

108TH CONGRESS
1ST SESSION

H. R. 3231

To amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2003

Mrs. CAPPS (for herself and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Underground Storage
5 Tank Reform and Compliance Act of 2003”.

1 **SEC. 2. LEAKING UNDERGROUND STORAGE TANKS.**

2 Section 9004 of the Solid Waste Disposal Act (42
3 U.S.C. 6991c) is amended by adding at the end the fol-
4 lowing:

5 “(f) TRUST FUND DISTRIBUTION.—

6 “(1) IN GENERAL.—

7 “(A) AMOUNT AND PERMITTED USES OF
8 DISTRIBUTION.—The Administrator shall dis-
9 tribute to States not less than 80 percent of the
10 funds from the Trust Fund that are made
11 available to the Administrator under section
12 9014(2)(A) for each fiscal year for use in pay-
13 ing the reasonable costs, incurred under a coop-
14 erative agreement with any State, of—

15 “(i) actions taken by the State under
16 section 9003(h)(7)(A);

17 “(ii) necessary administrative ex-
18 penses, as determined by the Adminis-
19 trator, that are directly related to State
20 fund or other State assurance programs;
21 or

22 “(iii) enforcement by the State or a
23 local government of State or local regula-
24 tions pertaining to underground storage
25 tanks regulated under this subtitle.

1 “(B) USE OF FUNDS FOR ENFORCE-
2 MENT.—In addition to the uses of funds au-
3 thorized under subparagraph (A), the Adminis-
4 trator may use funds from the Trust Fund that
5 are not distributed to States under subpara-
6 graph (A) for enforcement of any regulation
7 promulgated by the Administrator under this
8 subtitle.

9 “(C) PROHIBITED USES.—Funds provided
10 to a State by the Administrator under subpara-
11 graph (A) shall not be used by the State to pro-
12 vide financial assistance to an owner or oper-
13 ator to meet any requirement relating to under-
14 ground storage tanks under regulations of the
15 Administrator under this part regarding tech-
16 nical standards and corrective action require-
17 ments for owners and operators of underground
18 storage tanks (40 CFR part 280).

19 “(2) ALLOCATION.—

20 “(A) PROCESS.—Subject to subparagraph
21 (B), in the case of a State with which the Ad-
22 ministrator has entered into a cooperative
23 agreement under section 9003(h)(7)(A), the
24 Administrator shall distribute funds from the

1 Trust Fund to the State using the allocation
2 process developed by the Administrator.

3 “(B) REVISIONS TO PROCESS.—The Ad-
4 ministrator may revise the allocation process re-
5 ferred to in subparagraph (A) with respect to a
6 State only after—

7 “(i) consulting with State agencies re-
8 sponsible for overseeing corrective action
9 for releases from underground storage
10 tanks;

11 “(ii) taking into consideration, at a
12 minimum—

13 “(I) the number of confirmed re-
14 leases from underground storage
15 tanks regulated under this subtitle in
16 the State;

17 “(II) the number of underground
18 storage tanks in the State regulated
19 under this subtitle;

20 “(III) the percentage of the pop-
21 ulation of the State that uses ground-
22 water for drinking water purposes or
23 other beneficial uses;

1 “(IV) the performance of the
2 State in implementing and enforcing
3 the program;

4 “(V) the financial needs of the
5 State;

6 “(VI) the State’s ability to use
7 the funds referred to in subparagraph
8 (A) in any year; and

9 “(VII) the compliance rates for
10 underground storage tanks regulated
11 under this subtitle in the State.

12 “(3) DISTRIBUTIONS TO STATE AGENCIES.—
13 Distributions from the Trust Fund under this sub-
14 section shall be made directly to a State agency
15 that—

16 “(A) enters into a cooperative agreement
17 referred to in paragraph (2)(A); or

18 “(B) is enforcing a State program ap-
19 proved under this section.

20 “(4) DIVERSION OF STATE FUNDS.—

21 “(A) IN GENERAL.—The Administrator
22 may withdraw the approval of any State fund
23 or other State assurance program as a financial
24 responsibility mechanism if such fund becomes
25 unable to ensure timely corrective actions for

1 any reason, including diversion of funds from
 2 the State fund or other state assurance pro-
 3 gram.

4 “(B) STATE PROGRAM APPROVAL.—For
 5 States approved under section 9004, the with-
 6 drawal of State fund or other State assurance
 7 program approval under clause (i) need not re-
 8 quire revocation of the program approval grant-
 9 ed under section 9004.”

10 **SEC. 3. INSPECTION OF UNDERGROUND STORAGE TANKS.**

11 Section 9005 of the Solid Waste Disposal Act (42
 12 U.S.C. 6991d) is amended—

13 (1) by redesignating subsections (a) and (b) as
 14 subsections (b) and (c), respectively; and

15 (2) by inserting before subsection (b) (as redes-
 16 ignated by paragraph (1)) the following:

17 “(a) INSPECTION REQUIREMENTS.—Not later than 2
 18 years after the date of enactment of the Underground
 19 Storage Tank Reform and Compliance Act of 2003, and
 20 at least once every 2 years thereafter, the Administrator
 21 or a State with a program approved under section 9004,
 22 as appropriate, shall require that all underground storage
 23 tanks regulated under this subtitle undergo onsite inspec-
 24 tions for compliance with regulations promulgated under
 25 section 9003(c).”.

1 **SEC. 4. OPERATOR TRAINING.**

2 (a) IN GENERAL.—Subtitle I of the Solid Waste Dis-
3 posal Act (42 U.S.C. 6991 et seq.) is amended by striking
4 section 9010 and inserting the following:

5 **“SEC. 9010. OPERATOR TRAINING.**

6 “(a) GUIDELINES.—

7 “(1) IN GENERAL.—Not later than 18 months
8 after the date of enactment of this section, in con-
9 sultation and cooperation with States and after pub-
10 lic notice and opportunity for comment, the Admin-
11 istrator shall publish guidelines that specify training
12 requirements for underground storage tank opera-
13 tors and other persons having primary daily on-site
14 management responsibility for the operation and
15 maintenance of underground storage tanks.

16 “(2) CONSIDERATIONS.—The guidelines de-
17 scribed in paragraph (1) shall take into account—

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

20 “(B) training programs that are being em-
21 ployed by tank owners and tank operators as of
22 the date of enactment of this section;

23 “(C) the high turnover rate of tank opera-
24 tors and other personnel;

25 “(D) the frequency of improvement in un-
26 derground storage tank equipment technology;

1 “(E) the nature of the businesses in which
2 the tank operators are engaged; and

3 “(F) such other factors as the Adminis-
4 trator determines to be necessary to carry out
5 this section.

6 “(b) EPA AND STATE PROGRAMS.—

7 “(1) IN GENERAL.—Not later than 1 year after
8 the date on which the Administrator publishes the
9 guidelines under subsection (a)(1), the Adminis-
10 trator and each State, as appropriate, shall develop
11 training requirements that are consistent with the
12 guidelines developed under subsection (a)(1).

13 “(2) REQUIREMENTS.—Requirements described
14 in paragraph (1) shall—

15 “(A) be consistent with subsection (a); and

16 “(B) take into consideration training pro-
17 grams implemented by tank owners and tank
18 operators as of the date of enactment of this
19 section.

20 “(3) FINANCIAL INCENTIVE.—The Adminis-
21 trator may award to a State that develops and im-
22 plements requirements described in paragraph (1),
23 in addition to any funds that the State is entitled to
24 receive under this subtitle, not more than \$200,000,
25 to be used to carry out the requirements.

1 “(c) OPERATORS.—

2 “(1) DOCUMENTATION.—After the training re-
3 quirements are developed by the Administrator or
4 State, as appropriate, under subsection (b), all oper-
5 ators of underground storage tank systems and the
6 other personnel referred to in subsection (a)(1) shall
7 submit documentation to the Administrator or State,
8 as appropriate, establishing that they have met such
9 training requirements within—

10 “(A) 18 months;

11 “(B) the time frame established by the Ad-
12 ministrator or State under subsection (b); or

13 “(C) within 90 days of the date which the
14 facility at which they work is determined to be
15 out of compliance with—

16 “(i) a requirement or standard pro-
17 mulgated by the Administrator under sec-
18 tion 9003; or

19 “(ii) a requirement or standard of a
20 State program approved under section
21 9004

22 whichever is sooner.

23 “(2) NEW EMPLOYEES.—After such 18-month
24 period each operator of an underground storage tank
25 system and the other personnel referred to in sub-

1 section (a)(1) who has not previously received such
2 training shall, within 90 days of entering their posi-
3 tion, submit documentation to the Administrator or
4 State, as appropriate, establishing that they have
5 met such training requirements.

6 “(3) PERIODIC UPDATES.—All operators and
7 other personnel required to submit documentation
8 under this subsection shall submit updated docu-
9 mentation to the Administrator or State, as appro-
10 priate, establishing that they have met such training
11 requirements every 5 years after submitting the
12 original documentation.”.

13 (b) STATE PROGRAM REQUIREMENT.—Section
14 9004(a) of the Solid Waste Disposal Act (42 U.S.C.
15 6991c(a)) is amended by striking “and” at the end of
16 paragraph (7), by striking the period at the end of para-
17 graph (8) and inserting “; and” and by adding the fol-
18 lowing new paragraph at the end thereof:

19 “(9) State-specific training requirements as re-
20 quired by section 9010.”.

21 (c) ENFORCEMENT.—Section 9006(d)(2) of the Solid
22 Waste Disposal Act (42 U.S.C. 6991e(d)(2)) is amended
23 by striking “or” at the end of subparagraph (B), inserting
24 “;” at the end subparagraph (C), and by adding the fol-
25 lowing new subparagraph after subparagraph (C):

1 “(D) the training requirements established by
 2 States pursuant to section 9010 (relating to oper-
 3 ator training);”.

4 **SEC. 5. REMEDIATION OF CONTAMINATION FROM**
 5 **OXYGENATED FUEL ADDITIVES.**

6 Section 9003(h) of the Solid Waste Disposal Act (42
 7 U.S.C. 6991b(h)) is amended as follows:

8 (1) In paragraph (7)(A)—

9 (A) by striking “paragraphs (1) and (2) of
 10 this subsection” and inserting “paragraphs (1),
 11 (2), and (12)”; and

12 (B) by striking “, and including the au-
 13 thorities of paragraphs (4), (6), and (8) of this
 14 subsection” and inserting “and the authority
 15 under sections 9005(c), 9011, 9012, and 9013
 16 and paragraphs (4), (6), and (8),”.

17 (2) By adding at the end the following:

18 “(12) REMEDIATION OF OXYGENATED FUEL
 19 ADDITIVE CONTAMINATION.—

20 “(A) IN GENERAL.—The Administrator
 21 and the States may use funds made available
 22 under section 9014(2)(B) to carry out correc-
 23 tive actions with respect to a release of an
 24 oxygenated fuel additive that presents a threat
 25 to human health, welfare, or the environment.

1 “(B) APPLICABLE AUTHORITY.—The Ad-
2 ministrator or a State shall carry out subpara-
3 graph (A)—

4 “(i) in accordance with paragraph (2);
5 and

6 “(ii) in the case of a State, in accord-
7 ance with a cooperative agreement entered
8 into by the Administrator and the State
9 under paragraph (7).”.

10 **SEC. 6. FEDERAL FACILITIES.**

11 Section 9007 of the Solid Waste Disposal Act (42
12 U.S.C. 6991f) is amended to read as follows:

13 **“SEC. 9007. FEDERAL FACILITIES.**

14 “(a) IN GENERAL.—Each department, agency, and
15 instrumentality of the executive, legislative, and judicial
16 branches of the Federal Government (1) having jurisdic-
17 tion over any underground storage tank or underground
18 storage tank system, or (2) engaged in any activity result-
19 ing, or which may result, in the installation, operation,
20 management, or closure of any underground storage tank,
21 release response activities related thereto, or in the deliv-
22 ery or deposit of any regulated substance to an under-
23 ground storage tank or underground storage tank system
24 shall be subject to, and comply with, all Federal, State,
25 interstate, and local requirements, both substantive and

1 procedural (including any requirement for permits or re-
2 porting or any provisions for injunctive relief and such
3 sanctions as may be imposed by a court to enforce such
4 relief), respecting underground storage tanks in the same
5 manner, and to the same extent, as any person is subject
6 to such requirements, including the payment of reasonable
7 service charges. The Federal, State, interstate, and local
8 substantive and procedural requirements referred to in
9 this subsection include, but are not limited to, all adminis-
10 trative orders and all civil and administrative penalties
11 and fines, regardless of whether such penalties or fines
12 are punitive or coercive in nature or are imposed for iso-
13 lated, intermittent, or continuing violations. The United
14 States hereby expressly waives any immunity otherwise
15 applicable to the United States with respect to any such
16 substantive or procedural requirement (including, but not
17 limited to, any injunctive relief, administrative order or
18 civil or administrative penalty or fine referred to in the
19 preceding sentence, or reasonable service charge). The rea-
20 sonable service charges referred to in this subsection in-
21 clude, but are not limited to, fees or charges assessed in
22 connection with the processing and issuance of permits,
23 renewal of permits, amendments to permits, review of
24 plans, studies, and other documents, and inspection and
25 monitoring of facilities, as well as any other nondiscrim-

1 inatory charges that are assessed in connection with a
2 Federal, State, interstate, or local underground storage
3 tank regulatory program. Neither the United States, nor
4 any agent, employee, or officer thereof, shall be immune
5 or exempt from any process or sanction of any State or
6 Federal Court with respect to the enforcement of any such
7 injunctive relief. No agent, employee, or officer of the
8 United States shall be personally liable for any civil pen-
9 alty under any Federal, State, interstate, or local law con-
10 cerning underground storage tanks with respect to any act
11 or omission within the scope of the official duties of the
12 agent, employee, or officer. An agent, employee, or officer
13 of the United States shall be subject to any criminal sanc-
14 tion (including, but not limited to, any fine or imprison-
15 ment) under any Federal or State law concerning under-
16 ground storage tanks, but no department, agency, or in-
17 strumentality of the executive, legislative, or judicial
18 branch of the Federal Government shall be subject to any
19 such sanction. The President may exempt any under-
20 ground storage tank of any department, agency, or instru-
21 mentality in the executive branch from compliance with
22 such a requirement if he determines it to be in the para-
23 mount interest of the United States to do so. No such
24 exemption shall be granted due to lack of appropriation
25 unless the President shall have specifically requested such

1 appropriation as a part of the budgetary process and the
2 Congress shall have failed to make available such re-
3 quested appropriation. Any exemption shall be for a period
4 not in excess of one year, but additional exemptions may
5 be granted for periods not to exceed one year upon the
6 President's making a new determination. The President
7 shall report each January to the Congress all exemptions
8 from the requirements of this section granted during the
9 preceding calendar year, together with his reason for
10 granting each such exemption.

11 “(b) REVIEW OF AND REPORT ON FEDERAL UNDER-
12 GROUND STORAGE TANKS.—

13 “(1) REVIEW.—Not later than 9 months after
14 the date of enactment of the Underground Storage
15 Tank Reform and Compliance Act of 2003, each
16 Federal agency that owns or operates 1 or more un-
17 derground storage tanks, or that manages land on
18 which 1 or more underground storage tanks are lo-
19 cated, shall submit to the Administrator, the Com-
20 mittee on Energy and Commerce of the United
21 States House of Representatives and the Committee
22 on the Environment and Public Works of the United
23 States Senate a compliance strategy report that—

24 “(A) lists each underground storage tank
25 described in this paragraph that, as of the date

1 of submission of the report, is not in compliance
2 with this subtitle;

3 “(B) specifies the date of the last inspec-
4 tion by a State or Federal inspector of each un-
5 derground storage tank owned or operated by
6 the agency;

7 “(C) lists each violation of this subtitle re-
8 specting any underground storage tank owned
9 or operated by the agency and the location of
10 such tank;

11 “(D) describes the operator training that
12 has been provided to the operator and other
13 persons having primary daily on-site manage-
14 ment responsibility for the operation and main-
15 tenance of underground storage tanks owned or
16 operated by the agency; and

17 “(E) describes the actions that have been
18 and will be taken to ensure compliance by the
19 underground storage tank with this subtitle.

20 “(2) NOT A SAFE HARBOR.—This subsection
21 does not relieve any person from any obligation or
22 requirement under this subtitle.”.

1 **SEC. 7. RELEASE PREVENTION AND COMPLIANCE.**

2 (a) IN GENERAL.—Subtitle I of the Solid Waste Dis-
3 posal Act (42 U.S.C. 6991 and following) is amended by
4 adding at the end the following:

5 **“SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND**
6 **COMPLIANCE.**

7 “Funds made available under section 9014(2)(D)
8 from the Trust Fund may be used to conduct inspections,
9 issue orders, or bring actions under this subtitle—

10 “(1) by a State, in accordance with a grant or
11 cooperative agreement with the Administrator, of
12 State regulations pertaining to underground storage
13 tanks regulated under this subtitle; and

14 “(2) by the Administrator, under this subtitle
15 (including under a State program approved under
16 section 9004).”.

17 (b) GOVERNMENT-OWNED TANKS.—Section 9003 of
18 the Solid Waste Disposal Act (42 U.S.C. 6991b) is amend-
19 ed by adding at the end the following:

20 “(i) GOVERNMENT-OWNED TANKS.—

21 “(1) STATE COMPLIANCE REPORT.—(A) Not
22 later than 18 months after the date of enactment of
23 the Underground Storage Tank Reform and Compli-
24 ance Act of 2003, each State shall submit to the
25 Administrator a State compliance report that—

1 “(i) lists each underground storage tank
2 described in subparagraph (B) in the State
3 that, as of the date of submission of the report,
4 is not in compliance with this subtitle; and

5 “(ii) describes the actions that have been
6 and will be taken to ensure compliance by the
7 underground storage tank listed under clause
8 (i) with this subtitle.

9 “(B) An underground storage tank described in
10 this subparagraph is an underground storage tank
11 that is—

12 “(i) regulated under this subtitle; and

13 “(ii) owned or operated by the Federal,
14 State, or local government.

15 “(C) The Administrator shall make each report,
16 received under subparagraph (A), available to the
17 public through an appropriate media.

18 “(2) NOT A SAFE HARBOR.—This subsection
19 does not relieve any person from any obligation or
20 requirement under this subtitle.”.

21 (c) PUBLIC RECORD.—Section 9002 of the Solid
22 Waste Disposal Act (42 U.S.C. 6991a) is amended by add-
23 ing at the end the following:

24 “(d) PUBLIC RECORD.—

1 “(1) IN GENERAL.—The Administrator shall re-
2 quire each State that receives Federal funds to carry
3 out this subtitle to maintain, update at least annu-
4 ally, and make available to the public, in such man-
5 ner and form as the Administrator shall prescribe
6 (after consultation with States), a record of under-
7 ground storage tanks regulated under this subtitle.

8 “(2) CONSIDERATIONS.—To the maximum ex-
9 tent practicable, the public record of a State, respec-
10 tively, shall include, for each year—

11 “(A) the number, sources, and causes of
12 underground storage tank releases in the State;

13 “(B) the record of compliance by under-
14 ground storage tanks in the State with—

15 “(i) this subtitle; or

16 “(ii) an applicable State program ap-
17 proved under section 9004; and

18 “(C) data on the number of underground
19 storage tank equipment failures in the State.

20 “(3) AVAILABILITY.—The Administrator shall
21 make the public record of each State under this sec-
22 tion available to the public through an appropriate
23 media.”.

1 **SEC. 8. DELIVERY PROHIBITION.**

2 (a) IN GENERAL.—Subtitle I of the Solid Waste Dis-
3 posal Act (42 U.S.C. 6991 et seq.) is amended by adding
4 at the end the following:

5 **“SEC. 9012. DELIVERY PROHIBITION.**

6 “(a) REQUIREMENTS

7 “(1) PROHIBITION OF DELIVERY OR DE-
8 POSIT.—Subject to subsection(b), beginning 18
9 months after the date of enactment of this section,
10 it shall be unlawful to deliver to, deposit into, or ac-
11 cept a regulated substance into an underground
12 storage tank at a facility which has been identified
13 by the Administrator or a State implementing agen-
14 cy to be ineligible for fuel delivery or deposit.

15 “(2) NOTIFICATION.—The Administrator or the
16 State implementing agency shall make readily known
17 to the underground storage tank owners and product
18 delivery industries, the facilities deemed ineligible for
19 delivery or deposit. The mechanism used to indicate
20 facilities ineligible for delivery or deposit may in-
21 clude tags or seals on underground storage tank sys-
22 tem fill pipes, decals posted on dispensers, lists post-
23 ed on web sites, or any other mechanism deemed ap-
24 propriate.

25 “(3) GUIDANCE.—Within 12 months of enact-
26 ment of this section, the Administrator and States

1 shall, in consultation with the underground storage
2 tank owner and product delivery industries, for terri-
3 tory for which they are the primary implementing
4 agencies, publish guidelines detailing the specific
5 processes and procedures they will use to implement
6 the provisions of this section. The processes and pro-
7 cedures include, at a minimum, the following:

8 “(A) the criteria for determining which un-
9 derground storage tank facilities are ineligible
10 for delivery or deposit;

11 “(B) the mechanisms for identifying which
12 facilities are ineligible for delivery or deposit to
13 the underground storage tank owning and fuel
14 delivery industries;

15 “(C) the process for reclassifying ineligible
16 facilities as eligible for delivery or deposit; and

17 “(D) a delineation of, or a process for de-
18 termining, the specified geographic areas sub-
19 ject to subsection (b).

20 “(b) LIMITATIONS.—

21 “(1) SPECIFIED GEOGRAPHIC AREAS.—Subject
22 to paragraph (2), the Administration or a State may
23 not identify a facility as ineligible for delivery or de-
24 posit if that identification would jeopardize the avail-

1 ability of, or access to, fuel in any specified geo-
2 graphic area.

3 “(2) APPLICABILITY OF LIMITATION.—The lim-
4 itation under paragraph (1) shall apply only during
5 the 180-day period following the date upon which
6 the Administrator or State agency determines a fa-
7 cility would have become ineligible for delivery or de-
8 posit in the absence of the limitation in paragraph
9 (1). Such limitation shall not apply whenever there
10 is a release or threatened release from a tank at
11 such facility that poses a threat to human health
12 and the environment.”.

13 (b) ENFORCEMENT.—Section 9006(d)(2)(42 U.S.C.
14 6991e(d)(2)) of such Act is amended—

15 (1) by adding the following new subparagraph
16 after subparagraph (D):

17 “(E) the delivery prohibition requirement estab-
18 lished by section 9012; or”; and

19 (2) by adding the following new sentence at the
20 end thereof: “Any person making a delivery or de-
21 posit of a regulated substance to an underground
22 storage tank at an ineligible facility in violation of
23 section 9012 shall also be subject to the same civil
24 penalty for each day of such violation.”

1 **SEC. 9. SECONDARY CONTAINMENT.**

2 (a) IN GENERAL.—Section 9003 of the Solid Waste
3 Disposal Act (42 U.S.C. 6991b) is amended by adding the
4 following new subsection at the end thereof:

5 “(j) SECONDARY CONTAINMENT.—

6 “(1) IN GENERAL.—Any new underground stor-
7 age tank system installed after the effective date of
8 this subsection, or any existing underground storage
9 tank system that is replaced after the effective date
10 of this subsection, shall be secondarily contained and
11 space between the primary and secondary contain-
12 ment shall be monitored for leaks.

13 “(2) LIMITATIONS.—(A) In the case of the re-
14 placement of an existing underground storage tank
15 that is connected to other underground storage
16 tanks by piping, paragraph (1) shall apply only to
17 the underground storage tank being replaced and
18 not to such other underground storage tanks.

19 “(B) In the case of the replacement of existing
20 underground pipes connected to an underground
21 storage tank, paragraph (1) shall apply only to the
22 underground pipes and not to the underground stor-
23 age tanks to which the pipes are connected.

24 “(3) EFFECTIVE DATE.—This subsection shall
25 take effect 18 months after the date of enactment
26 of this subsection.

1 “(4) DEFINITIONS.—As used in this subsection:

2 “(A) The term ‘secondarily contained’
3 means a release detection and prevention sys-
4 tem that meets the requirements of 40 Code of
5 Federal Regulations section 280.43(g) and in-
6 cludes double-walled tanks and piping systems,
7 dispenser liners, piping sumps, or single-walled
8 tanks or piping systems that are contained
9 within a liner or an impervious barrier area as
10 set forth in 40 Code of Federal Regulations
11 part 280.

12 “(B) The term ‘underground storage tank’
13 has the meaning given to this term under sec-
14 tion 9001, except as limited with respect to
15 tank combinations and underground pipes
16 under paragraph (2) of this subsection.

17 “(5) PROMULGATION OF REGULATIONS OR
18 GUIDELINES.—The Administrator may issue regula-
19 tions or guidelines implementing the requirements of
20 paragraph (1).”.

21 (b) PENALTIES.—Section 9006(d)(2) of such Act(42
22 U.S.C. 6991e(d)(2)) is amended by adding the following
23 new subparagraph after subparagraph (E):

24 “(F) the secondary containment requirements
25 established in section 9003(j).”.

1 **SEC. 10. CRIMINAL PENALTIES.**

2 Section 9006 of the Solid Waste Disposal Act (42
3 U.S.C. 6991d) is amended by adding the following at the
4 end thereof:

5 “(e) CRIMINAL PENALTIES.—

6 “(1) IN GENERAL.—Any person who knowingly
7 omits material information or makes any false mate-
8 rial statement or representation in documentation
9 used to comply with, or to demonstrate compliance
10 with, the requirements of this subtitle shall, upon
11 conviction, be subject to a fine of not more than
12 \$50,000 for each false statement or misrepresenta-
13 tion, or imprisonment not to exceed two years. If the
14 conviction of such person under this subsection is for
15 a violation after a first conviction of such person
16 under this subsection, the maximum punishment
17 shall be doubled with respect to both fine and im-
18 prisonment. Such documentation includes, but is not
19 limited to, testing results for, or demonstration of
20 compliance with, release detection, corrosion protec-
21 tion, or financial responsibility provisions; release re-
22 porting; site assessments sampling results and re-
23 ports; and corrective action testing and reporting.

24 “(2) KNOWING ENDANGERMENT.—Any person
25 who knowingly violates any requirement of this sub-
26 title or of the regulations under this subtitle who

1 knows at that time that he thereby places another
2 person in imminent danger of death or serious bodily
3 injury, shall, upon conviction, be subject to a fine of
4 not more than \$250,000 or imprisonment for not
5 more than fifteen years, or both. A defendant that
6 is an organization shall, upon conviction of violating
7 this subsection, be subject to a fine of not more than
8 \$1,000,000.”.

9 **SEC. 11. COMMUNITY RIGHT TO KNOW.**

10 (a) IN GENERAL.—Subtitle I of the Solid Waste Dis-
11 posal Act (42 U.S.C. 6991 and following) is amended by
12 adding the following new section at the end thereof:

13 **“SEC. 9013. COMMUNITY RIGHT TO KNOW.**

14 “(a) IN GENERAL.—The Administrator or a State
15 that receives funding from this subtitle, as appropriate,
16 shall make available to the public, on a publicly available
17 web site, the names and locations of each underground
18 storage tank facility—

19 “(1) determined to be out of compliance with
20 underground storage tank regulatory provisions by
21 the Administrator or State, as appropriate; or

22 “(2) with confirmed releases.

23 Such information shall be updated at least on a quarterly
24 basis.

1 “(b) FACILITIES DETERMINED TO BE OUT OF COM-
 2 PLIANCE.—For facilities determined to be out of compli-
 3 ance with underground storage tank regulatory provisions,
 4 the web site shall include the date of the determination
 5 of noncompliance, the nature of each violation, and, to the
 6 extent practicable, the status of efforts to return to com-
 7 pliance.

8 “(c) FACILITIES WITH CONFIRMED RELEASES.—For
 9 facilities with confirmed releases, the web site should in-
 10 clude the date of the confirmed releases, the substance re-
 11 leased, the current status of the cleanup, and, to the ex-
 12 tent practicable, the extent of the contamination.”.

13 (b) EFFECTIVE DATE.—The amendment made by
 14 this section shall take effect on the date 18 months after
 15 the enactment of this Act.

16 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

17 Subtitle I of the Solid Waste Disposal Act (42 U.S.C.
 18 6991 et seq.) is amended by adding at the end the fol-
 19 lowing:

20 **“SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.**

21 “There are authorized to be appropriated to the Ad-
 22 ministrator—

23 “(1) to carry out subtitle I (except sections
 24 9003(h), 9005(c), 9011, and 9012) \$50,000,000 for
 25 each of fiscal years 2004 through 2008; and

1 “(2) from the Trust Fund, notwithstanding sec-
 2 tion 9508(c)(1) of the Internal Revenue Code of
 3 1986—

4 “(A) to carry out section 9003(h) (except
 5 section 9003(h)(12)) \$200,000,000 for each of
 6 fiscal years 2004 through 2008;

7 “(B) to carry out section 9003(h)(12)—

8 “(i) \$200,000,000 for each of fiscal
 9 years 2004 and 2005; and

10 “(ii) \$150,000,000 for each of fiscal
 11 years 2006 through 2008;

12 “(C) to carry out section 9005(c)
 13 \$60,000,000 for each of fiscal years 2004
 14 through 2008; and

15 “(D) to carry out section 9011 and 9012
 16 (except for activities where funds are made
 17 available under 9005(c)) \$100,000,000 for each
 18 of fiscal years 2004 through 2008.”.

19 **SEC. 13. CONFORMING AMENDMENTS.**

20 (a) DEFINITIONS.—Section 9001 of the Solid Waste
 21 Disposal Act (42 U.S.C. 6991) is amended—

22 (1) by striking “For the purposes of this sub-
 23 title—” and inserting “For the purposes of this sub-
 24 title:”; and

1 (2) by inserting after paragraph (8) the fol-
 2 lowing:

3 “(9) TRUST FUND.—The terms ‘Trust Fund’
 4 and ‘Leaking Underground Storage Tank Trust
 5 Fund’ mean the Leaking Underground Storage
 6 Tank Trust Fund established by section 9508 of the
 7 Internal Revenue Code of 1986.”.

8 (b) CONFORMING AMENDMENTS.—(1) Section 1001
 9 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901)
 10 is amended in the table of contents—

11 (A) in the item relating to section 9002, by in-
 12 serting “and public records” after “Notification”;
 13 and

14 (B) by striking the item relating to section
 15 9010 and inserting the following:

“Sec. 9010. Operator training.

“Sec. 9011. Use of funds for release prevention and compliance.

“Sec. 9012. Delivery prohibition.

“Sec. 9013. Community right to know.

“Sec. 9014. Authorization of appropriations.”.

16 (2) Section 9002 of the Solid Waste Disposal Act (42
 17 U.S.C. 6991a) is amended in the section heading by in-
 18 serting “**AND PUBLIC RECORDS**” after “**NOTIFICA-**
 19 **TION**”.

20 (3) Section 9003(f) of the Solid Waste Disposal Act
 21 (42 U.S.C. 6991b(f)) is amended—

22 (A) in paragraph (1), by striking “9001(2)(B)”
 23 and inserting “9001”; and

1 (B) in paragraphs (2) and (3), by striking
 2 “9001(2)(A)” each place it appears and inserting
 3 “9001”.

4 (4) Section 9009 of the Solid Waste Disposal Act (42
 5 U.S.C. 6991h) is amended in subsection (a), by striking
 6 “9001(2)(B)” and inserting “9001”.

7 (5) Section 2007(f) of such Act is repealed.

8 **SEC. 14. TECHNICAL AMENDMENTS.**

9 (a) SECTION 9001.—Section 9001(3)(A) of the Solid
 10 Waste Disposal Act (42 U.S.C. 6991(4)(A)) is amended
 11 by striking “sustances” and inserting “substances”.

12 (b) SECTION 9003.—Section 9003(f)(1) of the Solid
 13 Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended
 14 by striking “subsection (c) and (d) of this section” and
 15 inserting “subsections (c) and (d)”.

16 (c) SECTION 9004.—Section 9004(a) of the Solid
 17 Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by
 18 striking “in 9001(2)(A) or (B) or both” and inserting “in
 19 subparagraph (A) or (B) of section 9001(2)”.

20 (d) SECTION 9005.—Section 9005 of the Solid Waste
 21 Disposal Act (42 U.S.C. 6991d) is amended—

22 (1) in subsection (a), by striking “study tak-
 23 ing” and inserting “study, taking”;

24 (2) in subsection (b)(1), by striking “relevent”
 25 and inserting “relevant”; and

- 1 (3) in subsection (b)(4), by striking
- 2 “Evironmental” and inserting “Environmental”.

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