

108TH CONGRESS  
1ST SESSION

# H. R. 2733

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.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2003

Mr. BURR (for himself, Mr. FOSSELLA, Mr. TOWNS, Mr. GORDON, and Mr. BOUCHER) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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 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 9013(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—

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 correc-  
20 tive action and compensation programs  
21 under subsection (c)(1);

22 “(iii) any corrective action and com-  
23 pensation program carried out under sub-  
24 section (c)(1) for a release from an under-  
25 ground storage tank regulated under this  
26 subtitle to the extent that, as determined

1 by the State in accordance with guidelines  
2 developed jointly by the Administrator and  
3 the State, the financial resources of the  
4 owner or operator of the underground stor-  
5 age tank (including resources provided by  
6 a program in accordance with subsection  
7 (c)(1)) are not adequate to pay the cost of  
8 a corrective action without significantly im-  
9 pairing the ability of the owner or operator  
10 to continue in business;

11 “(iv) enforcement by the State or a  
12 local government of State or local regula-  
13 tions pertaining to underground storage  
14 tanks regulated under this subtitle; or

15 “(v) State or local corrective actions  
16 carried out under regulations promulgated  
17 under section 9003(c).

18 “(B) USE OF FUNDS FOR ENFORCE-  
19 MENT.—In addition to the uses of funds au-  
20 thorized under subparagraph (A), the Adminis-  
21 trator may use funds from the Trust Fund that  
22 are not distributed to States under subpara-  
23 graph (A) for enforcement of any regulation  
24 promulgated by the Administrator under this  
25 subtitle.

“(C) PROHIBITED USES.—Except as provided in subparagraph (A)(iii), under any similar requirement of a State program approved under this section, or in any similar State or local provision as determined by the Administrator, funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

“(2) ALLOCATION.—

“(A) PROCESS.—Subject to subparagraph (B), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using the allocation process developed by the Administrator.

“(B) DIVERSION OF STATE FUNDS.—

“(i) IN GENERAL.—The Administrator shall not distribute funds under subsection (a)(3) to any State that has diverted funds

1 from the State's State fund or State assur-  
2 ance program, with the exception of those  
3 transfers that had been completed earlier  
4 than the date of enactment of this sub-  
5 section.

6 “(ii) USE OF WITHHELD FUNDS.—  
7 The Administrator shall allocate funds  
8 withheld under clause (i) to other States in  
9 accordance with the allocation process de-  
10 veloped by the Administrator.

11 “(C) REVISIONS TO PROCESS.—The Ad-  
12 ministrator may revise the allocation process re-  
13 ferred to in subparagraph (A) with respect to a  
14 State only after—

15 “(i) consulting with State agencies re-  
16 sponsible for overseeing corrective action  
17 for releases from underground storage  
18 tanks; and

19 “(ii) taking into consideration, at a  
20 minimum, each of the following:

21 “(I) The total tax revenue con-  
22 tributed to the Trust Fund from all  
23 sources within the State.

24 “(II) The number of confirmed  
25 releases from federally regulated leak-

1 ing underground storage tanks in the  
2 State.

3 “(III) The number of federally  
4 regulated underground storage tanks  
5 in the State.

6 “(IV) The percentage of the pop-  
7 ulation of the State that uses ground-  
8 water for any beneficial purpose.

9 “(V) The performance of the  
10 State in implementing and enforcing  
11 the program.

12 “(VI) The financial needs of the  
13 State.

14 “(VII) The ability of the State to  
15 use the funds referred to in subpara-  
16 graph (A) in any year.

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

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

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

24 “(4) COST RECOVERY PROHIBITION.—Funds  
25 from the Trust Fund provided by States to owners

1 or operators under paragraph (1)(A)(iii) shall not be  
2 subject to cost recovery by the Administrator under  
3 section 9003(h)(6).”.

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

5 Section 9005 of the Solid Waste Disposal Act (42  
6 U.S.C. 6991d) is amended by inserting the following new  
7 subsection at the end thereof:

8 “(c) INSPECTION REQUIREMENTS.—Not later than 2  
9 years after the date of enactment of this subsection, the  
10 Administrator or a State that receives funding from this  
11 subtitle, shall conduct on-site inspections of all under-  
12 ground storage tanks regulated under this subtitle that  
13 have not undergone such inspection since December 22,  
14 1998, to determine compliance with this subtitle.

15 “(d) STATE COMPLIANCE PROGRAMS.—Each State  
16 that receives funding from this subtitle shall, not later  
17 than 2 years after the date of enactment of this sub-  
18 section, develop, in cooperation with the Administrator, a  
19 State Compliance Assurance Program to ensure that all  
20 underground storage tanks regulated under this subtitle  
21 remain compliant with this subtitle. Such programs shall:

22 “(1) include a frequency of inspection require-  
23 ment; and

24 “(2) provide that inspections conducted under  
25 such programs shall be conducted either pursuant to

1 a State program approved under section 9004 or  
2 pursuant to a cooperative agreement with the Ad-  
3 ministrator, or an alternative State inspection pro-  
4 gram, as approved by the Administrator, as a com-  
5 ponent of an integrated underground storage tank  
6 enforcement program including targeted and for  
7 cause inspections.”.

8 **SEC. 4. OPERATOR TRAINING.**

9 Section 9010 of the Solid Waste Disposal Act is  
10 amended to read as follows:

11 **“SEC. 9010. OPERATOR TRAINING.**

12 “(a) GUIDELINES.—

13 “(1) IN GENERAL.—Not later than 2 years  
14 after the date of enactment of the Underground  
15 Storage Tank Compliance Act of 2003, in coopera-  
16 tion with States, owners, and operators, the Admin-  
17 istrator shall publish in the Federal Register, after  
18 public notice and opportunity for comment, guide-  
19 lines that specify methods for training operators of  
20 underground storage tanks.

21 “(2) CONSIDERATIONS.—The guidelines de-  
22 scribed in paragraph (1) shall take into account each  
23 of the following:

24 “(A) State training programs in existence  
25 as of the date of publication of the guidelines.



1           “(B) training programs that are being em-  
2           ployed by owners and operators as of the date  
3           of enactment of this paragraph.

4           “(C) The high turnover rate of operators.

5           “(D) The frequency of improvement in un-  
6           derground storage tank equipment technology.

7           “(E) The nature of the businesses in which  
8           the operators are engaged.

9           “(F) Such other factors as the Adminis-  
10          trator determines to be necessary to carry out  
11          this section.

12       “(b) STATE PROGRAMS.—

13           “(1) IN GENERAL.—Not later than 2 years  
14          after the date on which the Administrator publishes  
15          the guidelines under subsection (a)(1), each State  
16          shall develop and implement a strategy for the train-  
17          ing of operators of underground storage tanks that  
18          is consistent with paragraph (2).

19           “(2) REQUIREMENTS.—A State strategy de-  
20          scribed in paragraph (1) shall—

21               “(A) be consistent with subsection (a);

22               “(B) be developed in cooperation with own-  
23          ers and operators; and

1 “(C) take into consideration training pro-  
 2 grams implemented by owners and operators as  
 3 of the date of enactment of this subsection.

4 “(3) FINANCIAL INCENTIVE.—The Adminis-  
 5 trator may award to a State that develops and im-  
 6 plements a strategy described in paragraph (1), in  
 7 addition to any funds that the State is entitled to  
 8 receive under this subtitle, not more than \$200,000,  
 9 to be used to carry out the strategy.”.

10 **SEC. 5. REMEDIATION FROM ETHER FUEL ADDITIVES.**

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

13 (1) In paragraph (7)(A)—

14 (A) by striking “paragraphs (1) and (2) of  
 15 this subsection” and inserting “paragraphs (1),  
 16 (2), and (12)” ; and

17 (B) by striking “and including the authori-  
 18 ties of paragraphs (4), (6), and (8) of this sub-  
 19 section” and inserting “and the authority under  
 20 section 9011 and paragraphs (4), (6), and  
 21 (8),”.

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

23 “(12) REMEDIATION OF ETHER FUEL CONTAMI-  
 24 NATION.—

1           “(A) IN GENERAL.—The Administrator  
 2           and the States may use funds made available  
 3           under section 9013(2)(B) to carry out correc-  
 4           tive actions with respect to a release of an ether  
 5           fuel additive that presents a threat to human  
 6           health or welfare or the environment

7           “(B) APPLICABLE AUTHORITY.—The Ad-  
 8           ministrator or a State shall carry out subpara-  
 9           graph (A) in accordance with paragraph (2),  
 10          and in the case of a State, in accordance with  
 11          a cooperative agreement entered into by the Ad-  
 12          ministrator and the State under paragraph  
 13          (7).”.

14 **SEC. 6. RELEASE PREVENTION, COMPLIANCE, AND EN-**  
 15 **FORCEMENT.**

16          (a) RELEASE PREVENTION AND COMPLIANCE.—Sub-  
 17          title I of the Solid Waste Disposal Act (42 U.S.C. 6991  
 18          et seq.) (as amended by section 4 of this Act) is amended  
 19          by adding at the end the following:

20 **“SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND**  
 21 **COMPLIANCE.**

22          “Funds made available under section 9013(2)(D)  
 23          from the Trust Fund may be used to conduct inspections,  
 24          issue orders, or bring actions under this subtitle—

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

5           “(2) by the Administrator, under this subtitle  
6           (including under a State program approved under  
7           section 9004).”.

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

11          “(i) GOVERNMENT OWNED TANKS.—

12               “(1) IMPLEMENTATION REPORT.—

13                   “(A) IN GENERAL.—Not later than 2 years  
14                   after the date of enactment of this subsection,  
15                   each State shall submit to the Administrator an  
16                   implementation report that—

17                           “(i) lists the location and owner of  
18                           each underground storage tank described  
19                           in subparagraph (B) in the State that, as  
20                           of the date of submission of the report, is  
21                           not in compliance with this subtitle;

22                           “(ii) specifies the date of the last in-  
23                           spection by a State or Federal inspector of  
24                           each underground storage tank described  
25                           in clause (i);

1 “(iii) lists each violation of this sub-  
2 title respecting any underground storage  
3 tank described in clause (i); and

4 “(iv) describes the actions that have  
5 been and will be taken to ensure compli-  
6 ance by the underground storage tank list-  
7 ed under clause (i) with this subtitle.

8 “(B) UNDERGROUND STORAGE TANK.—An  
9 underground storage tank described in this sub-  
10 paragraph is an underground storage tank that  
11 is regulated under this subtitle, and owned or  
12 operated by the State government or any local  
13 government.

14 “(C) PUBLIC AVAILABILITY.—The Admin-  
15 istrator shall make each report received under  
16 subparagraph (A) available to the public  
17 through an appropriate media.

18 “(2) FINANCIAL INCENTIVE.—The Adminis-  
19 trator may award to a State that develops an imple-  
20 mentation report described in paragraph (1), in ad-  
21 dition to any funds that the State is entitled to re-  
22 ceive under this subtitle, not more than \$50,000, to  
23 be used to carry out the implementation report.

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

4           (c) INCENTIVE FOR PERFORMANCE.—Section 9006  
5           of the Solid Waste Disposal Act (42 U.S.C. 6991e) is  
6           amended by adding at the end the following:

7           “(e) INCENTIVE FOR PERFORMANCE.—In deter-  
8           mining the terms of, or whether to issue, a compliance  
9           order under subsection (a), or the amount of, or whether  
10          to issue, a civil penalty under subsection (d), the Adminis-  
11          trator, or a State under a program approved under section  
12          9004, shall take into consideration whether an owner or  
13          operator—

14               “(1) has a history of operating underground  
15               storage tanks of the owner or operator in accordance  
16               with this subtitle; or a State program approved  
17               under section 9004; or

18               “(2) has repeatedly violated this subtitle; or a  
19               State program approved under section 9004; or

20               “(3) has implemented a program, consistent  
21               with guidelines published under section 9010, that  
22               provides training to persons responsible for oper-  
23               ating any underground storage tank of the owner or  
24               operator.

25           “(f) DELIVERY PROHIBITION.—

1 “(1) REQUIREMENTS.—

2 “(A) PROHIBITION OF DELIVERY.—Subject  
3 to paragraph (2), beginning 6 months after the  
4 date of enactment of this subsection, it shall be  
5 unlawful to deliver to or accept a regulated sub-  
6 stance into an underground storage tank listed  
7 on the Delivery Prohibition Rosters established  
8 by the Administrator and each State that re-  
9 ceives funding under this subtitle under sub-  
10 paragraph (B).

11 “(B) DELIVERY PROHIBITION ROSTER.—

12 “(i) IN GENERAL.—The Administrator  
13 and each State implementing agency that  
14 receives funding under this subtitle shall  
15 establish within 5 months after the date of  
16 enactment a Delivery Prohibition Roster  
17 listing underground storage tanks under  
18 the Administrator’s or the State’s jurisdic-  
19 tion that are not in compliance with a re-  
20 quirement or standard promulgated by the  
21 Administrator under section 9003 or a re-  
22 quirement or standard of a State program  
23 approved under section 9004.

24 “(ii) NOTIFICATION.—The Adminis-  
25 trator and the State shall, make readily

1 known to underground storage tank own-  
2 ers and operators and to product delivery  
3 industries, the underground storage tanks  
4 listed on a Delivery Prohibition Roster by  
5 (I) posting such Rosters, including the  
6 physical location and street address of each  
7 listed underground storage tank, on official  
8 web sites; (II) mailing within 7 days of the  
9 addition of an underground storage tank to  
10 a Delivery Prohibition Roster a certified  
11 letter to each supplier of motor fuel to  
12 such an underground storage tank within  
13 the last 30 days notifying the supplier that  
14 the tank has been listed; (III) notifying  
15 suppliers by other electronic means avail-  
16 able; and (IV) updating these Rosters peri-  
17 odically.

18 “(iii) ROSTER UPDATES.—The Ad-  
19 ministrator and the State shall update the  
20 Delivery Prohibition Rosters 15 calendar  
21 days prior to the first day of each calendar  
22 month.

23 “(2) LIMITATION.—

24 “(A) SPECIFIED GEOGRAPHIC AREA.—Sub-  
25 ject to paragraph (B), under paragraph (1), the



1 Administrator or a State shall not include an  
2 underground storage tank on a Delivery Prohi-  
3 bition Roster if such a delivery prohibition  
4 would jeopardize the availability of, or access  
5 to, fuel in any specified geographic area.

6 “(B) APPLICABILITY OF LIMITATION.—  
7 The limitation under subparagraph (A) shall  
8 apply only during the 180-day period following  
9 the date of a determination by the Adminis-  
10 trator or the appropriate State that exercising  
11 the authority of paragraph (1) is limited by  
12 subparagraph (A).

13 “(C) GUIDELINES.—Not later than 6  
14 months after the date of enactment of this sub-  
15 section, the Administrator shall issue guidelines  
16 that define the term ‘specified geographic area’  
17 for the purpose of subparagraph (A).

18 “(3) AUTHORITY TO ISSUE GUIDELINES.—The  
19 Administrator, after consultation with the States,  
20 shall issue guidelines for carrying out this subsection  
21 within 3 months of the date of enactment of this  
22 subsection.

23 “(4) ENFORCEMENT AND PENALTIES.—The  
24 Administrator may use the authority under the en-

1        enforcement, compliance, or penalty provisions of this  
2        subtitle to carry out this subsection.

3            “(5) EFFECT ON STATE AUTHORITY.—Nothing  
4        in this subsection shall affect the authority of a  
5        State to prohibit the delivery of a regulated sub-  
6        stance to an underground storage tank.

7            “(6) DEFENSE TO VIOLATION.—A person shall  
8        not be in violation of paragraph (1)(A) if the under-  
9        ground storage tank into which a regulated sub-  
10       stance is delivered is not listed on the Administra-  
11       tor’s or the appropriate State’s Prohibited Delivery  
12       Roster 15 calendar days prior to the delivery being  
13       made.

14           “(7) SUNSET.—This subsection shall cease to  
15       be effective 42 months after the date of enact-  
16       ment.”.

17        (d) PUBLIC RECORD.—Section 9002 of the Solid  
18       Waste Disposal Act (42 U.S.C. 6991a) is amended by add-  
19       ing at the end the following:

20           “(d) PUBLIC RECORD.—

21           “(1) IN GENERAL.—The Administrator shall re-  
22       quire each State and Indian tribe that receives funds  
23       under this subtitle to maintain, update at least an-  
24       nually, and make available to the public, in such  
25       manner and form as the Administrator shall pre-

1 scribe (after consultation with States and Indian  
2 tribes), a record of underground storage tanks regu-  
3 lated under this subtitle.

4 “(2) CONSIDERATIONS.—To the maximum ex-  
5 tent practicable, the public record of a State or In-  
6 dian tribe, respectively, shall include, for each year  
7 each of the following:

8 “(A) The number, sources, and causes of  
9 underground storage tank releases in the State  
10 or tribal area.

11 “(B) The record of compliance by under-  
12 ground storage tanks in the State or tribal area  
13 with this subtitle; or an applicable State pro-  
14 gram approved under section 9004.

15 “(C) Data on the number of underground  
16 storage tank equipment failures in the State or  
17 on tribal land.

18 “(3) AVAILABILITY.—The Administrator shall  
19 make the public record of each State and Indian  
20 tribe under this section available to the public elec-  
21 tronically.”.

22 **SEC. 7. FEDERAL FACILITIES.**

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

1 **“SEC. 9007 FEDERAL FACILITIES.**

2       “(a) IN GENERAL.—Each department, agency, and  
3 instrumentality of the executive, legislative, and judicial  
4 branches of the Federal Government shall be subject to,  
5 and comply with, all Federal, State, interstate, and local  
6 requirements, both substantive and procedural (including  
7 any requirements for permits or reporting or any provi-  
8 sions for injunctive relief and such sanctions as may be  
9 imposed by a court to enforce such relief), respecting un-  
10 derground storage tanks in the same manner, and to the  
11 same extent, as any person is subject to such requirements  
12 if such department, agency, or instrumentality—

13               “(1) has jurisdiction over any underground  
14 storage tank or underground storage tank system, or

15               “(2) engaged in any activity resulting, or which  
16 may result, in the installation, operation, manage-  
17 ment, or closure of any underground storage tank,  
18 release response activities thereto, or in the delivery  
19 of any regulated substance to an underground stor-  
20 age tank or underground storage tank system.

21       “(b) WAIVER OF SOVERIGN IMMUNITY.—The United  
22 States hereby expressly waives any immunity otherwise  
23 applicable to the United States with respect to the sub-  
24 stantive and procedural requirements of subsection (a).

25       “(c) LIABILITY.—

1           “(1) Neither the United States, nor any agent,  
2           employee, or officer thereof, shall be immune or ex-  
3           empt from any process or sanction of any State or  
4           Federal Court with respect to a violation of the sub-  
5           stantive and procedural requirements of subsection  
6           (a).

7           “(2) No agent, employee, or officer of the  
8           United States shall be personally liable for any civil  
9           penalty under any Federal, State, or local law con-  
10          cerning underground storage tanks with respect to  
11          any act or omission within the scope of the official  
12          duties of the agent, employee, or officer, provided  
13          that an agent, employee, or officer of the United  
14          States shall be subject to any criminal sanction (in-  
15          cluding, but not limited to, any fine or imprison-  
16          ment) under any Federal or State law concerning  
17          underground storage tanks.

18          “(d) EXEMPTIONS.—

19                 “(1) IN GENERAL.—The President may exempt  
20                 any underground storage tank of any department,  
21                 agency, or instrumentality in the executive branch  
22                 from compliance with Federal or State requirements  
23                 with respect to underground storage tanks if he de-  
24                 termines it to be in the paramount interest of the  
25                 United States to do so.

1           “(2) RESTRICTION ON EXEMPTION.—No ex-  
2       emption shall be granted under paragraph (1) due to  
3       lack of appropriation unless the President shall have  
4       specifically requested such appropriation as a part of  
5       the budgetary process and the Congress shall have  
6       failed to make available such requested appropria-  
7       tion.

8           “(3) EXEMPTION TIME LIMIT.—Any exemption  
9       granted under paragraph (1) shall be for a period  
10      not in excess of one year, but additional exemptions  
11      may be granted for periods not to exceed one year  
12      upon the President’s making a new determination.

13          “(4) REPORT ON EXEMPTIONS.—The President  
14      shall report each January to the Congress all exemp-  
15      tions from the requirements of this subtitle granted  
16      during the preceding calendar year, together with  
17      his reason for granting each such exemption.

18          “(e) REVIEW OF, AND REPORT ON, FEDERAL UN-  
19      DERGROUND STORAGE TANKS.—

20          “(1) REVIEW.— Not later than 9 months after  
21      the date of enactment of this subsection, the Admin-  
22      istrator, in cooperation with each Federal agency  
23      that owns or operates 1 or more underground stor-  
24      age tanks or that manages land on which 1 or more  
25      underground storage tanks are located, shall review

1 the status of compliance of those underground stor-  
2 age tanks with this subtitle.

3 “(2) IMPLEMENTATION REPORT.—

4 “(A) IN GENERAL.—Not later than 18  
5 months after the date of enactment of this sub-  
6 section, each Federal agency described in para-  
7 graph (1) shall submit to the Administrator and  
8 to each State in which an underground storage  
9 tank described in paragraph (1) is located an  
10 implementation report that—

11 “(i) lists the location and owner of  
12 each underground storage tank described  
13 in paragraph (1) that, as of the date of  
14 submission of the report, is not in compli-  
15 ance with this subtitle;

16 “(ii) specifies the date of the last in-  
17 spection by a State or Federal inspector of  
18 each underground storage tank described  
19 in clause (i);

20 “(iii) lists each violation of this sub-  
21 title respecting any underground storage  
22 tank described in clause (i); and

23 “(iv) describes the actions that have  
24 been and will be taken to ensure compli-

1                   ance by the underground storage tank with  
2                   this subtitle.

3                   “(B) PUBLIC AVAILABILITY.— The Admin-  
4                   istrator shall make each report received under  
5                   subparagraph (A) available to the public  
6                   through electronic means.

7                   “(3) NOT A SAFE HARBOR.—This subsection  
8                   does not relieve any person from any obligation or  
9                   requirement under this subtitle.”.

10 **SEC. 8. TANKS UNDER THE JURISDICTION OF INDIAN**  
11 **TRIBES.**

12               Subtitle I of the Solid Waste Disposal Act (42 U.S.C.  
13 6991 et seq.) is amended by inserting after section 9011  
14 (as added by section 6(a)) the following:

15 **“SEC. 9012. TANKS UNDER THE JURISDICTION OF INDIAN**  
16 **TRIBES.**

17               “(a) STRATEGY.—The Administrator, in coordination  
18 with Indian tribes, shall take each of the following actions:

19                   “(1) Not later than 1 year after the date of en-  
20 actment of this section, the Administrator shall de-  
21 velop and implement a strategy—

22                   “(A) giving priority to releases that  
23 present the greatest threat to human health or  
24 the environment, to take necessary corrective  
25 action in response to releases from leaking un-



1           derground storage tanks located wholly within  
2           the boundaries of—

3                   “(i) an Indian reservation; or

4                   “(ii) any other area under the juris-  
5                   diction of an Indian tribe; and

6                   “(B) to implement and enforce require-  
7                   ments concerning underground storage tanks  
8                   located wholly within the boundaries of—

9                   “(i) an Indian reservation; or

10                   “(ii) any other area under the juris-  
11                   diction of an Indian tribe; and

12                   “(2) Not later than 2 years after the date of  
13                   enactment of this section and every 2 years there-  
14                   after, the Administrator shall submit to Congress a  
15                   report that summarizes the status of implementation  
16                   and enforcement of the leaking underground storage  
17                   tank program in areas located wholly within—

18                   “(A) the boundaries of Indian reservations;

19                   and

20                   “(B) any other areas under the jurisdiction  
21                   of an Indian tribe.

22                   “(3) The Administrator shall make the report  
23                   described in paragraph (2) available to the public on  
24                   the Internet.

1       “(b) NOT A SAFE HARBOR.—This section does not  
2 relieve any person from any obligation or requirement  
3 under this subtitle.

4       “(c) STATE AUTHORITY.—Nothing in this section ap-  
5 plies to any underground storage tank that is located in  
6 an area under the jurisdiction of a State, or that is subject  
7 to regulation by a State, as of the date of enactment of  
8 this section.”.

9       **SEC. 9. STATE AUTHORITY.**

10       Subtitle I of the Solid Waste Disposal Act (42 U.S.C.  
11 6991 et seq.) (as amended by section 8) is amended by  
12 adding at the end the following:

13       **“SEC. 9013. STATE AUTHORITY.**

14       “Nothing in this subtitle precludes a State from es-  
15 tablishing any requirement that is more stringent than a  
16 requirement under this subtitle.”.

17       **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

18       Subtitle I of the Solid Waste Disposal Act (42 U.S.C.  
19 6991 et seq.) (as amended by section 9) is amended by  
20 adding at the end the following:

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

22       “There are authorized to be appropriated to the Ad-  
23 ministrator the following amounts:

1           “(1) To carry out subtitle I (except sections  
2           9003(h), 9005(a), 9011 and 9012) \$2550,000,000  
3           for each of fiscal years 2005 through 2009.

4           “(2) From the Trust Fund, notwithstanding  
5           section 9508(c)(1) of the Internal Revenue Code of  
6           1986:

7                   “(A) to carry out section 9003(h) (except  
8                   section 9003(h)(12)) \$200,000,000 for each of  
9                   fiscal years 2005 through 2009;

10                  “(B) to carry out section 9003(h)(12),  
11                  \$200,000,000 for each of fiscal years 2005  
12                  through 2009;

13                  “(C) to carry out section 9005(a) and  
14                  9006(f)—

15                          “(i) \$60,000,000 for each of fiscal  
16                          years 2005 and 2006; and

17                          “(ii) \$40,000,000 for each of fiscal  
18                          years 2007 through 2009; and

19                  “(D) to carry out section 9011 and 9012  
20                  (except for activities where funds are made  
21                  available under 9005(c)) \$100,000,000 for each  
22                  of fiscal years 2005 through 2009.”.

23 **SEC. 11. CONFORMING AMENDMENTS.**

24           (a) IN GENERAL.—Section 9001 of the Solid Waste  
25 Disposal Act (42 U.S.C. 6991) is amended as follows:

1           (1) By striking “For the purposes of this sub-  
2 title—” and inserting “In this subtitle”.

3           (2) By redesignating paragraphs (1), (2), (3),  
4 (4), (5), (6), (7), and (8) as paragraphs (10), (7),  
5 (4), (3), (8), (5), (2), and (6), respectively.

6           (3) By inserting before paragraph (2) (as rededesignated  
7 by paragraph (2)) the following:

8           “(1) INDIAN TRIBE.—

9           “(A) IN GENERAL.— The term ‘Indian  
10 tribe’ means any Indian tribe, band, nation, or  
11 other organized group or community that is recognized  
12 as being eligible for special programs  
13 and services provided by the United States to  
14 Indians because of their status as Indians.

15           “(B) INCLUSIONS.—The term ‘Indian  
16 tribe’ includes an Alaska Native village age, as  
17 defined in or established under the Alaska Native  
18 Claims Settlement Act (43 U.S.C. 1601 et  
19 seq.); and”.

20           (4) By inserting after paragraph (8) (as redesignated  
21 by paragraph (2)) the following:

22           “(9) TRUST FUND.— The term ‘Trust Fund’  
23 means the Leaking Underground Storage Tank  
24 Trust Fund established by section 9508 of the Internal  
25 Revenue Code of 1986.”.

1 (b) CONFORMING AMENDMENTS.—The Solid Waste  
2 Disposal Act is amended as follows:

3 (1) Section 9003(f) (42 U.S.C. 6991b(f)) is  
4 amended—

5 (A) in paragraph (1), by striking  
6 “9001(2)(B)” and inserting “9001(7)(B)”; and

7 (B) in paragraphs (2) and (3), by striking  
8 “9001(2)(A)” each place it appears and insert-  
9 ing “9001(7)(A)”.

10 (2) Section 9003(h) (42 U.S.C. 6991b(h)) is  
11 amended in paragraphs (1), (2)(C), (7)(A), and (11)  
12 by striking “Leaking Underground Storage Tank  
13 Trust Fund” each place it appears and inserting  
14 “Trust Fund”.

15 (3) Section 9009 (42 U.S.C. 6991h) is amend-  
16 ed—

17 (A) in subsection (a), by striking  
18 “9001(2)(B)” and inserting “9001(7)(B)”; and

19 (B) in subsection (d), by striking “section  
20 9001(1) (A) and (B)” and inserting “subpara-  
21 graphs (A) and (B) of section 9001(10)”.

22 **SEC. 12. TECHNICAL AMENDMENTS.**

23 The Solid Waste Disposal Act is amended as follows:

24

1           (1) Section 9001(4)(A) (42 U.S.C. 6991(4)(A))  
2           (as amended by section 9(a)(2)) is amended by  
3           striking “substances” and inserting “substances”.

4           (2) Section 9003(f)(1) (42 U.S.C. 6991b(f)(1))  
5           is amended by striking “subsection (c) and (d) of  
6           this section” and inserting “subsections (c) and  
7           (d)”.

8           (3) Section 9004(a) (42 U.S.C. 6991c(a)) is  
9           amended by striking “in 9001(2) (A) or (B) or  
10          both” and inserting “in subparagraph (A) or (B) of  
11          section 9001(7)”.

12          (4) Section 9005 (42 U.S.C. 6991d) (as amend-  
13          ed by section 3) is amended—

14                (A) in subsection (b), by striking “study  
15                taking” and inserting “study, taking”;

16                (B) in subsection (c)(1), by striking “rel-  
17                evant” and inserting “relevant”; and

18                (C) in subsection (c)(4), by striking “Envi-  
19                ronmental” and inserting “Environmental”.

○