

**Calendar No. 25**108TH CONGRESS  
1ST SESSION**S. 195****[Report No. 108-13]**

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 SENATE OF THE UNITED STATES**

JANUARY 17, 2003

Mr. CHAFEE (for himself, Mr. INHOFE, Mr. JEFFORDS, Mr. CARPER, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

MARCH 5, 2003

Reported by Mr. INHOFE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Underground Storage  
3 Tank Compliance Act of 2003”.

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

5 Section 9004 of the Solid Waste Disposal Act (42  
6 U.S.C. 6991e) is amended by adding at the end the fol-  
7 lowing:

8 “(f) TRUST FUND DISTRIBUTION.—

9 “(1) IN GENERAL.—

10 “(A) AMOUNT AND PERMITTED USES OF  
11 DISTRIBUTION.—The Administrator shall dis-  
12 tribute to States not less than 80 percent of the  
13 funds from the Trust Fund that are made  
14 available to the Administrator under section  
15 9014(2)(A) for each fiscal year for use in pay-  
16 ing the reasonable costs, incurred under a coop-  
17 erative agreement with any State, of—

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

20 “(ii) necessary administrative ex-  
21 penses, as determined by the Adminis-  
22 trator, that are directly related to correc-  
23 tive action and compensation programs  
24 under subsection (e)(1);

25 “(iii) any corrective action and com-  
26 pensation program carried out under sub-

1 section (c)(1) for a release from an under-  
2 ground storage tank regulated under this  
3 subtitle to the extent that, as determined  
4 by the State in accordance with guidelines  
5 developed jointly by the Administrator and  
6 the State, the financial resources of the  
7 owner or operator of the underground stor-  
8 age tank (including resources provided by  
9 a program in accordance with subsection  
10 (c)(1)) are not adequate to pay the cost of  
11 a corrective action without significantly im-  
12 pairing the ability of the owner or operator  
13 to continue in business;

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

18 “(v) State or local corrective actions  
19 carried out under regulations promulgated  
20 under section 9003(e)(4).

21 “(B) USE OF FUNDS FOR ENFORCE-  
22 MENT.—In addition to the uses of funds au-  
23 thorized under subparagraph (A), the Adminis-  
24 trator may use funds from the Trust Fund that  
25 are not distributed to States under subpara-

1 graph (A) for enforcement of any regulation  
2 promulgated by the Administrator under this  
3 subtitle.

4 “(C) PROHIBITED USES.—Except as pro-  
5 vided in subparagraph (A)(iii), under any simi-  
6 lar requirement of a State program approved  
7 under this section, or in any similar State or  
8 local provision as determined by the Adminis-  
9 trator, funds provided to a State by the Admin-  
10 istrator under subparagraph (A) shall not be  
11 used by the State to provide financial assistance  
12 to an owner or operator to meet any require-  
13 ment relating to underground storage tanks  
14 under part 280 of title 40, Code of Federal  
15 Regulations (as in effect on the date of enact-  
16 ment of this subsection).

17 “(2) ALLOCATION.—

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

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

5                   “(i) consulting with—

6                           “(I) State agencies responsible  
7                           for overseeing corrective action for re-  
8                           leases from underground storage  
9                           tanks;

10                           “(II) owners; and

11                           “(III) operators; and

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

14                           “(I) the total tax revenue con-  
15                           tributed to the Trust Fund from all  
16                           sources within the State;

17                           “(II) the number of confirmed  
18                           releases from federally regulated un-  
19                           derground storage tanks in the State;

20                           “(III) the number of federally  
21                           regulated underground storage tanks  
22                           in the State;

23                           “(IV) the percentage of the popu-  
24                           lation of the State that uses ground-  
25                           water for any beneficial purpose;

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

4                   “(VI) the financial needs of the  
5                   State; and

6                   “(VII) the ability of the State to  
7                   use the funds referred to in subpara-  
8                   graph (A) in any year.

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

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

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

17                   “(4) COST RECOVERY PROHIBITION.—Funds  
18                   from the Trust Fund provided by States to owners  
19                   or operators under paragraph (1)(A)(iii) shall not be  
20                   subject to cost recovery by the Administrator under  
21                   section 9003(h)(6).”.

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

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

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

3           (2) by inserting before subsection (b) (as redesi-  
4           gnated by paragraph (1)) the following:

5           “(a) INSPECTION REQUIREMENTS.—Not later than 2  
6           years after the date of enactment of the Underground  
7           Storage Tank Compliance Act of 2003, and at least once  
8           every 2 years thereafter, the Administrator or a State with  
9           a program approved under section 9004, as appropriate,  
10          shall require that all underground storage tanks regulated  
11          under this subtitle undergo onsite inspections for compli-  
12          ance with regulations promulgated under section  
13          9003(e).”.

14       **SEC. 4. OPERATOR TRAINING.**

15          Subtitle I of the Solid Waste Disposal Act (42 U.S.C.  
16          6991 et seq.) is amended by striking section 9010 and  
17          inserting the following:

18       **“SEC. 9010. OPERATOR TRAINING.**

19          “(a) GUIDELINES.—

20               “(1) IN GENERAL.—Not later than 2 years  
21               after the date of enactment of the Underground  
22               Storage Tank Compliance Act of 2003, in coopera-  
23               tion with States, owners, and operators, the Admin-  
24               istrator shall publish in the Federal Register, after  
25               public notice and opportunity for comment, guide-

1 lines that specify methods for training operators of  
2 underground storage tanks.

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

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

7 “(B) training programs that are being em-  
8 ployed by owners and operators as of the date  
9 of enactment of this paragraph;

10 “(C) the high turnover rate of operators;

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

13 “(E) the nature of the businesses in which  
14 the operators are engaged; and

15 “(F) such other factors as the Adminis-  
16 trator determines to be necessary to carry out  
17 this section.

18 “(b) STATE PROGRAMS.—

19 “(1) IN GENERAL.—Not later than 2 years  
20 after the date on which the Administrator publishes  
21 the guidelines under subsection (a)(1), each State  
22 shall develop and implement a strategy for the train-  
23 ing of operators of underground storage tanks that  
24 is consistent with paragraph (2).



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

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

4                   “(B) be developed in cooperation with own-  
5           ers and operators; and

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

9           “(3) FINANCIAL INCENTIVE.—The Adminis-  
10          trator may award to a State that develops and im-  
11          plements a strategy described in paragraph (1), in  
12          addition to any funds that the State is entitled to  
13          receive under this subtitle, not more than \$50,000,  
14          to be used to carry out the strategy.”.

15 **SEC. 5. REMEDIATION OF MTBE CONTAMINATION.**

16          Section 9003(h) of the Solid Waste Disposal Act (42  
17          U.S.C. 6991b(h)) is amended—

18                   (1) in paragraph (7)(A)—

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

22                           (B) by striking “, and including the au-  
23                           thorities of paragraphs (4), (6), and (8) of this  
24                           subsection” and inserting “and the authority

1 under sections 9005(a) and 9011 and para-  
2 graphs (4), (6), and (8),” and  
3 (2) by adding at the end the following:

4 “(12) REMEDIATION OF MTBE CONTAMINA-  
5 TION.—

6 “(A) IN GENERAL.—The Administrator  
7 and the States may use funds made available  
8 under section 9014(2)(B) to carry out correc-  
9 tive actions with respect to a release of methyl  
10 tertiary butyl ether that presents a threat to  
11 human health or welfare or the environment.

12 “(B) APPLICABLE AUTHORITY.—The Ad-  
13 ministrator or a State shall carry out subpara-  
14 graph (A)—

15 “(i) in accordance with paragraph (2),  
16 except that a release with respect to which  
17 a corrective action is carried out under  
18 subparagraph (A) shall not be required to  
19 be from an underground storage tank; and

20 “(ii) in the case of a State, in accord-  
21 ance with a cooperative agreement entered  
22 into by the Administrator and the State  
23 under paragraph (7).”

1 **SEC. 6. RELEASE PREVENTION, COMPLIANCE, AND EN-**  
 2 **FORCEMENT.**

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

7 **“SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND**  
 8 **COMPLIANCE.**

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

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

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

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

22 “(i) **GOVERNMENT-OWNED TANKS.**—

23 “(1) **IMPLEMENTATION REPORT.**—

24 “(A) **IN GENERAL.**—Not later than 2 years  
 25 after the date of enactment of this subsection,

1 each State shall submit to the Administrator an  
2 implementation report that—

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

8 “(ii) describes the actions that have  
9 been and will be taken to ensure compli-  
10 ance by the underground storage tank list-  
11 ed under clause (i) with this subtitle.

12 “(B) UNDERGROUND STORAGE TANK.—An  
13 underground storage tank described in this sub-  
14 paragraph is an underground storage tank that  
15 is—

16 “(i) regulated under this subtitle; and

17 “(ii) owned or operated by the State  
18 government or any local government.

19 “(C) PUBLIC AVAILABILITY.—The Admin-  
20 istrator shall make each report received under  
21 subparagraph (A) available to the public on the  
22 Internet.

23 “(2) FINANCIAL INCENTIVE.—The Adminis-  
24 trator may award to a State that develops an imple-  
25 mentation report described in paragraph (1), in ad-

1       dition to any funds that the State is entitled to re-  
 2       ceive under this subtitle, not more than \$50,000, to  
 3       be used to carry out the implementation report.

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

7       (e) INCENTIVES FOR PERFORMANCE.—Section 9006  
 8       of the Solid Waste Disposal Act (42 U.S.C. 6991e) is  
 9       amended by adding at the end the following:

10       “(e) INCENTIVES FOR PERFORMANCE.—In deter-  
 11       mining the terms of a compliance order under subsection  
 12       (a), or the amount of a civil penalty under subsection (d),  
 13       the Administrator, or a State under a program approved  
 14       under section 9004, may take into consideration whether  
 15       an owner or operator—

16           “(1) has a history of operating underground  
 17       storage tanks of the owner or operator in accordance  
 18       with—

19                   “(A) this subtitle; or

20                   “(B) a State program approved under sec-  
 21       tion 9004;

22       “(2) has repeatedly violated—

23                   “(A) this subtitle; or

24                   “(B) a State program approved under sec-  
 25       tion 9004; or

1           “(3) has implemented a program, consistent  
 2           with guidelines published under section 9010, that  
 3           provides training to persons responsible for oper-  
 4           ating any underground storage tank of the owner or  
 5           operator.”.

6           (d) ~~AUTHORITY TO PROHIBIT CERTAIN DELIV-~~  
 7 ~~ERIES.~~—Section 9006 of the Solid Waste Disposal Act (42  
 8 U.S.C. 6991e) (as amended by subsection (e)) is amended  
 9 by adding at the end the following:

10          “(f) ~~AUTHORITY TO PROHIBIT CERTAIN DELIV-~~  
 11 ~~ERIES.~~—

12           “(1) ~~IN GENERAL.~~—Subject to paragraph (2),  
 13           beginning 180 days after the date of enactment of  
 14           this subsection, the Administrator or a State may  
 15           prohibit the delivery of regulated substances to un-  
 16           derground storage tanks that are not in compliance  
 17           with—

18                   “(A) a requirement or standard promul-  
 19                   gated by the Administrator under section 9003;  
 20                   or

21                   “(B) a requirement or standard of a State  
 22                   program approved under section 9004.

23           “(2) ~~LIMITATIONS.~~—

24                   “(A) ~~SPECIFIED GEOGRAPHIC AREAS.~~—

25           Subject to subparagraph (B), under paragraph

1           (1), the Administrator or a State shall not pro-  
2           hibit a delivery if the prohibition would jeop-  
3           ardize the availability of, or access to, fuel in  
4           any specified geographic area.

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

11          “(C) GUIDELINES.—Not later than 18  
12          months after the date of enactment of this sub-  
13          section, the Administrator shall issue guidelines  
14          that define the term ‘specified geographic area’  
15          for the purpose of subparagraph (A).

16          “(3) AUTHORITY TO ISSUE GUIDELINES.—Sub-  
17          ject to paragraph (2)(C), the Administrator, after  
18          consultation with States, may issue guidelines for  
19          carrying out this subsection.

20          “(4) ENFORCEMENT, COMPLIANCE, AND PEN-  
21          ALTIES.—The Administrator may use the authority  
22          under the enforcement, compliance, or penalty provi-  
23          sions of this subtitle to carry out this subsection.

24          “(5) EFFECT ON STATE AUTHORITY.—Nothing  
25          in this subsection affects the authority of a State to

1 prohibit the delivery of a regulated substance to an  
 2 underground storage tank.”.

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

6 “(d) PUBLIC RECORD.—

7 “(1) IN GENERAL.—The Administrator shall re-  
 8 quire each State and Indian tribe that receives Fed-  
 9 eral funds to carry out this subtitle to maintain, up-  
 10 date at least annually, and make available to the  
 11 public, in such manner and form as the Adminis-  
 12 trator shall prescribe (after consultation with States  
 13 and Indian tribes), a record of underground storage  
 14 tanks regulated under this subtitle.

15 “(2) CONSIDERATIONS.—To the maximum ex-  
 16 tent practicable, the public record of a State or In-  
 17 dian tribe, respectively, shall include, for each  
 18 year—

19 “(A) the number, sources, and causes of  
 20 underground storage tank releases in the State  
 21 or tribal area;

22 “(B) the record of compliance by under-  
 23 ground storage tanks in the State or tribal area  
 24 with—

25 “(i) this subtitle; or



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

3                   “(C) data on the number of underground  
4                   storage tank equipment failures in the State or  
5                   tribal area.

6                   “(3) AVAILABILITY.—The Administrator shall  
7                   make the public record of each State and Indian  
8                   tribe under this section available to the public elec-  
9                   tronically.”.

10 **SEC. 7. FEDERAL FACILITIES.**

11           Section 9007 of the Solid Waste Disposal Act (42  
12 U.S.C. 6991f) is amended by adding at the end the fol-  
13 lowing:

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

16                   “(1) REVIEW.—Not later than 1 year after the  
17                   date of enactment of this subsection, the Adminis-  
18                   trator, in cooperation with each Federal agency that  
19                   owns or operates 1 or more underground storage  
20                   tanks or that manages land on which 1 or more un-  
21                   derground storage tanks are located, shall review the  
22                   status of compliance of those underground storage  
23                   tanks with this subtitle.

24                   “(2) IMPLEMENTATION REPORT.—

1           “(A) IN GENERAL.—Not later than 2 years  
2 after the date of enactment of this subsection,  
3 each Federal agency described in paragraph (1)  
4 shall submit to the Administrator and to each  
5 State in which an underground storage tank de-  
6 scribed in paragraph (1) is located an imple-  
7 mentation report that—

8           “(i) lists each underground storage  
9 tank described in paragraph (1) that, as of  
10 the date of submission of the report, is not  
11 in compliance with this subtitle; and

12           “(ii) describes the actions that have  
13 been and will be taken to ensure compli-  
14 ance by the underground storage tank with  
15 this subtitle.

16           “(B) PUBLIC AVAILABILITY.—The Admin-  
17 istrator shall make each report received under  
18 subparagraph (A) available to the public on the  
19 Internet.

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

23           “(d) APPLICABILITY OF CERTAIN REQUIREMENTS.—  
24 Section 6001(a) shall apply to each department, agency,  
25 and instrumentality covered by subsection (a).”.

1 **SEC. 8. TANKS UNDER THE JURISDICTION OF INDIAN**  
 2 **TRIBES.**

3 Subtitle I of the Solid Waste Disposal Act (42 U.S.C.  
 4 6991 et seq.) (as amended by section 6(a)) is amended  
 5 by adding at the end the following:

6 **“SEC. 9012. TANKS UNDER THE JURISDICTION OF INDIAN**  
 7 **TRIBES.**

8 “(a) IN GENERAL.—The Administrator, in coordina-  
 9 tion with Indian tribes, shall—

10 “(1) not later than 1 year after the date of en-  
 11 actment of this section, develop and implement a  
 12 strategy—

13 “(A) giving priority to releases that  
 14 present the greatest threat to human health or  
 15 the environment, to take necessary corrective  
 16 action in response to releases from leaking un-  
 17 derground storage tanks located wholly within  
 18 the boundaries of—

19 “(i) an Indian reservation; or

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

22 “(B) to implement and enforce require-  
 23 ments concerning underground storage tanks  
 24 located wholly within the boundaries of—

25 “(i) an Indian reservation; or

1                   “(ii) any other area under the juris-  
2                   diction of an Indian tribe;

3                   “(2) not later than 2 years after the date of en-  
4                   actment of this section and every 2 years thereafter,  
5                   submit to Congress a report that summarizes the  
6                   status of implementation and enforcement of the un-  
7                   derground storage tank program in areas located  
8                   wholly within—

9                   “(A) the boundaries of Indian reservations;  
10                  and

11                  “(B) any other areas under the jurisdiction  
12                  of an Indian tribe; and

13                  “(3) make the report described in paragraph  
14                  (2) available to the public on the Internet.

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

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

1 **SEC. 9. STATE AUTHORITY.**

2 Subtitle I of the Solid Waste Disposal Act (42 U.S.C.  
3 6991 et seq.) (as amended by section 8) is amended by  
4 adding at the end the following:

5 **“SEC. 9013. STATE AUTHORITY.**

6 “Nothing in this subtitle precludes a State from es-  
7 tablishing any requirement that is more stringent than a  
8 requirement under this subtitle.”.

9 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

10 Subtitle I of the Solid Waste Disposal Act (42 U.S.C.  
11 6991 et seq.) (as amended by section 9) is amended by  
12 adding at the end the following:

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

14 “There are authorized to be appropriated to the Ad-  
15 ministrator—

16 “(1) to carry out subtitle I (except sections  
17 9003(h), 9005(a), and 9011) \$25,000,000 for each  
18 of fiscal years 2004 through 2008; and

19 “(2) from the Trust Fund, notwithstanding sec-  
20 tion 9508(c)(1) of the Internal Revenue Code of  
21 1986—

22 “(A) to carry out section 9003(h) (except  
23 section 9003(h)(12)) \$150,000,000 for each of  
24 fiscal years 2004 through 2008;

1           “(B) to carry out section 9003(h)(12),  
2           \$125,000,000 for each of fiscal years 2004  
3           through 2008;

4           “(C) to carry out section 9005(a)—

5                   “(i) \$35,000,000 for each of fiscal  
6                   years 2004 and 2005; and

7                   “(ii) \$20,000,000 for each of fiscal  
8                   years 2006 through 2009; and

9           “(D) to carry out section 9011—

10                   “(i) \$50,000,000 for fiscal year 2004;

11                   and

12                   “(ii) \$30,000,000 for each of fiscal  
13                   years 2005 through 2009.”.

14 **SEC. 11. CONFORMING AMENDMENTS.**

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

17                   (1) by striking “For the purposes of this sub-  
18                   title—” and inserting “In this subtitle.”;

19                   (2) by redesignating paragraphs (1), (2), (3),  
20                   (4), (5), (6), (7), and (8) as paragraphs (10), (7),  
21                   (4), (3), (8), (5), (2), and (6), respectively, and reor-  
22                   dering the paragraphs so as to appear in numerical  
23                   order;

24                   (3) by inserting before paragraph (2) (as redес-  
25                   ignated by paragraph (2)) the following:

1           “(1) INDIAN TRIBE.—

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

8                   “(B) INCLUSIONS.—The term ‘Indian  
9           tribe’ includes an Alaska Native village, as de-  
10          fined in or established under the Alaska Native  
11          Claims Settlement Act (43 U.S.C. 1601 et  
12          seq.); and

13          (4) by inserting after paragraph (8) (as redesi-  
14          gnated by paragraph (2)) the following:

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

19          (b) CONFORMING AMENDMENTS.—

20                  (1) Section 1001 of the Solid Waste Disposal  
21          Act (42 U.S.C. prec. 6901) is amended in the table  
22          of contents—

23                          (A) in the item relating to section 9002, by  
24                          inserting “and public records” after “Notifica-  
25                          tion”; and

1                   (B) by striking the item relating to section  
2                   9010 and inserting the following:

“Sec. 9010. Operator training.

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

“Sec. 9012. Tanks under the jurisdiction of Indian tribes.

“Sec. 9013. State authority.

“Sec. 9014. Authorization of appropriations.”.

3                   (2) Section 9002 of the Solid Waste Disposal  
4                   Act (42 U.S.C. 6991a) is amended in the section  
5                   heading by inserting “AND PUBLIC RECORDS” after  
6                   “NOTIFICATION”.

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

9                   (A) in paragraph (1), by striking  
10                  “9001(2)(B)” and inserting “9001(7)(B)”; and  
11                  (B) in paragraphs (2) and (3), by striking  
12                  “9001(2)(A)” each place it appears and insert-  
13                  ing “9001(7)(A)”.

14                  (4) Section 9003(h) of the Solid Waste Dis-  
15                  posal Act (42 U.S.C. 6991b(h)) is amended in para-  
16                  graphs (1), (2)(C), (7)(A), and (11) by striking  
17                  “Leaking Underground Storage Tank Trust Fund”  
18                  each place it appears and inserting “Trust Fund”.

19                  (5) Section 9009 of the Solid Waste Disposal  
20                  Act (42 U.S.C. 6991h) is amended—

21                  (A) in subsection (a), by striking  
22                  “9001(2)(B)” and inserting “9001(7)(B)”; and



1           (B) in subsection (d), by striking “section  
2           9001(1) (A) and (B)” and inserting “subpara-  
3           graphs (A) and (B) of section 9001(10)”.

4 **SEC. 12. TECHNICAL AMENDMENTS.**

5           (a) Section 9001(4)(A) of the Solid Waste Disposal  
6 Act (42 U.S.C. 6991(4)(A)) (as amended by section  
7 11(a)(2)) is amended by striking “sustances” and insert-  
8 ing “substances”.

9           (b) Section 9003(f)(1) of the Solid Waste Disposal  
10 Act (42 U.S.C. 6991b(f)(1)) is amended by striking “sub-  
11 section (e) and (d) of this section” and inserting “sub-  
12 sections (e) and (d)”.

13           (c) Section 9004(a) of the Solid Waste Disposal Act  
14 (42 U.S.C. 6991e(a)) is amended by striking “in 9001(2)  
15 (A) or (B) or both” and inserting “in subparagraph (A)  
16 or (B) of section 9001(7)”.

17           (d) Section 9005 of the Solid Waste Disposal Act (42  
18 U.S.C. 6991d) (as amended by section 3) is amended—

19               (1) in subsection (b), by striking “study tak-  
20               ing” and inserting “study, taking”;

21               (2) in subsection (c)(1), by striking “relevent”  
22               and inserting “relevant”; and

23               (3) in subsection (c)(4), by striking  
24               “Environmental” and inserting “Environmental”.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Underground Storage*  
 3 *Tank Compliance Act of 2003”.*

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

5 *Section 9004 of the Solid Waste Disposal Act (42*  
 6 *U.S.C. 6991c) is amended by adding at the end the fol-*  
 7 *lowing:*

8 *“(f) TRUST FUND DISTRIBUTION.—*

9 *“(1) IN GENERAL.—*

10 *“(A) AMOUNT AND PERMITTED USES OF*  
 11 *DISTRIBUTION.—The Administrator shall dis-*  
 12 *tribute to States not less than 80 percent of the*  
 13 *funds from the Trust Fund that are made avail-*  
 14 *able to the Administrator under section*  
 15 *9014(2)(A) for each fiscal year for use in paying*  
 16 *the reasonable costs, incurred under a coopera-*  
 17 *tive agreement with any State, of—*

18 *“(i) actions taken by the State under*  
 19 *section 9003(h)(7)(A);*

20 *“(ii) necessary administrative ex-*  
 21 *penses, as determined by the Administrator,*  
 22 *that are directly related to corrective action*  
 23 *and compensation programs under sub-*  
 24 *section (c)(1);*

25 *“(iii) any corrective action and com-*  
 26 *penetration program carried out under sub-*

1            *section (c)(1) for a release from an under-*  
2            *ground storage tank regulated under this*  
3            *subtitle to the extent that, as determined by*  
4            *the State in accordance with guidelines de-*  
5            *veloped jointly by the Administrator and*  
6            *the State, the financial resources of the*  
7            *owner or operator of the underground stor-*  
8            *age tank (including resources provided by a*  
9            *program in accordance with subsection*  
10           *(c)(1)) are not adequate to pay the cost of*  
11           *a corrective action without significantly im-*  
12           *pairing the ability of the owner or operator*  
13           *to continue in business;*

14           *“(iv) enforcement by the State or a*  
15           *local government of State or local regula-*  
16           *tions pertaining to underground storage*  
17           *tanks regulated under this subtitle; or*

18           *“(v) State or local corrective actions*  
19           *carried out under regulations promulgated*  
20           *under section 9003(c)(4).*

21           *“(B) USE OF FUNDS FOR ENFORCEMENT.—*

22           *In addition to the uses of funds authorized under*  
23           *subparagraph (A), the Administrator may use*  
24           *funds from the Trust Fund that are not distrib-*  
25           *uted to States under subparagraph (A) for en-*

1           *forcement of any regulation promulgated by the*  
2           *Administrator under this subtitle.*

3           “(C) *PROHIBITED USES.*—*Except as pro-*  
4           *vided in subparagraph (A)(iii), under any simi-*  
5           *lar requirement of a State program approved*  
6           *under this section, or in any similar State or*  
7           *local provision as determined by the Adminis-*  
8           *trator, funds provided to a State by the Admin-*  
9           *istrator under subparagraph (A) shall not be*  
10          *used by the State to provide financial assistance*  
11          *to an owner or operator to meet any requirement*  
12          *relating to underground storage tanks under*  
13          *part 280 of title 40, Code of Federal Regulations*  
14          *(as in effect on the date of enactment of this sub-*  
15          *section).*

16          “(2) *ALLOCATION.*—

17                 “(A) *PROCESS.*—*Subject to subparagraph*  
18                 *(B), in the case of a State with which the Ad-*  
19                 *ministrator has entered into a cooperative agree-*  
20                 *ment under section 9003(h)(7)(A), the Adminis-*  
21                 *trator shall distribute funds from the Trust Fund*  
22                 *to the State using the allocation process devel-*  
23                 *oped by the Administrator.*

24                 “(B) *REVISIONS TO PROCESS.*—*The Admin-*  
25                 *istrator may revise the allocation process referred*

1           to in subparagraph (A) with respect to a State  
2           only after—

3                   “(i) consulting with—

4                           “(I) State agencies responsible for  
5                           overseeing corrective action for releases  
6                           from underground storage tanks;

7                           “(II) owners; and

8                           “(III) operators; and

9                   “(ii) taking into consideration, at a  
10           minimum—

11                           “(I) the total tax revenue contrib-  
12                           uted to the Trust Fund from all  
13                           sources within the State;

14                           “(II) the number of confirmed re-  
15                           leases from federally regulated under-  
16                           ground storage tanks in the State;

17                           “(III) the number of federally reg-  
18                           ulated underground storage tanks in  
19                           the State;

20                           “(IV) the percentage of the popu-  
21                           lation of the State that uses ground-  
22                           water for any beneficial purpose;

23                           “(V) the performance of the State  
24                           in implementing and enforcing the  
25                           program;

1                   “(VI) the financial needs of the  
2                   State; and

3                   “(VII) the ability of the State to  
4                   use the funds referred to in subpara-  
5                   graph (A) in any year.

6                   “(3) *DISTRIBUTIONS TO STATE AGENCIES.*—Dis-  
7                   tributions from the Trust Fund under this subsection  
8                   shall be made directly to a State agency that—

9                   “(A) enters into a cooperative agreement re-  
10                  ferred to in paragraph (2)(A); or

11                  “(B) is enforcing a State program approved  
12                  under this section.

13                  “(4) *COST RECOVERY PROHIBITION.*—Funds  
14                  from the Trust Fund provided by States to owners or  
15                  operators under paragraph (1)(A)(iii) shall not be  
16                  subject to cost recovery by the Administrator under  
17                  section 9003(h)(6).”.

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

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

21                  (1) by redesignating subsections (a) and (b) as  
22                  subsections (b) and (c), respectively; and

23                  (2) by inserting before subsection (b) (as redesign-  
24                  ated by paragraph (1)) the following:

1       “(a) *INSPECTION REQUIREMENTS.*—Not later than 2  
 2 years after the date of enactment of the *Underground Stor-*  
 3 *age Tank Compliance Act of 2003*, and at least once every  
 4 2 years thereafter, the Administrator or a State with a pro-  
 5 gram approved under section 9004, as appropriate, shall  
 6 require that all underground storage tanks regulated under  
 7 this subtitle undergo onsite inspections for compliance with  
 8 regulations promulgated under section 9003(c).”.

9       **SEC. 4. OPERATOR TRAINING.**

10       *Subtitle I of the Solid Waste Disposal Act (42 U.S.C.*  
 11 *6991 et seq.) is amended by striking section 9010 and in-*  
 12 *serting the following:*

13       **“SEC. 9010. OPERATOR TRAINING.**

14       “(a) *GUIDELINES.*—

15               “(1) *IN GENERAL.*—Not later than 2 years after  
 16 the date of enactment of the *Underground Storage*  
 17 *Tank Compliance Act of 2003*, in cooperation with  
 18 States, owners, and operators, the Administrator shall  
 19 publish in the *Federal Register*, after public notice  
 20 and opportunity for comment, guidelines that specify  
 21 methods for training operators of underground storage  
 22 tanks.

23               “(2) *CONSIDERATIONS.*—The guidelines described  
 24 in paragraph (1) shall take into account—

1           “(A) *State training programs in existence*  
2           *as of the date of publication of the guidelines;*

3           “(B) *training programs that are being em-*  
4           *ployed by owners and operators as of the date of*  
5           *enactment of this paragraph;*

6           “(C) *the high turnover rate of operators;*

7           “(D) *the frequency of improvement in un-*  
8           *derground storage tank equipment technology;*

9           “(E) *the nature of the businesses in which*  
10          *the operators are engaged; and*

11          “(F) *such other factors as the Administrator*  
12          *determines to be necessary to carry out this sec-*  
13          *tion.*

14          “(b) *STATE PROGRAMS.—*

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

21               “(2) *REQUIREMENTS.—A State strategy de-*  
22               *scribed in paragraph (1) shall—*

23                       “(A) *be consistent with subsection (a);*

24                       “(B) *be developed in cooperation with own-*  
25                       *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 Administrator  
5           may award to a State that develops and implements  
6           a strategy described in paragraph (1), in addition to  
7           any funds that the State is entitled to receive under  
8           this subtitle, not more than \$50,000, to be used to  
9           carry out the strategy.”.

10 **SEC. 5. REMEDIATION OF MTBE CONTAMINATION.**

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

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 au-  
18           thorities of paragraphs (4), (6), and (8) of this  
19           subsection” and inserting “and the authority  
20           under sections 9005(a) and 9011 and para-  
21           graphs (4), (6), and (8),”; and

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

23           “(12) *REMEDICATION OF MTBE CONTAMINA-*  
24           *TION.*—

1           “(A) *IN GENERAL.*—*The Administrator and*  
2           *the States may use funds made available under*  
3           *section 9014(2)(B) to carry out corrective actions*  
4           *with respect to a release of methyl tertiary butyl*  
5           *ether that presents a threat to human health or*  
6           *welfare or the environment.*

7           “(B) *APPLICABLE AUTHORITY.*—*The Ad-*  
8           *ministrator or a State shall carry out subpara-*  
9           *graph (A)—*

10           “(i) *in accordance with paragraph (2),*  
11           *except that a release with respect to which*  
12           *a corrective action is carried out under sub-*  
13           *paragraph (A) shall not be required to be*  
14           *from an underground storage tank; and*

15           “(ii) *in the case of a State, in accord-*  
16           *ance with a cooperative agreement entered*  
17           *into by the Administrator and the State*  
18           *under paragraph (7).”.*

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

21           (a) *RELEASE PREVENTION AND COMPLIANCE.*—*Sub-*  
22           *title I of the Solid Waste Disposal Act (42 U.S.C. 6991 et*  
23           *seq.) (as amended by section 4) is amended by adding at*  
24           *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) from*  
4 *the Trust Fund may be used to conduct inspections, issue*  
5 *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, under this subtitle*  
11 *(including under a State program approved under*  
12 *section 9004).”.*

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

16 *“(i) GOVERNMENT-OWNED TANKS.—*

17 *“(1) IMPLEMENTATION REPORT.—*

18 *“(A) IN GENERAL.—Not later than 2 years*  
19 *after the date of enactment of this subsection,*  
20 *each State shall submit to the Administrator an*  
21 *implementation report that—*

22 *“(i) lists each underground storage*  
23 *tank described in subparagraph (B) in the*  
24 *State that, as of the date of submission of*  
25 *the report, is not in compliance with this*  
26 *subtitle; and*

1                   “(ii) describes the actions that have  
2                   been and will be taken to ensure compliance  
3                   by the underground storage tank listed  
4                   under clause (i) with this subtitle.

5                   “(B) UNDERGROUND STORAGE TANK.—An  
6                   underground storage tank described in this sub-  
7                   paragraph is an underground storage tank that  
8                   is—

9                   “(i) regulated under this subtitle; and  
10                   “(ii) owned or operated by the State  
11                   government or any local government.

12                   “(C) PUBLIC AVAILABILITY.—The Adminis-  
13                   trator shall make each report received under sub-  
14                   paragraph (A) available to the public on the  
15                   Internet.

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

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

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

4           “(e) *INCENTIVES FOR PERFORMANCE*.—In deter-  
 5 *mining the terms of a compliance order under subsection*  
 6 *(a), or the amount of a civil penalty under subsection (d),*  
 7 *the Administrator, or a State under a program approved*  
 8 *under section 9004, may take into consideration whether*  
 9 *an owner or operator—*

10           “(1) *has a history of operating underground*  
 11 *storage tanks of the owner or operator in accordance*  
 12 *with—*

13           “(A) *this subtitle; or*

14           “(B) *a State program approved under sec-*  
 15 *tion 9004;*

16           “(2) *has repeatedly violated—*

17           “(A) *this subtitle; or*

18           “(B) *a State program approved under sec-*  
 19 *tion 9004; or*

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

24           (d) *AUTHORITY TO PROHIBIT CERTAIN DELIV-*  
 25 *ERIES*.—Section 9006 of the Solid Waste Disposal Act (42

1 *U.S.C. 6991e) (as amended by subsection (c)) is amended*  
 2 *by adding at the end the following:*

3       “(f) *AUTHORITY TO PROHIBIT CERTAIN DELIV-*  
 4 *ERIES.—*

5               “(1) *IN GENERAL.—Subject to paragraph (2), be-*  
 6 *ginning 180 days after the date of enactment of this*  
 7 *subsection, the Administrator or a State may prohibit*  
 8 *the delivery of regulated substances to underground*  
 9 *storage tanks that are not in compliance with—*

10                       “(A) *a requirement or standard promul-*  
 11 *gated by the Administrator under section 9003;*  
 12 *or*

13                       “(B) *a requirement or standard of a State*  
 14 *program approved under section 9004.*

15       “(2) *LIMITATIONS.—*

16                       “(A) *SPECIFIED GEOGRAPHIC AREAS.—Sub-*  
 17 *ject to subparagraph (B), under paragraph (1),*  
 18 *the Administrator or a State shall not prohibit*  
 19 *a delivery if the prohibition would jeopardize the*  
 20 *availability of, or access to, fuel in any specified*  
 21 *geographic area.*

22                       “(B) *APPLICABILITY OF LIMITATION.—The*  
 23 *limitation under subparagraph (A) shall apply*  
 24 *only during the 180-day period following the*  
 25 *date of a determination by the Administrator*

1           *that exercising the authority of paragraph (1) is*  
2           *limited by subparagraph (A).*

3           “(C) *GUIDELINES.*—*Not later than 18*  
4           *months after the date of enactment of this sub-*  
5           *section, the Administrator shall issue guidelines*  
6           *that define the term ‘specified geographic area’*  
7           *for the purpose of subparagraph (A).*

8           “(3) *AUTHORITY TO ISSUE GUIDELINES.*—*Sub-*  
9           *ject to paragraph (2)(C), the Administrator, after*  
10          *consultation with States, may issue guidelines for*  
11          *carrying out this subsection.*

12          “(4) *ENFORCEMENT, COMPLIANCE, AND PEN-*  
13          *ALTIES.*—*The Administrator may use the authority*  
14          *under the enforcement, compliance, or penalty provi-*  
15          *sions of this subtitle to carry out this subsection.*

16          “(5) *EFFECT ON STATE AUTHORITY.*—*Nothing in*  
17          *this subsection affects the authority of a State to pro-*  
18          *hibit the delivery of a regulated substance to an un-*  
19          *derground storage tank.”.*

20          “(e) *PUBLIC RECORD.*—*Section 9002 of the Solid Waste*  
21          *Disposal Act (42 U.S.C. 6991a) is amended by adding at*  
22          *the end the following:*

23          “(d) *PUBLIC RECORD.*—

24                 “(1) *IN GENERAL.*—*The Administrator shall re-*  
25                 *quire each State and Indian tribe that receives Fed-*

1 *eral funds to carry out this subtitle to maintain, up-*  
 2 *date at least annually, and make available to the*  
 3 *public, in such manner and form as the Adminis-*  
 4 *trator shall prescribe (after consultation with States*  
 5 *and Indian tribes), a record of underground storage*  
 6 *tanks regulated under this subtitle.*

7 “(2) *CONSIDERATIONS.—To the maximum extent*  
 8 *practicable, the public record of a State or Indian*  
 9 *tribe, respectively, shall include, for each year—*

10 “(A) *the number, sources, and causes of un-*  
 11 *derground storage tank releases in the State or*  
 12 *tribal area;*

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

16 “(i) *this subtitle; or*

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

19 “(C) *data on the number of underground*  
 20 *storage tank equipment failures in the State or*  
 21 *tribal area.*

22 “(3) *AVAILABILITY.—The Administrator shall*  
 23 *make the public record of each State and Indian tribe*  
 24 *under this section available to the public electroni-*  
 25 *cally.”.*



1 **SEC. 7. FEDERAL FACILITIES.**

2 *Section 9007 of the Solid Waste Disposal Act (42*  
3 *U.S.C. 6991f) is amended—*

4 *(1) by striking subsection (a) and inserting the*  
5 *following:*

6 *“(a) APPLICABILITY OF SUBTITLE.—*

7 *“(1) IN GENERAL.—Section 6001(a) shall apply*  
8 *to each department, agency, and instrumentality in*  
9 *the executive, legislative, or judicial branch of the*  
10 *Federal Government having jurisdiction over—*

11 *“(A) any underground storage tank or un-*  
12 *derground storage tank system (as defined in sec-*  
13 *tion 280.12 of title 40, Code of Federal Regula-*  
14 *tions (or any successor regulation)); or*

15 *“(B) any release response activity relating*  
16 *to an underground storage tank or underground*  
17 *storage tank system.*

18 *“(2) REQUIREMENTS.—For purposes of this sec-*  
19 *tion, requirements respecting the control and abate-*  
20 *ment of solid waste or hazardous waste disposal and*  
21 *management referred to in section 6001(a) include re-*  
22 *quirements respecting—*

23 *“(A) control, installation, operation, man-*  
24 *agement, or closure of any underground storage*  
25 *tank or underground storage tank system con-*  
26 *taining any regulated substance; and*

1           “(B) release response activities relating to  
2           an activity described in subparagraph (A).”; and  
3           (2) by adding at the end the following:

4           “(c) *REVIEW OF, AND REPORT ON, FEDERAL UNDER-*  
5 *GROUND STORAGE TANKS.—*

6           “(1) *REVIEW.—*Not later than 1 year after the  
7           date of enactment of this subsection, the Adminis-  
8           trator, in cooperation with each Federal agency that  
9           owns or operates 1 or more underground storage  
10          tanks or that manages land on which 1 or more un-  
11          derground storage tanks are located, shall review the  
12          status of compliance of those underground storage  
13          tanks with this subtitle.

14          “(2) *IMPLEMENTATION REPORT.—*

15          “(A) *IN GENERAL.—*Not later than 2 years  
16          after the date of enactment of this subsection,  
17          each Federal agency described in paragraph (1)  
18          shall submit to the Administrator and to each  
19          State in which an underground storage tank de-  
20          scribed in paragraph (1) is located an imple-  
21          mentation report that—

22                  “(i) lists each underground storage  
23                  tank described in paragraph (1) that, as of  
24                  the date of submission of the report, is not  
25                  in compliance with this subtitle; and

1                   “(ii) describes the actions that have  
2                   been and will be taken to ensure compliance  
3                   by the underground storage tank with this  
4                   subtitle.

5                   “(B) PUBLIC AVAILABILITY.—The Adminis-  
6                   trator shall make each report received under sub-  
7                   paragraph (A) available to the public on the  
8                   Internet.

9                   “(3) NOT A SAFE HARBOR.—This subsection does  
10                  not relieve any person from any obligation or require-  
11                  ment under this subtitle.”.

12 **SEC. 8. TANKS UNDER THE JURISDICTION OF INDIAN**  
13 **TRIBES.**

14                  Subtitle I of the Solid Waste Disposal Act (42 U.S.C.  
15 6991 et seq.) (as amended by section 6(a)) is amended by  
16 adding at the end the following:

17 **“SEC. 9012. TANKS UNDER THE JURISDICTION OF INDIAN**  
18 **TRIBES.**

19                  “(a) IN GENERAL.—The Administrator, in coordina-  
20 tion with Indian tribes, shall—

21                   “(1) not later than 1 year after the date of enact-  
22                   ment of this section, develop and implement a strat-  
23                   egy—

24                   “(A) giving priority to releases that present  
25                   the greatest threat to human health or the envi-

1            *ronment, to take necessary corrective action in*  
2            *response to releases from leaking underground*  
3            *storage tanks located wholly within the bound-*  
4            *aries of—*

5                    *“(i) an Indian reservation; or*

6                    *“(ii) any other area under the jurisdic-*  
7                    *tion of an Indian tribe; and*

8                    *“(B) to implement and enforce requirements*  
9                    *concerning underground storage tanks located*  
10                   *wholly within the boundaries of—*

11                   *“(i) an Indian reservation; or*

12                   *“(ii) any other area under the jurisdic-*  
13                   *tion of an Indian tribe;*

14                   *“(2) not later than 2 years after the date of en-*  
15                   *actment of this section and every 2 years thereafter,*  
16                   *submit to Congress a report that summarizes the sta-*  
17                   *tus of implementation and enforcement of the under-*  
18                   *ground storage tank program in areas located wholly*  
19                   *within—*

20                   *“(A) the boundaries of Indian reservations;*  
21                   *and*

22                   *“(B) any other areas under the jurisdiction*  
23                   *of an Indian tribe; and*

24                   *“(3) make the report described in paragraph (2)*  
25                   *available to the public on the Internet.*

1       “(b) *NOT A SAFE HARBOR.*—*This section does not re-*  
2 *lieve any person from any obligation or requirement under*  
3 *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 this*  
8 *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 add-*  
12 *ing at the end the following:*

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

14       *“Nothing in this subtitle precludes a State from estab-*  
15 *lishing any requirement that is more stringent than a re-*  
16 *quirement 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 add-*  
20 *ing at the end the following:*

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

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

1           “(1) to carry out subtitle I (except sections  
2           9003(h), 9005(a), and 9011) \$25,000,000 for each of  
3           fiscal years 2004 through 2008; and

4           “(2) from the Trust Fund, notwithstanding sec-  
5           tion 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)) \$150,000,000 for each of fis-  
9           cal years 2004 through 2008;

10           “(B) to carry out section 9003(h)(12),  
11           \$125,000,000 for each of fiscal years 2004  
12           through 2008;

13           “(C) to carry out section 9005(a)—

14           “(i) \$35,000,000 for each of fiscal  
15           years 2004 and 2005; and

16           “(ii) \$20,000,000 for each of fiscal  
17           years 2006 through 2009; and

18           “(D) to carry out section 9011—

19           “(i) \$50,000,000 for fiscal year 2004;  
20           and

21           “(ii) \$30,000,000 for each of fiscal  
22           years 2005 through 2009.”.

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

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

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), (4),  
5           (3), (8), (5), (2), and (6), respectively, and reordering  
6           the paragraphs so as to appear in numerical order;

7           (3) by inserting before paragraph (2) (as redesign-  
8           ated by paragraph (2)) the following:

9           “(1) INDIAN TRIBE.—

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

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

20           (4) by inserting after paragraph (8) (as redesign-  
21           ated by paragraph (2)) the following:

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

1       **(b) CONFORMING AMENDMENTS.—**

2               **(1) Section 1001 of the Solid Waste Disposal Act**  
 3       **(42 U.S.C. prec. 6901) is amended in the table of con-**  
 4       **tents—**

5               **(A) in the item relating to section 9002, by**  
 6               **inserting “and public records” after “Notifica-**  
 7               **tion”; and**

8               **(B) by striking the item relating to section**  
 9               **9010 and inserting the following:**

“Sec. 9010. Operator training.

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

“Sec. 9012. Tanks under the jurisdiction of Indian tribes.

“Sec. 9013. State authority.

“Sec. 9014. Authorization of appropriations.”.

10              **(2) Section 9002 of the Solid Waste Disposal Act**  
 11       **(42 U.S.C. 6991a) is amended in the section heading**  
 12       **by inserting “AND PUBLIC RECORDS” after “NOTIFI-**  
 13       **CATION”.**

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

16              **(A) in paragraph (1), by striking**  
 17              **“9001(2)(B)” and inserting “9001(7)(B)”;** and

18              **(B) in paragraphs (2) and (3), by striking**  
 19              **“9001(2)(A)” each place it appears and insert-**  
 20              **ing “9001(7)(A)”.**

21              **(4) Section 9003(h) of the Solid Waste Disposal**  
 22       **Act (42 U.S.C. 6991b(h)) is amended in paragraphs**  
 23       **(1), (2)(C), (7)(A), and (11) by striking “Leaking**



1        *Underground Storage Tank Trust Fund*” each place  
2        it appears and inserting “*Trust Fund*”.

3            (5) *Section 9009 of the Solid Waste Disposal Act*  
4        (42 U.S.C. 6991h) is amended—

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

7            (B) in subsection (d), by striking “section  
8        9001(1) (A) and (B)” and inserting “subpara-  
9        graphs (A) and (B) of section 9001(10)”.

10    **SEC. 12. TECHNICAL AMENDMENTS.**

11        (a) *Section 9001(4)(A) of the Solid Waste Disposal Act*  
12        (42 U.S.C. 6991(4)(A)) (as amended by section 11(a)(2))  
13        is amended by striking “*sustances*” and inserting “*sub-*  
14        *stances*”.

15        (b) *Section 9003(f)(1) of the Solid Waste Disposal Act*  
16        (42 U.S.C. 6991b(f)(1)) is amended by striking “*subsection*  
17        (c) and (d) of this section” and inserting “*subsections (c)*  
18        *and (d)*”.

19        (c) *Section 9004(a) of the Solid Waste Disposal Act*  
20        (42 U.S.C. 6991c(a)) is amended by striking “*in 9001(2)*  
21        (A) or (B) or both” and inserting “*in subparagraph (A)*  
22        *or (B) of section 9001(7)*”.

23        (d) *Section 9005 of the Solid Waste Disposal Act (42*  
24        *U.S.C. 6991d) (as amended by section 3) is amended—*

- 1           (1) *in subsection (b), by striking “study taking”*
- 2           *and inserting “study, taking”;*
- 3           (2) *in subsection (c)(1), by striking “relevent”*
- 4           *and inserting “relevant”; and*
- 5           (3) *in subsection (c)(4), by striking*
- 6           *“Evironmental” and inserting “Environmental”.*



**Calendar No. 25**

108TH CONGRESS  
1ST SESSION

**S. 195**

**[Report No. 108-13]**

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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.

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MARCH 5, 2003

Reported with an amendment