for the owners of gasoline outlets that sell less than 20,000 gallons of gasoline per month. Those owners that qualify may apply for a grant up to $5,000 to help defray the costs of replacing underground storage tanks.

REGION II
New Jersey
Chapter 102 (1986); N.J.S.A., 58:10A-21 et seq.

Requires the Department of Environmental Protection to develop criteria to be used in determining if local underground storage tank regulations that are more stringent than the state's regulations are permissible. Where the criteria are met, local governments may petition the department for approval of local administration of underground storage tank programs. The act also directs the department to establish underground storage tank registration fees to defray the costs of program administration and redefines exempt tanks to be farm or residential tanks storing less than 1,100 gallons of motor fuel for noncommercial purposes to comply with the Resource Conservation and Recovery Act.

REGION III
Delaware
Chapter 161 (1985); D.C.A., 7-7401 et seq.

Requires the Department of Natural Resources and Environmental Control to develop and administer an underground storage tank program. The department must issue regulations pertaining to inventory control systems adequate to detect leaks; corrective action measures that tank operators must follow once a leak is detected; tank closure standards; permits for specific classes of tanks and those in environmentally sensitive areas; and financial responsibility requirements for damages associated with tank leaks.

The statute sets a timetable for the registration of new and existing tanks with the department and establishes enforcement standards that include civil penalties for violations. The department also is empowered to inspect and monitor any facility where an underground storage tank is located.

The department further is required to study the feasibility of establishing a "response fund" to cover cleanup costs and damages attributable to underground storage tank leaks where the owner or operator cannot be identified or where the cleanup costs exceed the owner's financial capacity. A select committee is created to guide the department in developing its regulations and to oversee the state program. The committee consists of a diverse set of affected interests, including members of the legislature.

Chapter 187 (1987); D.C.A., 7-7402 et seq.

Establishes the Delaware Underground Petroleum Storage Tank Response Fund to be administered by the Department of Natural Resources and Environmental Control and capitalized by an annual tank registration fee. Revenue in the fund is to be used to cover the costs of investigating underground storage tank leaks; restoring or replacing drinking water supplies contaminated by petroleum releases; corrective measures associated with releases to the environment; and third-party compensation for damages.

The act attempts to encourage voluntary rehabilitation of sites contaminated by leaking underground storage tanks by providing financial reimbursement of certain costs incurred in such remedial action. It further requires the department to adopt regulations regarding minimum levels of financial responsibility for owners and operators of underground storage tanks.

Virginia

Chapter 528 (1987); V.C., 36-99.6, 62.1-44.34:8-9

Requires the Water Control Board to develop and administer an underground storage tank program. The rules and regulations developed by the board must include proper notification of new and existing tanks and corrective action measures that tank operators must follow once a leak is detected. The board also is required to enforce the interim federal installation underground storage tank standards until state regulations are promulgated. All standards developed under this act are to be in accordance with all applicable federal laws and regulations.

Chapter 677 (1987); V.C., 62.1-44.34:5, 8-10

Requires the Water Control Board to adopt financial responsibility requirements for owners and operators of underground storage tanks. The minimum financial responsibility standards are $100,000 per occurrence for corrective action needed to mitigate the effects of leaking underground storage tanks and $300,000 per occurrence for compensation to third parties for bodily injury and property damage. The act enables owners and operators of underground storage tanks who are unable to demonstrate these minimum standards to establish insurance pools. The State Corporation Commission is required to oversee the development of such pools.

The act also creates a nonlapsing, revolving "Underground Petroleum Storage Tank Fund" to financially assist the Water Control Board in administering the state underground storage tank program. All expenses, costs and judgements recovered under the underground storage tank program and moneys received as reimbursements are to be deposited in the fund. Fund disbursements include the costs of corrective action and compensation for third parties in excess of the minimum financial responsibility requirements up to $1 million each; the costs of mitigating the effects of leaking underground storage tanks when the owner or operator cannot be determined or is incapable of carrying out such action; and the administrative costs incurred by the board in administering the state underground storage tank program.

REGION IV

Florida

Chapter 86-159 (1986); F.S., 206.9915 et seq., 376.3071

Establishes an Inland Protection Trust Fund to help protect ground water and inland surface water. The fund is to be comprised of money raised through an excise tax levied on each barrel of pollutant produced or imported into the state, and is to be administered by the Department of Environmental Regulation.

The fund may be used for the investigation, maintenance, restoration and rehabilitation of sites contaminated by stored petroleum products. The department must establish rules to prioritize contaminated sites and may seek reimbursement of costs incurred in cleanup. The department may contract with local governments to achieve the act's objectives.

The act also establishes an Early Detection Incentive Program within the fund. It provides a 15-month grace period for leaking underground storage tanks reported to the department between July 1, 1986 and October 1, 1987. All costs incurred to replace underground storage tanks and to restore the contaminated area will be covered by the fund during the grace period.

Chapter 87-374 (1987); F.S., 206.9935, 376.3071

Extends the deadline on the excise tax levied for the Inland Protection Trust Fund to 1997. Requires the registration of stationary tanks with storage capacities of 550 gallons or less at nonresidential areas with the Department of Environmental Regulation by December 31, 1987. Authorizes the department to approve or deny local ordinances regulating underground storage tanks.

Kentucky
Chapter 237 (1986); K.R.S., 224.810, 224.814

Requires the Natural Resources and Environmental Protection Cabinet to develop a program to regulate underground storage tanks. In developing the program, the cabinet is authorized to establish standards for underground storage tank construction, monitoring, repair, closure and financial responsibility.

North Carolina
Chapter 551 (1985); G.S.N.C., 143-215.3, 143B-222

Empowers the Environmental Management Commission to develop an underground storage tank program in accordance with mandated federal programs under the Resource Conservation and Recovery Act (RCRA). In developing the program, the commisssion is authorized to establish standards and adopt regulations concerning underground storage tank registration, construction, installation, monitoring, repair, closure, financial responsibility, and leaks.

REGION V
Illinois
Public Act 85-861 (1987); I.A.S., 111 1/2-1004, 111 1/2-1022.13, 111 1/2-1022.18, 127 1/2-154, 127 1/2-156

Requires the state Fire Marshal to register and permit all underground storage tanks and assess and collect specific fees on certain types of tanks. The act also authorizes the state Environmental Protection Agency to notify and require the owner or operator of an underground storage tank to undertake preventive or corrective action when there is a leak or threatened leak.

The act sets liability standards and penalties for violations of the underground storage tank program. All revenues generated from underground storage tanks are to be placed in a trust fund to administer the program.

Indiana
Public Law 172 (1987); I.S.A., 13-7-20-1 et seq.

Requires the Solid Waste Management Board to develop and operate an underground storage tank program. The board is authorized to establish rules and regulations regarding leak detection standards, reporting requirements once a leak has been detected, corrective action measures including the closing of leaking tanks, and recordkeeping standards.

The act also sets specific financial responsibility standards for tank owners and mandates certain requirements for new tanks. All standards under this act must be developed in accordance with federal regulations adopted under Subtitle I of the Resource Conservation and Recovery Act. A special fund is established to defray the cost of administering the program.

Minnesota
Chapter 13, Sections 235-239, First Special Session (1985); M.S., 116.46 et seq.

Empowers the state Pollution Control Agency to establish an underground storage tank program. The rules and regulations developed by the agency will not become effective until the U.S. Environmental Protection Agency publishes its final regulations for underground storage tanks or until February 8, 1987, whichever is first.

The statute establishes interim standards that require all underground storage tanks to be designed in a manner that prevents the release of any stored substance. It sets a timetable for owners of new, existing, or abandoned tanks to notify the agency of each tank's existence. Additional requirements apply to changing ownership and the storage of regulated substances in underground tanks. Rules and regulations promulgated under the act preempt conflicting local rules regulating underground tanks.

Chapter 388 (1987); M.S., 115C.01

Authorizes the Director of the Pollution Control Agency to take corrective action or order the responsible parties to take corrective action in response to a leaking underground storage tank. Makes the responsible parties liable for cleanup costs.

The act also establishes a petroleum tank release cleanup fee imposed on the use of petroleum tanks. All money collected from this fee, and revenue generated from the cleanup of underground storage tanks, are to be placed in the newly created Petroleum Tank Release Cleanup Fund. The fund is to be used to defray the costs of state cleanup activities.

Wisconsin
Act 27 (1987); W.S.A., 25.47

Creates a separate, nonlapsing Petroleum Storage Cleanup Fund to defray the costs of administering the state underground storage tank cleanup program.

REGION VI

Louisiana

Act 493 (1985); L.R.S., 30:1141.2-1141.3

Requires the Secretary of Environmental Quality to issue rules and regulations and to set fees for the registration of underground storage tanks. The act also establishes an Underground Storage Tank Trust Fund to defray the costs of administering the state's underground storage tank program.

Act 421 (1986); L.R.S., 30:1141.2 (C)

Amends the definition of an underground storage tank to comply with the federal definition under the Resource Conservation and Recovery Act.

New Mexico

Chapter 179 (1987); N.M.S.A., 74-4-3 et seq.

Requires the Environmental Improvement Board to develop a program to register underground storage tanks. The board may require tank installers to obtain certification from the Environmental Improvement Division of the Health and Environment Department. The act sets general guidelines by which the board may suspend or revoke an installer's certification. It also establishes penalties for violations of the state program.

A Hazardous Waste and Underground Storage Tank Fund is created to defray the costs of the state program's activities. All funds collected by the state relating to underground storage tanks must be credited to the fund.

Texas

Chapter 277 (1987); T.C.A., Water, 26.341 et seq.

Requires the state Water Commission to develop and operate an underground storage tank program. The standards established by the commissioner must be at least as stringent as the federal regulations promulgated under Title VI of the federal Resource Conservation and Recovery Act.

In developing the underground storage tank program, the commission must establish rules and regulations concerning tank standards; leak detection and recordkeeping requirements; reporting requirements once a leak has been detected; corrective action and tank closure measures; and financial responsibility. The commissioner is authorized to enter the premises containing an underground storage tank for inspection and testing.

The act also establishes an annual fee on facilities operating underground storage tanks. The fees collected, together with other revenues related to underground storage tanks, are to be placed in an Underground Storage Tank Fund to help defray the costs of the state program.

REGION VII

Iowa

Chapter 162 (1985); C.I., 455B.471 et seq.

Empowers the Department of Water, Air and Waste Management to develop and operate an underground storage tank program. Standards developed under the program must be consistent with and may not exceed federal regulations under the Resource Conservation and Recovery Act (RCRA).

The Commission on Water, Air and Waste Management within the department is required to issue regulations pertaining to: new tank standards; leak detection and monitoring systems; reporting and recordkeeping requirements; corrective action and tank closure procedures; and rules for financial responsibility.

The statute also sets a timetable for the registration of new, existing, and nonoperating tanks, and establishes enforcement standards that include civil penalties for violations. The department further is empowered to inspect and monitor any facility where an underground storage tank is located.

Chapter 225 (1987); C.I., 455B.473, 507D.3

See summary under **Statewide Strategies.**

Nebraska
LB 217 (1986); R.S.N., 81-15,117 et seq.

Requires the state Fire Marshal to establish rules and regulations for detecting, preventing and correcting leaking underground storage tanks. The regulations must include standards for the constuction, design, installation and replacement of tanks; recordkeeping procedures; reporting requirements when a leak is found; and financial responsibility standards. The Fire Marshal also must establish separate registration, permit and inspection programs which are to include fee systems. In administering the underground storage tank program, the Fire Marshal must consider the location, storage capacity, use and age of a tank; the type of substances stored in a tank; and the soil and climate conditions surrounding a tank.

The act also creates a Petroleum Products and Hazardous Substances Storage and Handling Fund. The fund is to be administered by the Department of Environmental Control and be used to operate the state underground storage tank program.

LB 365 (1987); R.S.N., 81-15,119

Amends the definition of an underground storage tank to comply with the federal definition contained in Subtitle I of the Resource Conservation and Recovery Act.

REGION VIII
Montana
Chapter 633 (1985); M.C.A., 75-10-403, 75-10-405, 75-10-409

Authorizes the Department of Health and Environmental Science to adopt rules regarding: underground storage tank reporting requirements; financial responsibility; release detection, prevention, and correction; and standards for the design,. construction, and installation of underground storage tanks. The act also requires tank owners or operators to report leaks to the department.

North Dakota
Chapter 306 (1987); N.D.C.C., 23-20.3-01 et seq.

Requires the Department of Health to establish an underground storage tank program. The standards developed by the department must be consistent with

and may not exceed the federal regulations promulgated under Title VI of the federal Resource Conservation and Recovery Act amendments of 1984. The department must issue rules and regulations for leak detection standards; reporting requirements once a leak has been detected; corrective action measures including the closing of leaking tanks; financial responsibility requirements; and recordkeeping standards.

The act also requires the department to set specific construction and performance standards for new tanks and adopt procedures to enable underground storage tank owners to notify the agency of existing tanks. In addition, the act authorizes the department to inspect underground storage tank facilities when deemed necessary. A permit fee system is created to defray the cost of the state program. All counties, cities and townships are prohibited from developing underground storage tank ordinances more stringent than the state standards.

South Dakota
Chapter 284 (1985); S.D.C.L.A., 34A-2-98, 34A-2-99

Requires the Board of Water Management to develop an underground storage tank program. The board must establish rules and standards regarding: (1) notification requirements for existing tanks; (2) performance standards for new tanks; (3) leak detection, tank testing, and recordkeeping requirements; (4) reporting, corrective action, and tank closure procedures; and (5) financial responsibility for leaking tanks.

Utah
Chapter 217 (1987); U.C.A., 26-14-2 et seq.

Authorizes the Department of Health's Solid and Hazardous Wastes Committee to establish an underground storage tank program in conformance with federal regulations to achieve state primacy over program administration. The program may include provisions requiring a tank owner or operator to provide information, records, and access to inspect, monitor and test tanks for leaks. The act assesses a tank registration fee to cover program administration costs.

REGION IX
Arizona
Chapter 230 (1986); A.R.S.A., 36-3301 et seq.

Requires the Director of the Department of Health Services to develop and operate an underground storage tank program. The act stipulates that all rules developed by the director must be approved by the U.S. Environmental Protection Agency under Title VI of the federal Resource Conservation and Recovery Act (RCRA) amendments of 1984.

The director must issue regulations relating to notification procedures for new and existing tanks; leak detection and monitoring systems; reporting and recordkeeping requirements; corrective action and tank closure procedures; and rules for financial responsibility. The department also is empowered to inspect and monitor any facility or its records where an underground storage tank is located.

The statute sets interim standards until final regulations are promulgated under RCRA for reporting leaking underground storage tanks to the department; new tank construction and performance standards; and enforcement measures that

include civil penalties. The act also preempts any local regulations pertaining to underground storage tanks and establishes confidentiality of business records.

California

Chapter 1228 (1985); A.C.C., Health and Safety, 25283, 25284.5, 25291, 25299.1

Sets a January 1, 1986 deadline for cities and local government agencies to assume responsibility for implementing the state-mandated local underground storage tank permit program. The act requires local agencies to issue interim permits to tank owners or operators if a final permit decision has not been reached within 30 days after receipt of a permit application. The local agency must approve an interim monitoring program by March 1, 1986, and the owner or operator must install the system within six months thereafter. The legislation also requires a local agency to issue a final permit by September 1, 1986.

Chapter 1535 (1985); A.C.C., Health and Safety, 25284.7, 25291

Authorizes specified underground storage tank owners and operators with interim permits requiring annual tank testing to conduct initial tests before March 1, 1986. If the monitoring procedure is approved by the local agency, the next test is not required until 30 months after the first test with subsequent testing required annually.

Chapter 935 (1986); A.C.C., Health and Safety, 25281 et seq.

Exempts underground storage tanks located on farms that store motor vehicle or heating fuel used primarily for agricultural purposes and have less than a 1,100 gallon capacity from state regulations. The act also establishes an alternative method for monitoring such tanks installed after January 1, 1984.

Chapter 1025 (1986); A.C.C., Health and Safety, 25281.5 et seq.

Requires the Water Resources Control Board to review existing regulations for pipes used in connection with underground storage tanks by July 1, 1987. The board must revise the regulations by April 1, 1988, and submit its findings to the legislature by May 1, 1988. The act also mandates certain design standards for pipes and systems to more effectively detect leaks from underground storage tanks.

Chapter 1317 (1987); A.C.C., Health and Safety, 25297.1

Requires the Water Resources Control Board and the Department of Health Services to develop and implement a pilot program for local agencies to abate and clean up the effects of leaking underground storage tanks.

Chapter 1372 (1987); A.C.C., Health and Safety, 25281 et seq.

Requires all underground storage tanks to undergo a "tank integrity test" designed to detect leaks. The act further requires tests after January 1, 1989, to be performed by tank testers licensed by the Water Resources Control Board. It sets licensing requirements for tank testers and establishes penalties for violations of the standards.

Hawaii
Act 197 (1986); H.R.S., 342-61 et seq.

Requires the Department of Health to develop and operate an underground storage tank program. The department must establish rules and regulations regarding leak detection standards; reporting requirements once a leak has been detected; corrective action measures, including the closing of tanks; and recordkeeping procedures. The department also is authorized to inspect and monitor any facility where an underground storage tank is located.

The act sets a timetable for the department to register all new and existing tanks. It also sets specific financial responsibility standards for tank owners and mandates certain requirements of new tanks. The act further requires all rules and regulations developed under the act to be in accordance with applicable federal laws and regulations.

REGION X
Oregon
Chapter 737 (1985); O.R.S., 468.901 et seq.

Requires the Environmental Quality Commission to develop and administer an underground storage tank program. The commission is authorized to establish rules and regulations concerning leak detection standards, reporting requirements once a leak has been detected, corrective action measures, and financial responsibility requirements. The Department of Environmental Quality is empowered to enter the premises containing an underground storage tank to inspect and require tank tests when necessary.

The act requires standards set under the act to be "established to gain state authorization under the Resource Conservation and Recovery Act." The legislation exempts farm or residential tanks storing less than 10,000 gallons of motor fuel from the new requirements, however, which is above the 1,500 gallon threshold contained in RCRA. Finally, a revolving fund is set up to defray state inspection expenses incurred under the act.

Chapter 539 (1987); O.R.S., 468.901 et seq.

Generally amends the state's underground storage tank enabling legislation with prescribed language that mandates the development of a comprehensive state program. The Environmental Quality Commission is directed to adopt a statewide underground storage tank program that preempts all local government tank standards. The act also requires all state rules and regulations to be in conformance with federal standards adopted under Subtitle I of the Resource Conservation and Recovery Act Amendments of 1984.

In developing the program, the act authorizes the commission to establish standards relating to the design, construction and installation of tanks; recordkeeping requirements; leak detection standards; corrective action procedures once a leak is found, including the closure of tanks; and reporting requirements.

The act amends the definition of an underground storage tank to comply with federal law. It also establishes an annual fee; sets specific standards for developing a permit system; establishes strict liability standards; and requires tank owners to maintain financial responsibility. It creates an Underground Storage Tank Insurance Fund to help meet the financial

responsibility requirements. Financial responsibility rules must be reviewed by the legislature before adoption.

The act also delineates procedural requirements for the cleanup of a site contaminated by a leaking underground storage tank. It creates a separate Leaking Underground Storage Tank Cleanup Fund to assist in defraying the costs of cleanup efforts.

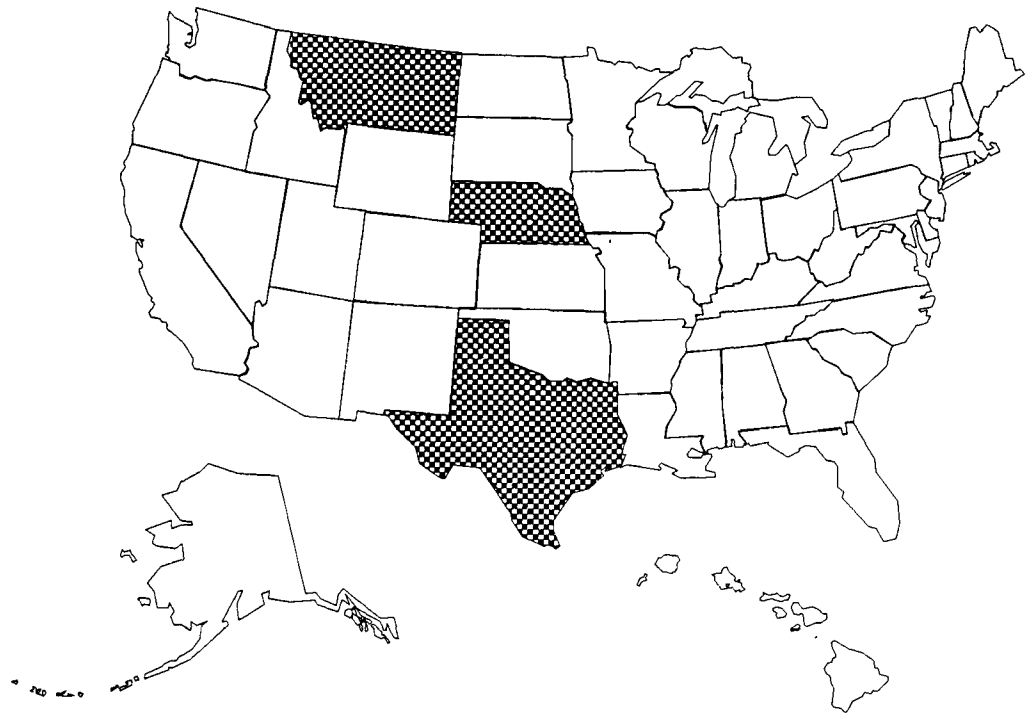
Washington
Chapter 289 (1986); not codified

Requires the Department of Ecology to submit a report to the legislature describing and assessing the nature of the leaking underground storage tank problem in the state by December 31, 1986. The report must include information on the number and location of underground storage tanks in the state; types of substances stored in the tanks; age, size and materials used to construct tanks that have been identified; and types of leak detection measures used.

WATER USE MANAGEMENT

Three states enacted legislation in this category during the 1985-87 sessions. Water use management is comparable to land use management in that the activity causing pollution is regulated. For example, agricultural irrigation can dissolve natural and man-made contaminants and leach them through the soil into ground water; Nebraska's 1986 LB 894 attempts to resolve a nitrate problem by managing irrigation practices in critical areas. Unmanaged groundwater withdrawals likewise can induce salt-water intrusion, especially in coastal areas.

Water Use Management Legislation



States with Legislation

REGION VI
Texas
Chapter 133 (1985); T.C.A., Water, 52.051 et seq.

Requires the Department of Water Resources to monitor the state's ground water and to identify geographic areas where ground-water quantity or quality problems exist or may occur. The department may recommend to the Texas Water Commisssion the designation of critical ground-water areas based upon its findings. After holding hearings, the commission may propose that a critical area be formed and submit the question to a vote of the affected electorate.

REGION VII
Nebraska
LB 894 (1986); R.S.N., 46-656 et seq.

Empowers the Department of Environmental Control to designate special ground-water protection areas where irrigation practices are causing agricultural chemicals to leach into ground water. Once designated, the local natural resources district with jurisdiction must prepare a ground-water management plan (to be approved by the department) to prevent the nonpoint source pollution. The plan may entail irrigation scheduling and timing of agricultural chemical applications. If the local district does not prepare an approved plan, the department may enforce its own water use program.

REGION VIII
Montana
Chapter 189 (1985); M.C.A., 85-2-506 (2) (e)

Authorizes the Board of Natural Resources and Conservation to designate controlled ground-water areas where ground-water use would be limited upon a showing that excessive ground-water withdrawals would cause ground-water contamination.

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