

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3062

To reduce the instances of releases from underground storage tanks by strengthening tank inspections, operator training, program enforcement, oxygenated fuel cleanup, and providing States greater Federal resources from the Leaking Underground Storage Tank Trust Fund.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2005

Mr. GILLMOR (for himself and Mr. FOSSELLA) introduced the following bill;  
which was referred to the Committee on Energy and Commerce

---

## A BILL

To reduce the instances of releases from underground storage tanks by strengthening tank inspections, operator training, program enforcement, oxygenated fuel cleanup, and providing States greater Federal resources from the Leaking Underground Storage Tank Trust Fund.

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 subtitle may be cited as the “Underground Stor-  
5       age Tank Compliance Act of 2005”.

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

2 (a) IN GENERAL.—Section 9004 of the Solid Waste  
3 Disposal Act (42 U.S.C. 6991e) is amended by adding at  
4 the end the following:

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 for—

15 “(i) corrective actions taken by the  
16 State under 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 State assurance programs under  
21 subsection (c)(1); or

22 “(iii) enforcement, by a 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 subparts B, C, D,  
15          H, and G of part 280 of title 40, Code of Fed-  
16          eral Regulations (as in effect on the date of en-  
17          actment of this subsection).

18          “(2) ALLOCATION.—

19                 “(A) PROCESS.—Subject to subparagraphs  
20                 (B) and (C), in the case of a State with which  
21                 the Administrator has entered into a coopera-  
22                 tive agreement under section 9003(h)(7)(A),  
23                 the Administrator shall distribute funds from  
24                 the Trust Fund to the State using an allocation  
25                 process developed by the Administrator.

1           “(B) DIVERSION OF STATE FUNDS.—The  
2 Administrator shall not distribute funds under  
3 subparagraph (A)(iii) of subsection (f)(1) to  
4 any State that has diverted funds from a State  
5 fund or State assurance program for purposes  
6 other than those related to the regulation of un-  
7 derground storage tanks covered by this sub-  
8 title, with the exception of those transfers that  
9 had been completed earlier than the date of en-  
10 actment of this subsection.

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

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

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

20           “(I) The number of confirmed re-  
21 leases from federally regulated leaking  
22 underground storage tanks in the  
23 States.

1                   “(II) The number of federally  
2 regulated underground storage tanks  
3 in the States.

4                   “(III) The performance of the  
5 States in implementing and enforcing  
6 the program.

7                   “(IV) The financial needs of the  
8 States.

9                   “(V) The ability of the States to  
10 use the funds referred to in subpara-  
11 graph (A) in any year.

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                   (b) WITHDRAWAL OF APPROVAL OF STATE  
21 FUNDS.—Section 9004(c) of the Solid Waste Disposal Act  
22 (42 U.S.C. 6991c(c)) is amended by inserting the fol-  
23 lowing new paragraph at the end thereof:

24                   “(6) WITHDRAWAL OF APPROVAL.—After an  
25 opportunity for good faith, collaborative efforts to

1 correct financial deficiencies with a State fund, the  
2 Administrator may withdraw approval of any State  
3 fund or State assurance program to be used as a fi-  
4 nancial responsibility mechanism without with-  
5 drawing approval of a State underground storage  
6 tank program under section 9004(a).”.

7 (c) ABILITY TO PAY.—Section 9003(h)(6) of the  
8 Solid Waste Disposal Act (42 U.S.C. 6591a(h)(6)) is  
9 amended by adding the following new subparagraph at the  
10 end thereof:

11 “(E) INABILITY OR LIMITED ABILITY TO  
12 PAY.—

13 “(i) IN GENERAL.—In determining  
14 the level of recovery effort, or amount that  
15 should be recovered, the Administrator (or  
16 the State pursuant to paragraph (7)) shall  
17 consider the owner or operator’s ability to  
18 pay. An inability or limited ability to pay  
19 corrective action costs must be dem-  
20 onstrated to the Administrator (or the  
21 State pursuant to paragraph (7)) by the  
22 owner or operator.

23 “(ii) CONSIDERATIONS.—In deter-  
24 mining whether or not a demonstration is  
25 made under clause (i), the Administrator

1 (or the State pursuant to paragraph (7))  
2 shall take into consideration the ability of  
3 the owner or operator to pay corrective ac-  
4 tion costs and still maintain its basic busi-  
5 ness operations, including consideration of  
6 the overall financial condition of the owner  
7 or operator and demonstrable constraints  
8 on the ability of the owner or operator to  
9 raise revenues.

10 “(iii) INFORMATION.—An owner or  
11 operator requesting consideration under  
12 this subparagraph shall promptly provide  
13 the Administrator (or the State pursuant  
14 to paragraph (7)) with all relevant infor-  
15 mation needed to determine the ability of  
16 the owner or operator to pay corrective ac-  
17 tion costs.

18 “(iv) ALTERNATIVE PAYMENT METH-  
19 ODS.—The Administrator (or the State  
20 pursuant to paragraph (7)) shall consider  
21 alternative payment methods as may be  
22 necessary or appropriate if the Adminis-  
23 trator (or the State pursuant to paragraph  
24 (7)) determines that an owner or operator

1 cannot pay all or a portion of the costs in  
2 a lump sum payment.

3 “(v) MISREPRESENTATION.—If an  
4 owner or operator provides false informa-  
5 tion or otherwise misrepresents their finan-  
6 cial situation under clause (ii), the Admin-  
7 istrator (or the State pursuant to para-  
8 graph (7)) shall seek full recovery of the  
9 costs of all such actions pursuant to the  
10 provisions of subparagraph (A) without  
11 consideration of the factors in subpara-  
12 graph (B).”.

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

14 (a) INSPECTION REQUIREMENTS.—Section 9005 of  
15 the Solid Waste Disposal Act (42 U.S.C. 6991d) is amend-  
16 ed by inserting the following new subsection at the end  
17 thereof:

18 “(c) INSPECTION REQUIREMENTS.—

19 “(1) UNINSPECTED TANKS.—In the case of un-  
20 derground storage tanks regulated under this sub-  
21 title that have not undergone an inspection since De-  
22 cember 22, 1998, not later than 2 years after the  
23 date of enactment of this subsection, the Adminis-  
24 trator or a State that receives funding under this  
25 subtitle, as appropriate, shall conduct on-site inspec-

1 tions of all such tanks to determine compliance with  
2 this subtitle and the regulations under this subtitle  
3 (40 C.F.R. 280) or a requirement or standard of a  
4 State program developed under section 9004.

5 “(2) PERIODIC INSPECTIONS.—After completion  
6 of all inspections required under paragraph (1), the  
7 Administrator or a State that receives funding under  
8 this subtitle, as appropriate, shall conduct on-site in-  
9 spections of each underground storage tank regu-  
10 lated under this subtitle at least once every 3 years  
11 to determine compliance with this subtitle and the  
12 regulations under this subtitle (40 C.F.R. 280) or a  
13 requirement or standard of a State program devel-  
14 oped under section 9004. The Administrator may ex-  
15 tend for up to one additional year the first 3-year  
16 inspection interval under this paragraph if the State  
17 demonstrates that it has insufficient resources to  
18 complete all such inspections within the first 3-year  
19 period.

20 “(3) INSPECTION AUTHORITY.—Nothing in this  
21 section shall be construed to diminish the Adminis-  
22 trator’s or a State’s authorities under section  
23 9005(a).”.

24 (b) STUDY OF ALTERNATIVE INSPECTION PRO-  
25 GRAMS.—The Administrator of the Environmental Protec-

1 tion Agency, in coordination with a State, shall gather in-  
2 formation on compliance assurance programs that could  
3 serve as an alternative to the inspection programs under  
4 section 9005(c) of the Solid Waste Disposal Act (42  
5 U.S.C. 6991d(c)) and shall, within 4 years after the date  
6 of enactment of this Act, submit a report to the Congress  
7 containing the results of such study.

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

9 (a) IN GENERAL.—Section 9010 of the Solid Waste  
10 Disposal Act (42 U.S.C. 6991i) is amended to read as fol-  
11 lows:

12 **“SEC. 9010. OPERATOR TRAINING.**

13 “(a) GUIDELINES.—

14 “(1) IN GENERAL.—Not later than 2 years  
15 after the date of enactment of the Underground  
16 Storage Tank Compliance Act of 2005, in consulta-  
17 tion and cooperation with States and after public no-  
18 tice and opportunity for comment, the Administrator  
19 shall publish guidelines that specify training require-  
20 ments for—

21 “(A) persons having primary responsibility  
22 for on-site operation and maintenance of under-  
23 ground storage tank systems;

1           “(B) persons having daily on-site responsi-  
2           bility for the operation and maintenance of un-  
3           derground storage tank systems; and

4           “(C) daily, on-site employees having pri-  
5           mary responsibility for addressing emergencies  
6           presented by a spill or release from an under-  
7           ground tank system.

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

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

12           “(B) training programs that are being em-  
13           ployed by tank owners and tank operators as of  
14           the date of enactment of the Underground Stor-  
15           age Tank Compliance Act of 2005;

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

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

20           “(E) the nature of the businesses in which  
21           the tank operators are engaged;

22           “(F) the substantial differences in the  
23           scope and length of training needed for the dif-  
24           ferent classes of persons described in subpara-  
25           graphs (A), (B), and (C) of paragraph (1); and

1           “(G) such other factors as the Adminis-  
2           trator determines to be necessary to carry out  
3           this section.

4           “(b) STATE PROGRAMS.—

5           “(1) IN GENERAL.—Not later than 2 years  
6           after the date on which the Administrator publishes  
7           the guidelines under subsection (a)(1), each State  
8           that receives funding under this subtitle shall de-  
9           velop State-specific training requirements that are  
10          consistent with the guidelines developed under sub-  
11          section (a)(1).

12          “(2) REQUIREMENTS.—State requirements de-  
13          scribed in paragraph (1) shall—

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

15                  “(B) be developed in cooperation with tank  
16          owners and tank operators;

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

21                  “(D) be appropriately communicated to  
22          tank owners and operators.

23          “(3) FINANCIAL INCENTIVE.—The Adminis-  
24          trator may award to a State that develops and im-  
25          plements requirements described in paragraph (1),

1 in addition to any funds that the State is entitled to  
2 receive under this subtitle, not more than \$200,000,  
3 to be used to carry out the requirements.

4 “(c) TRAINING.—All persons that are subject to the  
5 operator training requirements of subsection (a) shall—

6 “(1) meet the training requirements developed  
7 under subsection (b); and

8 “(2) repeat the applicable requirements devel-  
9 oped under subsection (b), if the tank for which they  
10 have primary daily on-site management responsibil-  
11 ities is determined to be out of compliance with—

12 “(A) a requirement or standard promul-  
13 gated by the Administrator under section 9003;  
14 or

15 “(B) a requirement or standard of a State  
16 program approved under section 9004.”.

17 (b) STATE PROGRAM REQUIREMENT.—Section  
18 9004(a) of the Solid Waste Disposal Act (42 U.S.C.  
19 6991c(a)) is amended by striking “and” at the end of  
20 paragraph (7), by striking the period at the end of para-  
21 graph (8) and inserting “; and”, and by adding the fol-  
22 lowing new paragraph at the end thereof:

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

1 (c) ENFORCEMENT.—Section 9006(d)(2) of such Act  
2 (42 U.S.C. 6991e) is amended as follows:

3 (1) By striking “or” at the end of subpara-  
4 graph (B).

5 (2) By adding the following new subparagraph  
6 after subparagraph (C):

7 “(D) the training requirements established  
8 by States pursuant to section 9010 (relating to  
9 operator training); or”.

10 (d) TABLE OF CONTENTS.—The item relating to sec-  
11 tion 9010 in table of contents for the Solid Waste Disposal  
12 Act is amended to read as follows:

“Sec. 9010. Operator training.”.

13 **SEC. 5. REMEDIATION FROM OXYGENATED FUEL ADDI-**  
14 **TIVES.**

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

17 (1) In paragraph (7)(A)—

18 (A) by striking “paragraphs (1) and (2) of  
19 this subsection” and inserting “paragraphs (1),  
20 (2), and (12)”;

21 (B) by striking “and including the authori-  
22 ties of paragraphs (4), (6), and (8) of this sub-  
23 section” and inserting “and the authority under  
24 sections 9011 and 9012 and paragraphs (4),  
25 (6), and (8),”.

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

2 “(12) REMEDIATION OF OXYGENATED FUEL  
3 CONTAMINATION.—

4 “(A) IN GENERAL.—The Administrator  
5 and the States may use funds made available  
6 under section 9014(2)(B) to carry out correc-  
7 tive actions with respect to a release of a fuel  
8 containing an oxygenated fuel additive that pre-  
9 sents a threat to human health or welfare or  
10 the environment.

11 “(B) APPLICABLE AUTHORITY.—The Ad-  
12 ministrator or a State shall carry out subpara-  
13 graph (A) in accordance with paragraph (2),  
14 and in the case of a State, in accordance with  
15 a cooperative agreement entered into by the Ad-  
16 ministrator and the State under paragraph  
17 (7).”.

18 **SEC. 6. RELEASE PREVENTION, COMPLIANCE, AND EN-**  
19 **FORCEMENT.**

20 (a) RELEASE PREVENTION AND COMPLIANCE.—Sub-  
21 title I of the Solid Waste Disposal Act (42 U.S.C. 6991  
22 et seq.) is amended by adding at the end the following:

1 **“SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND**  
2 **COMPLIANCE.**

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

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

10 “(2) by the Administrator, for tanks regulated  
11 under this subtitle (including under a State program  
12 approved under section 9004).”.

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

16 “(i) GOVERNMENT-OWNED TANKS.—

17 “(1) STATE COMPLIANCE REPORT.—(A) Not  
18 later than 2 years after the date of enactment of  
19 this subsection, each State that receives funding  
20 under this subtitle shall submit to the Administrator  
21 a State compliance report that—

22 “(i) lists the location and owner of each  
23 underground storage tank described in subpara-  
24 graph (B) in the State that, as of the date of  
25 submission of the report, is not in compliance  
26 with section 9003; and

1           “(ii) specifies the date of the last inspec-  
2           tion and describes the actions that have been  
3           and will be taken to ensure compliance of the  
4           underground storage tank listed under clause  
5           (i) with this subtitle.

6           “(B) An underground storage tank described in  
7           this subparagraph is an underground storage tank  
8           that is—

9                   “(i) regulated under this subtitle; and

10                   “(ii) owned or operated by the Federal,  
11           State, or local government.

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

15           “(2) FINANCIAL INCENTIVE.—The Adminis-  
16           trator may award to a State that develops a report  
17           described in paragraph (1), in addition to any other  
18           funds that the State is entitled to receive under this  
19           subtitle, not more than \$50,000, to be used to carry  
20           out the report.

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

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

4 “(d) PUBLIC RECORD.—

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

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

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

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

19 “(i) this subtitle; or

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

22 “(C) data on the number of underground  
23 storage tank equipment failures in the State.”.

1 (d) INCENTIVE FOR PERFORMANCE.—Section 9006  
 2 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is  
 3 amended by adding at the end the following:

4 “(e) INCENTIVE FOR PERFORMANCE.—Both of the  
 5 following may be taken into account in determining the  
 6 terms of a civil penalty under subsection (d):

7 “(1) The compliance history of an owner or op-  
 8 erator in accordance with this subtitle or a program  
 9 approved under section 9004.

10 “(2) Any other factor the Administrator con-  
 11 siders appropriate.”.

12 (e) TABLE OF CONTENTS.—The table of contents for  
 13 such subtitle I is amended by adding the following new  
 14 item at the end thereof:

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

15 **SEC. 7. DELIVERY PROHIBITION.**

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

19 **“SEC. 9012. DELIVERY PROHIBITION.**

20 “(a) REQUIREMENTS.—

21 “(1) PROHIBITION OF DELIVERY OR DE-  
 22 POSIT.—Beginning 2 years after the date of enact-  
 23 ment of this section, it shall be unlawful to deliver  
 24 to, deposit into, or accept a regulated substance into  
 25 an underground storage tank at a facility which has

1       been identified by the Administrator or a State im-  
2       plementing agency to be ineligible for fuel delivery or  
3       deposit.

4               “(2) GUIDANCE.—Within 1 year after the date  
5       of enactment of this section, the Administrator and  
6       States that receive funding under this subtitle shall,  
7       in consultation with the underground storage tank  
8       owner and product delivery industries, for territory  
9       for which they are the primary implementing agen-  
10      cies, publish guidelines detailing the specific proc-  
11      esses and procedures they will use to implement the  
12      provisions of this section. The processes and proce-  
13      dures include, at a minimum—

14               “(A) the criteria for determining which un-  
15               derground storage tank facilities are ineligible  
16               for delivery or deposit;

17               “(B) the mechanisms for identifying which  
18               facilities are ineligible for delivery or deposit to  
19               the underground storage tank owning and fuel  
20               delivery industries;

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

23               “(D) a delineation of, or a process for de-  
24               termining, the specified geographic areas sub-  
25               ject to paragraph (4).

1 “(3) DELIVERY PROHIBITION NOTICE.—

2 “(A) ROSTER.—The Administrator and  
3 each State implementing agency that receives  
4 funding under this subtitle shall establish with-  
5 in 24 months after the date of enactment of  
6 this section a Delivery Prohibition Roster list-  
7 ing underground storage tanks under the Ad-  
8 ministrator’s or the State’s jurisdiction that are  
9 determined to be ineligible for delivery or de-  
10 posit pursuant to paragraph (2).

11 “(B) NOTIFICATION.—The Administrator  
12 and each State, as appropriate, shall make  
13 readily known, to underground storage tank  
14 owners and operators and to product delivery  
15 industries, the underground storage tanks listed  
16 on a Delivery Prohibition Roster by:

17 “(i) posting such Rosters, including  
18 the physical location and street address of  
19 each listed underground storage tank, on  
20 official web sites and, if the Administrator  
21 or the State so chooses, other electronic  
22 means;

23 “(ii) updating these Rosters periodi-  
24 cally; and

1           “(iii) installing a tamper-proof tag,  
2           seal, or other device blocking the fill pipes  
3           of such underground storage tanks to pre-  
4           vent the delivery of product into such un-  
5           derground storage tanks.

6           “(C) ROSTER UPDATES.—The Adminis-  
7           trator and the State shall update the Delivery  
8           Prohibition Rosters as appropriate, but not less  
9           than once a month on the first day of the  
10          month.

11          “(D) TAMPERING WITH DEVICE.—

12           “(i) PROHIBITION.—It shall be unlaw-  
13           ful for any person, other than an author-  
14           ized representative of the Administrator or  
15           a State, as appropriate, to remove, tamper  
16           with, destroy, or damage a device installed  
17           by the Administrator or a State, as appro-  
18           priate, under subparagraph (B)(iii) of this  
19           subsection.

20           “(ii) CIVIL PENALTIES.—Any person  
21           violating clause (i) of this subparagraph  
22           shall be subject to a civil penalty not to ex-  
23           ceed \$10,000 for each violation.

24          “(4) LIMITATION.—

1           “(A) RURAL AND REMOTE AREAS.—Sub-  
2           ject to subparagraph (B), the Administrator or  
3           a State shall not include an underground stor-  
4           age tank on a Delivery Prohibition Roster  
5           under paragraph (3) if an urgent threat to pub-  
6           lic health, as determined by the Administrator,  
7           does not exist and if such a delivery prohibition  
8           would jeopardize the availability of, or access  
9           to, fuel in any rural and remote areas.

10           “(B) APPLICABILITY OF LIMITATION.—  
11           The limitation under subparagraph (A) shall  
12           apply only during the 180-day period following  
13           the date of a determination by the Adminis-  
14           trator or the appropriate State that exercising  
15           the authority of paragraph (3) is limited by  
16           subparagraph (A).

17           “(b) EFFECT ON STATE AUTHORITY.—Nothing in  
18           this section shall affect the authority of a State to prohibit  
19           the delivery of a regulated substance to an underground  
20           storage tank.

21           “(c) DEFENSE TO VIOLATION.—A person shall not  
22           be in violation of subsection (a)(1) if the underground  
23           storage tank into which a regulated substance is delivered  
24           is not listed on the Administrator’s or the appropriate

1 State’s Prohibited Delivery Roster 7 calendar days prior  
2 to the delivery being made.”.

3 (b) ENFORCEMENT.—Section 9006(d)(2) of such Act  
4 (42 U.S.C. 6991e(d)(2)) is amended as follows:

5 (1) By adding the following new subparagraph  
6 after subparagraph (D):

7 “(E) the delivery prohibition requirement  
8 established by section 9012,”.

9 (2) By adding the following new sentence at the  
10 end thereof: “Any person making or accepting a de-  
11 livery or deposit of a regulated substance to an un-  
12 derground storage tank at an ineligible facility in  
13 violation of section 9012 shall also be subject to the  
14 same civil penalty for each day of such violation.”.

15 (c) TABLE OF CONTENTS.—The table of contents for  
16 such subtitle I is amended by adding the following new  
17 item at the end thereof:

“Sec. 9012. Delivery prohibition.”.

18 **SEC. 8. FEDERAL FACILITIES.**

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

21 **“SEC. 9007. FEDERAL FACILITIES.**

22 “(a) IN GENERAL.—Each department, agency, and  
23 instrumentality of the executive, legislative, and judicial  
24 branches of the Federal Government (1) having jurisdic-  
25 tion over any underground storage tank or underground

1 storage tank system, or (2) engaged in any activity result-  
2 ing, or which may result, in the installation, operation,  
3 management, or closure of any underground storage tank,  
4 release response activities related thereto, or in the deliv-  
5 ery, acceptance, or deposit of any regulated substance to  
6 an underground storage tank or underground storage tank  
7 system shall be subject to, and comply with, all Federal,  
8 State, interstate, and local requirements, both substantive  
9 and procedural (including any requirement for permits or  
10 reporting or any provisions for injunctive relief and such  
11 sanctions as may be imposed by a court to enforce such  
12 relief), respecting underground storage tanks in the same  
13 manner, and to the same extent, as any person is subject  
14 to such requirements, including the payment of reasonable  
15 service charges. The Federal, State, interstate, and local  
16 substantive and procedural requirements referred to in  
17 this subsection include, but are not limited to, all adminis-  
18 trative orders and all civil and administrative penalties  
19 and fines, regardless of whether such penalties or fines  
20 are punitive or coercive in nature or are imposed for iso-  
21 lated, intermittent, or continuing violations. The United  
22 States hereby expressly waives any immunity otherwise  
23 applicable to the United States with respect to any such  
24 substantive or procedural requirement (including, but not  
25 limited to, any injunctive relief, administrative order or

1 civil or administrative penalty or fine referred to in the  
2 preceding sentence, or reasonable service charge). The rea-  
3 sonable service charges referred to in this subsection in-  
4 clude, but are not limited to, fees or charges assessed in  
5 connection with the processing and issuance of permits,  
6 renewal of permits, amendments to permits, review of  
7 plans, studies, and other documents, and inspection and  
8 monitoring of facilities, as well as any other nondiscrim-  
9 inatory charges that are assessed in connection with a  
10 Federal, State, interstate, or local underground storage  
11 tank regulatory program. Neither the United States, nor  
12 any agent, employee, or officer thereof, shall be immune  
13 or exempt from any process or sanction of any State or  
14 Federal Court with respect to the enforcement of any such  
15 injunctive relief. No agent, employee, or officer of the  
16 United States shall be personally liable for any civil pen-  
17 alty under any Federal, State, interstate, or local law con-  
18 cerning underground storage tanks with respect to any act  
19 or omission within the scope of the official duties of the  
20 agent, employee, or officer. An agent, employee, or officer  
21 of the United States shall be subject to any criminal sanc-  
22 tion (including, but not limited to, any fine or imprison-  
23 ment) under any Federal or State law concerning under-  
24 ground storage tanks, but no department, agency, or in-  
25 strumentality of the executive legislative, or judicial

1 branch of the Federal Government shall be subject to any  
2 such sanction. The President may exempt any under-  
3 ground storage tank of any department, agency, or instru-  
4 mentality in the executive branch from compliance with  
5 such a requirement if he determines it to be in the para-  
6 mount interest of the United States to do so. No such  
7 exemption shall be granted due to lack of appropriation  
8 unless the President shall have specifically requested such  
9 appropriation as a part of the budgetary process and the  
10 Congress shall have failed to make available such re-  
11 quested appropriation. Any exemption shall be for a period  
12 not in excess of one year, but additional exemptions may  
13 be granted for periods not to exceed one year upon the  
14 President's making a new determination. The President  
15 shall report each January to the Congress all exemptions  
16 from the requirements of this section granted during the  
17 preceding calendar year, together with his reason for  
18 granting each such exemption.

19       “(b) REVIEW OF AND REPORT ON THE FEDERAL UN-  
20 DERGROUND STORAGE TANKS.—

21               “(1) REVIEW.—Not later than 12 months after  
22       the date of enactment of the Underground Storage  
23       Tank Compliance Act of 2005, each Federal agency  
24       that owns or operates 1 or more underground stor-  
25       age tanks, or that manages land on which 1 or more

1 underground storage tanks are located, shall submit  
2 to the Administrator, the Committee on Energy and  
3 Commerce of the United States House of Represent-  
4 atives, and the Committee on the Environment and  
5 Public Works of the United States Senate a compli-  
6 ance strategy report that—

7 “(A) lists the location and owner of each  
8 underground storage tank described in this  
9 paragraph;

10 “(B) lists all tanks that are not in compli-  
11 ance with this subtitle that are owned or oper-  
12 ated by the Federal agency;

13 “(C) specifies the date of the last inspec-  
14 tion by a State or Federal inspector of each un-  
15 derground storage tank owned or operated by  
16 the agency;

17 “(D) lists each violation of this subtitle re-  
18 specting any underground storage tank owned  
19 or operated by the agency;

20 “(E) describes the operator training that  
21 has been provided to the operator and other  
22 persons having primary daily on-site manage-  
23 ment responsibility for the operation and main-  
24 tenance of underground storage tanks owned or  
25 operated by the agency; and

1           “(F) describes the actions that have been  
2           and will be taken to ensure compliance for each  
3           underground storage tank identified under sub-  
4           paragraph (B).

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

8   **SEC. 9. TANKS ON TRIBAL LANDS.**

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

12   **“SEC. 9013. TANKS ON TRIBAL LANDS.**

13          “(a) STRATEGY.—The Administrator, in coordination  
14          with Indian tribes, shall, not later than 1 year after the  
15          date of enactment of this section, develop and implement  
16          a strategy—

17                 “(1) giving priority to releases that present the  
18                 greatest threat to human health or the environment,  
19                 to take necessary corrective action in response to re-  
20                 leases from leaking underground storage tanks lo-  
21                 cated wholly within the boundaries of—

22                         “(A) an Indian reservation; or

23                         “(B) any other area under the jurisdiction  
24                         of an Indian tribe; and

1           “(2) to implement and enforce requirements  
2           concerning underground storage tanks located wholly  
3           within the boundaries of—

4                   “(A) an Indian reservation; or

5                   “(B) any other area under the jurisdiction  
6           of an Indian tribe.

7           “(b) REPORT.—Not later than 2 years after the date  
8 of enactment of this section, the Administrator shall sub-  
9 mit to Congress a report that summarizes the status of  
10 implementation and enforcement of this subtitle in areas  
11 located wholly within—

12                   “(1) the boundaries of Indian reservations; and

13                   “(2) any other areas under the jurisdiction of  
14           an Indian tribe.

15 The Administrator shall make the report under this sub-  
16 section available to the public.

17           “(c) NOT A SAFE HARBOR.—This section does not  
18 relieve any person from any obligation or requirement  
19 under this subtitle.

20           “(d) STATE AUTHORITY.—Nothing in this section  
21 applies to any underground storage tank that is located  
22 in an area under the jurisdiction of a State, or that is  
23 subject to regulation by a State, as of the date of enact-  
24 ment of this section.”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
2 such subtitle I is amended by adding the following new  
3 item at the end thereof:

“Sec. 9013. Tanks on Tribal lands.”.

4 **SEC. 10. FUTURE RELEASE CONTAINMENT TECHNOLOGY.**

5 Not later than 2 years after the date of enactment  
6 of this Act, the Administrator of the Environmental Pro-  
7 tection Agency, after consultation with States, shall make  
8 available to the public and to the Committee on Energy  
9 and Commerce of the House of Representatives and the  
10 Committee on Environment and Public Works of the Sen-  
11 ate information on the effectiveness of alternative possible  
12 methods and means for containing releases from under-  
13 ground storage tanks systems.

14 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

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

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

19 “There are authorized to be appropriated to the Ad-  
20 ministrator the following amounts:

21 “(1) To carry out subtitle I (except sections  
22 9003(h), 9005(c), 9011, and 9012) \$50,000,000 for  
23 each of fiscal years 2005 through 2009.

1           “(2) From the Trust Fund, notwithstanding  
2           section 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 2005 through 2009;

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

10                   “(C) to carry out sections 9003(i),  
11                   9004(f), and 9005(e) \$100,000,000 for each of  
12                   fiscal years 2005 through 2009; and

13                   “(D) to carry out sections 9010, 9011,  
14                   9012, and 9013 \$55,000,000 for each of fiscal  
15                   years 2005 through 2009.”.

16           (b) TABLE OF CONTENTS.—The table of contents for  
17           such subtitle I is amended by adding the following new  
18           item at the end thereof:

          “Sec. 9014. Authorization of appropriations.”.

19   **SEC. 12 CONFORMING AMENDMENTS.**

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

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

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

4           (3) By inserting before paragraph (2) (as redesi-  
5           gnated by paragraph (2) of this subsection) the fol-  
6           lowing:

7           “(1) INDIAN TRIBE.—

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

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

19           (4) By inserting after paragraph (8) (as redesi-  
20           gnated by paragraph (2) of this subsection) the fol-  
21           lowing:

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

1 (b) CONFORMING AMENDMENTS.—The Solid Waste  
2 Disposal Act (42 U.S.C. 6901 and following) is amended  
3 as follows:

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

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

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

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

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

18 (A) in subsection (a), by striking  
19 “9001(2)(B)” and inserting “9001(7)(B)”; and

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

23 **SEC. 13. TECHNICAL AMENDMENTS.**

24 The Solid Waste Disposal Act is amended as follows:

1           (1) Section 9001(4)(A) (42 U.S.C. 6991(4)(A))  
2 is amended by striking “sustances” and inserting  
3 “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) is amend-  
13 ed—

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

16           (B) in subsection (b)(1), by striking  
17 “relevent” and inserting “relevant”; and

18           (C) in subsection (b)(4), by striking  
19 “Evironmental” and inserting “Environ-  
20 mental”.

○