

**UNDERGROUND STORAGE TANK COMPLIANCE ACT.**

42 USC 6901 note.

PUBLIC LAW IO9-53-AUG. 3, 2005

(B) PRINCIPAL AND INTEREST.-Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan guarantee made under subparagraph (A).

Subtitle B-Underground Storage Tank Compliance

SEC. 1521. SHORT TITLE.

This subtitle may be cited as the "Underground Storage Tank Compliance Act".

SEC. 1522. LEAKING UNDERGROUND STORAGE TANKS.

(a) IN GENERAL.-Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following: "(D TRUST FUND DISTRIBUTION.-

"(1) IN GENERAL.-

"(A) AMOUNT AND PERMITTED USES OF DISTRIBUTION. The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9014(2)(A) for each fiscal year for use in paying the reasonable costs, incurred under a cooperative agreement with any State for-

"(i) corrective actions taken by the State under section 9003(h)(7)(A);

"(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to State fund or State assurance programs under subsection (c)(l); or

"(iii) enforcement, by a State or a local government, of State or local regulations pertaining to underground storage tanks regulated under this subtitle.

"(B) USE OF FUNDS FOR ENFORCEMENT.-In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

"(C) PROHIBITED USES.-Funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under subparts B, C, D, H, and G of part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection). "(2) ALLOCATION.-

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

"(B) DIVERSION OF STATE FUNDS.-The Administrator shall not distribute funds under subparagraph (A)(iii) of subsection (D(1) to any State that has diverted funds from a State

fund or State assurance program for purposes other than those related to the regulation of underground storage tanks covered by this subtitle, with the exception of those transfers that had been completed earlier than the date of enactment of this subsection.

"(C) REVISIONS TO PROCESS.-The Administrator may revise the allocation process referred to in subparagraph (A) after-

"(i) consulting with State agencies responsible for overseeing corrective action for releases from underground storage tanks; and

"(ii) taking into consideration, at a minimum, each of the following:

"(I) The number of confirmed releases from federally regulated leaking underground storage tanks in the States.

"(II) The number of federally regulated underground storage tanks in the States.

"(III) The performance of the States in implementing and enforcing the program.

"(IV) The financial needs of the States.

"(V) The ability of the States to use the funds referred to in subparagraph (A) in any year.

"(3) DISTRIBUTIONS TO STATE AGENCIES.-Distributions from the Trust Fund under this subsection shall be made directly to a State agency that-

"(A) enters into a cooperative agreement referred to in paragraph (2)(A); or

"(B) is enforcing a State program approved under this section."

(b) WITHDRAWAL OF APPROVAL OF STATE FUNDS.-Section 9004(c) of the Solid Waste Disposal Act (42 D.S.C. 6991c(c)) is amended by inserting the following new paragraph at the end thereof:

"(6) WITHDRAWAL OF APPROVAL.-After an opportunity for good faith, collaborative efforts to correct financial deficiencies with a State fund, the Administrator may withdraw approval of any State fund or State assurance program to be used as a financial responsibility mechanism without withdrawing approval of a State underground storage tank program under section 9004(a)."

(c) ABILITY TO PAY.-Section 9003(h)(6) of the Solid Waste

Disposal Act (42 D.S.C. 6591a(h)(6)) is amended by adding the 42 USC 6991b. following new subparagraph at the end thereof:

"m) INABILITY OR LIMITED ABILITY TO PAY.-

"(i) IN GENERAL.-In determining the level of recovery effort, or amount that should be recovered, the Administrator (or the State pursuant to paragraph (7)) shall consider the owner or operator's ability to pay. An inability or limited ability to pay corrective action costs must be demonstrated to the Administrator (or the State pursuant to paragraph (7)) by the owner or operator.

"(ii) CONSIDERATIONS.-In determining whether or not a demonstration is made under clause (i), the Administrator (or the State pursuant to paragraph (7)) shall take into consideration the ability of the owner or operator to pay corrective action costs and still maintain its basic business operations, including consideration of the overall financial

condition of the owner or operator and demonstrable constraints on the ability of the owner or operator to raise revenues.

"(iii) INFORMATION.-An owner or operator requesting consideration under this subparagraph shall promptly provide the Administrator (or the State pursuant to paragraph (7)) with all relevant information needed to determine the ability of the owner or operator to pay corrective action costs.

"(iv) ALTERNATIVE PAYMENT METHODS.-The Administrator (or the State pursuant to paragraph (7)) shall consider alternative payment methods as may be necessary or appropriate if the Administrator (or the State pursuant to paragraph (7)) determines that an owner or operator cannot pay an or a portion of the costs in a lump sum payment.

"(v) MISREPRESENTATION.-If an owner or operator provides false information or otherwise misrepresents their financial situation under clause (ii), the Administrator (or the State pursuant to paragraph (7)) shall seek full recovery of the costs of all such actions pursuant to the provisions of subparagraph (A) without consideration of the factors in subparagraph (B)."

#### SEC. 1523. INSPECTION OF UNDERGROUND STORAGE TANKS.

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

"(c) INSPECTION REQUIREMENTS.-

"(1) UNINSPECTED TANKS.-In the case of underground storage tanks regulated under this subtitle that have not undergone an inspection since December 22, 1998, not later than 2 years after the date of enactment of this subsection, the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of all such tanks to determine compliance with this subtitle and the regulations under this subtitle (40 CFR 280) or a requirement or standard of a State program developed under section 9004.

"(2) PERIODIC INSPECTIONS.-After completion of all inspections required under paragraph (1), the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of each underground storage tank regulated under this subtitle at least once every 3 years to determine compliance with this subtitle and the regulations under this subtitle (40 CFR 280) or a requirement or standard of a State program developed under section 9004. The Administrator may extend for up to one additional year the first 3-year inspection interval under this paragraph if the State demonstrates that it has insufficient resources to complete all such inspections within the first 3-year period.

"(3) INSPECTION AUTHORITY.-Nothing in this section shall be construed to diminish the Administrator's or a State's authorities under section 9005(a)."

(b) STUDY OF ALTERNATIVE INSPECTION PROGRAMS.-The Administrator of the Environmental Protection Agency, in coordination with a State, shall gather information on compliance assurance programs that could serve as an alternative to the inspection programs under section 9005(c) of the Solid Waste Disposal Act (42 U.S.C. 6991d(c)) and shall, within 4 years after the date of enactment of this Act, submit a report to the Congress containing the results of such study.

#### SEC. 1524. OPERATOR TRAINING.

(a) IN GENERAL.-Section 9010 of the Solid Waste Disposal Act (42 U.S.C. 6991i) is amended to read as follows:

"SEC. 9010. OPERATOR TRAINING. "(a) GUIDELINES.-

"(1) IN GENERAL.-Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act, in consultation and cooperation with States and after public notice and opportunity for comment, the Administrator shall publish guidelines that specify training requirements for-

"(A) persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

"(B) persons having daily on-site responsibility for the operation and maintenance of underground storage tanks systems; and

"(C) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

"(2) CONSIDERATIONS.-The guidelines described in paragraph (1) shall take into account-

"(A) State training programs in existence as of the date of publication of the guidelines;

"(B) training programs that are being employed by tank owners and tank operators as of the date of enactment of the Underground Storage Tank Compliance Act;

"(C) the high turnover rate of tank operators and other personnel;

"(D) the frequency of improvement in underground storage tank equipment technology;

"(E) the nature of the businesses in which the tank operators are engaged;

"(F) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

"(G) such other factors as the Administrator determines to be necessary to carry out this section.

"(b) STATE PROGRAMS.-

"(1) IN GENERAL.-Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), each State that receives funding under this subtitle shall develop State-specific training requirements that are consistent with the guidelines developed under subsection (a)(1).

"(2) REQUIREMENTS.-State requirements described in paragraph (1) shall-

"(A) be consistent with subsection (a);

"(B) be developed in cooperation with tank owners and tank operators;

"(C) take into consideration training programs implemented by tank owners and tank operators as of the date of enactment of this section; and

"(D) be appropriately communicated to tank owners and operators.

"(3) FINANCIAL INCENTIVE.-The Administrator may award to a State that develops and implements requirements described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than \$200,000, to be used to carry out the requirements.

"(c) TRAINING.-All persons that are subject to the operator training requirements of subsection (a) shall-

"(1) meet the training requirements developed under subsection (b); and

"(2) repeat the applicable requirements developed under subsection (b), if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with-

"(A) a requirement or standard promulgated by the Administrator under section 9003; or

"(B) a requirement or standard of a State program approved under section 9004."

(b) STATE PROGRAM REQUIREMENT.-Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "; and", and by adding the following new paragraph at the end thereof:

"(9) State-specific training requirements as required by section 9010."

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

(1) By striking "or" at the end of subparagraph (B).

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

"(D) the training requirements established by States pursuant to section 9010 (relating to operator training); or"

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

"Sec. 9010. Operator training."

#### SEC. 1525. REMEDIATION FROM OXYGENATED FUEL ADDITIVES.

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

(1) In paragraph (7)(A)-

(A) by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraphs (1), (2), and (12)"; and

(B) by striking "and including the authorities of paragraphs (4), (6), and (8) of this subsection" and inserting "and the authority under sections 9011 and 9012 and paragraphs (4), (6), and (8),".

(2) By adding at the end the following:

"(12) REMEDIATION OF OXYGENATED FUEL CONTAMINATION.-

"(A) IN GENERAL.-The Administrator and the States may use funds made available under section 9014(2)(B) to carry out corrective actions with respect to a release of a fuel containing an oxygenated fuel additive that presents a threat to human health or welfare or the environment.

"(B) APPLICABLE AUTHORITY.-The Administrator or a Contract', State shall carry out subparagraph (A) in accordance with paragraph (2), and in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7)."

SEC. 1526. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT.

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

"SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND COMPLI- 42 USC 6991j, ANCE.

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

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

"(2) by the Administrator, for tanks regulated under this subtitle (including under a State program approved under section 9004)."

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

"(i) GOVERNMENT-OWNED TANKS.-

"(1) STATE COMPLIANCE REPORT.- (A) Not later than 2 years Deadline, after the date of enactment of this subsection, each State that receives funding under this subtitle shall submit to the Administrator a State compliance report that-

"(i) lists the location and owner of each underground storage tank described in subparagraph (B) in the State that, as of the date of submission of the report, is not in compliance with section 9003; and

"(ii) specifies the date of the last inspection and describes the actions that have been and will be taken to ensure compliance of the underground storage tank listed under clause (i) with this subtitle.

"(B) An underground storage tank described in this subparagraph is an underground storage tank that is-

"(i) regulated under this subtitle; and

"(ii) owned or operated by the Federal, State, or local government.

"(C) The Administrator shall make each report, received under subparagraph (A), available

to the public through an appropriate media.

"(2) FINANCIAL INCENTIVE.-The Administrator may award to a State that develops a report described in paragraph (1), in addition to any other funds that the State is entitled to receive under this subtitle, not more than \$50,000, to be used to carry out the report.

"(3) NOT A SAFE HARBOR.-This subsection does not relieve any person from any obligation or requirement under this subtitle."

(c) PUBLIC RECORD.-Section 9002 of the Solid Waste Disposal Act (42 V.S.C. 6991a) is amended by adding at the end the following: "(d) PUBLIC RECORD.-

"(1) IN GENERAL.-The Administrator shall require each State that receives Federal funds to carry out this subtitle to maintain, update at least annually, and make available to the public, in such manner and form as the Administrator shall prescribe (after consultation with States), a record of underground storage tanks regulated under this subtitle.

"(2) CONSIDERATIONS.-To the maximum extent practicable, the public record of a State, respectively, shall include, for each year-

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

"(B) the record of compliance by underground storage tanks in the State with-

"(i) this subtitle; or

"(ii) an applicable State program approved under section 9004; and

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

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

"(e) INCENTIVE FOR PERFORMANCE.-Both of the following may be taken into account in determining the terms of a civil penalty under subsection (d):

H(1) The compliance history of an owner or operator in accordance with this subtitle or a program approved under section 9004.

"(2) Any other factor the Administrator considers appropriate." .

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

"Sec. 9011. Use of funds for release prevention and compliance." . SEC. 1527. DELIVERY PROHIBITION.

(a) IN GENERAL.-Subtitle I of the Solid Waste Disposal Act (42 V.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9012. DELIVERY PROHIBITION. "(a) REQUIREMENTS.-

"(1) PROHIBITION OF DELIVERY OR DEPOSIT.-Beginning 2 years after the date of enactment of this section, it shall be unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility which has been identified by the Administrator or a State implementing agency to be ineligible for such delivery, deposit, or acceptance.

"(2) GUIDANCE.-Within 1 year after the date of enactment of this section, the Administrator shall, in consultation with the States, underground storage tank owners, and product delivery industries, publish guidelines detailing the specific processes and procedures they will use to implement the provisions of this section. The processes and procedures include, at a minimum-

"(A) the criteria for determining which underground storage tank facilities are ineligible for delivery, deposit, or acceptance of a regulated substance;

"(B) the mechanisms for identifying which facilities are ineligible for delivery, deposit, or acceptance of a regulated substance to the underground storage tank owning and fuel delivery industries;

"(C) the process for reclassifying ineligible facilities as eligible for delivery, deposit, or acceptance of a regulated substance;

"(D) one or more processes for providing adequate notice to underground storage tank owners and operators and supplier industries that an underground storage tank has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance; and

"(E) a delineation of, or a process for determining, the specified geographic areas subject to paragraph (4). "(3) COMPLIANCE.-States that receive funding under this subtitle shall, at a minimum, comply with the processes and procedures published under paragraph (2).

"(4) CONSIDERATION.-

"(A) RURAL AND REMOTE AREAS.-Subject to subparagraph (B), the Administrator or a State may consider not treating an underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated substance if such treatment would jeopardize the availability of, or access to, fuel in any rural and remote areas unless an urgent threat to public health, as determined by the Administrator, exists.

"(B) APPLICABILITY.-Subparagraph (A) shall apply only during the ISO-day period following the date of a determination by the Administrator or the appropriate State under subparagraph (A).

"(b) EFFECT ON STATE AUTHORITY.-Nothing in this section shall affect or preempt the authority of a State to prohibit the delivery, deposit, or acceptance of a regulated substance to an underground storage tank.

"(c) DEFENSE TO VIOLATION.-A person shall not be in violation of subsection (a)(1) if the person has not been provided with notice pursuant to subsection (a)(2)(D) of the ineligibility of a facility for delivery, deposit, or acceptance of a regulated substance as determined by the Administrator or a State, as appropriate, under this section."

(b) ENFORCEMENT.-Section 9006(d)(2) of such Act (42 V.S.C. 6991e(d)(2)) is amended as follows:

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

"(E) the delivery prohibition requirement established by section 9012,".

(2) By adding the following new sentence at the end thereof:

"Any person making or accepting a delivery or deposit of a regulated substance to an underground storage tank at an ineligible facility in violation of section 9012 shall also be subject to the same civil penalty for each day of such violation.".

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

"Sec. 9012. Delivery prohibition.". SEC. 1528. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 69911) is amended to read as follows:

"SEC. 9007. FEDERAL FACILITIES.

"(a) IN GENERAL.-Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any underground storage tank or underground storage tank system, or (2) engaged in any activity resulting, or which may result, in the installation, operation, management, or closure of any underground storage tank, release response activities related thereto, or in the delivery, acceptance, or deposit of any regulated substance to an underground storage tank or underground storage tank system shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting underground storage tanks in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local underground storage tank regulatory program. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning underground storage tanks with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State law concerning underground storage tanks, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any underground storage tank of any department, agency, or instrumentality in the executive branch from compliance with such

a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination. The President shall Present the report each January to the Congress all exemptions from the Reports. requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

"(b) REVIEW OF AND REPORT ON FEDERAL UNDERGROUND STORAGE TANKS.-

"(1) REVIEW.-Not later than 12 months after the date Deadline. of enactment of the Underground Storage Tank Compliance Act, each Federal agency that owns or operates one or more underground storage tanks, or that manages land on which one or more underground storage tanks are located, shall submit to the Administrator, the Committee on Energy and Commerce of the United States House of Representatives, and the Committee on the Environment and Public Works of the Senate a compliance strategy report that-

"(A) lists the location and owner of each underground storage tank described in this paragraph;

"(B) lists all tanks that are not in compliance with this subtitle that are owned or operated by the Federal agency;

"(C) specifies the date of the last inspection by a State or Federal inspector of each underground storage tank owned or operated by the agency;

"(D) lists each violation of this subtitle respecting any underground storage tank owned or operated by the agency;

"(E) describes the operator training that has been provided to the operator and other persons having primary daily on-site management responsibility for the operation and maintenance of underground storage tanks owned or operated by the agency; and

"(F) describes the actions that have been and will be taken to ensure compliance for each underground storage tank identified under subparagraph (B).

"(2) NOT A SAFE HARBOR.-This subsection does not relieve any person from any obligation or requirement under this subtitle,"

SEC. 1529. TANKS ON TRIBAL LANDS.

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

"SEC. 9013. TANKS ON TRIBAL LANDS.

"(a) STRATEGY.-The Administrator, in coordination with Indian Deadline. tribes, shall, not later than 1 year after the date of enactment

of this section, develop and implement a strategy-

"(1) giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from leaking underground storage tanks located wholly within the boundaries of -

"(A) an Indian reservation; or

"(B) any other area under the jurisdiction of an Indian tribe; and

"(2) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of-

"(A) an Indian reservation; or

"(B) any other area under the jurisdiction of an Indian tribe.

"(b) REPORT.-Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a report that summarizes the status of implementation and enforcement of this subtitle in areas located wholly within-

"(1) the boundaries of Indian reservations; and

"(2) any other areas under the jurisdiction of an Indian tribe.

The Administrator shall make the report under this subsection available to the public.

"(c) NOT A SAFE HARBOR.-This section does not relieve any person from any obligation or requirement under this subtitle.

"(d) STATE AUTHORITY.-Nothing in this section applies to any underground storage tank that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section."

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

"Sec. 9013. Tanks on Tribal lands."

#### SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER.

(a) IN GENERAL.-Section 9003 of the Solid Waste Disposal Act (42 V.S.C. 6991b) is amended by adding the following new subsection at the end:

"(i) ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.-The Administrator shall require each State that receives funding under this subtitle to require one of the following:

"(1) TANK AND PIPING SECONDARY CONTAINMENT.- (A) Each new underground storage tank, or piping connected to any such new tank, installed after the effective date of this subsection, or any existing underground storage tank, or existing piping connected to such existing tank, that is replaced after the effective date of this subsection, shall be secondarily contained and monitored for leaks if the new or replaced underground storage tank or piping is within 1,000 feet of any existing community water system or any existing potable drinking water well.

"(B) In the case of a new underground storage tank system consisting of one or more underground storage tanks and connected by piping, subparagraph (A) shall apply to all underground storage tanks and connected pipes comprising such system.

"(C) In the case of a replacement of an existing underground storage tank or existing piping connected to the underground storage tank, subparagraph (A) shall apply only to the specific underground storage tank or piping being replaced, not to other underground storage tanks and connected pipes comprising such system.

"(D) Each installation of a new motor fuel dispenser system, after the effective date of this subsection, shall include underdispenser spill containment if the new dispenser is within 1,000 feet of any existing community water system or any existing potable drinking water well.

"(E) This paragraph shall not apply to repairs to an underground storage tank, piping, or dispenser that are meant to restore a tank, pipe, or dispenser to operating condition.

"(F) As used in this subsection:

"(i) The term 'secondarily contained' means a release detection and prevention system that meets the requirements of 40 CFR 280.43(g), but shall not include underdispenser spill containment or control systems.

"(ii) The term 'underground storage tank' has the meaning given to it in section 9001, except that such term does not include tank combinations or more than a single underground pipe connected to a tank.

"(iii) The term 'installation of a new motor fuel dispenser system' means the installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the underground storage tank system, but does not mean the installation of a motor fuel dispenser installed separately from the equipment need to connect the dispenser to the underground storage tank system.

## "(2) EVIDENCE OF FINANCIAL RESPONSIBILITY AND CERTIFICATION.-

"(A) MANUFACTURER AND INSTALLER FINANCIAL RESPONSIBILITY.-A person that manufactures an underground storage tank or piping for an underground storage tank system or that installs an underground storage tank system is required to maintain evidence of financial responsibility under section 9003(d) in order to provide for the costs of corrective actions directly related to releases caused by improper manufacture or installation unless the person can demonstrate themselves to be already covered as an owner or operator of an underground storage tank under section 9003.

"(B) INSTALLER CERTIFICATION.-The Administrator and each State that receives funding under this subtitle, as appropriate, shall require that a person that installs an underground storage tank system is-

"(i) certified or licensed by the tank and piping manufacturer;

"(ii) certified or licensed by the Administrator or a State, as appropriate;

"(iii) has their underground storage tank system installation certified by a registered professional engineer with education and experience in underground storage tank system installation;

"(iv) has had their installation of the underground storage tank inspected and approved by the Administrator or the State, as appropriate;

"(v) compliant with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions; or

"(vi) compliant with another method that is determined by the Administrator or a State, as appropriate, to be no less protective of human health and the environment.

"(C) SAVINGS CLAUSE.-Nothing in subparagraph (A) alters or affects the liability of any owner or operator of an underground storage tank."

(b) EFFECTIVE DATE.-This subsection shall take effect 18 months after the date of enactment of this subsection.

(c) PROMULGATION OF REGULATIONS OR GUIDELINES.-The Administrator shall issue regulations or guidelines implementing the requirements of this subsection, including guidance to differentiate between the terms "repair" and "replace" for the purposes of section 9003(i)(I) of the Solid Waste Disposal Act.

(d) PENALTIES.-Section 9006(d)(2) of such Act (42 V.S.C. 6991e(d)(2) is amended as follows:

(1) By striking "or" at the end of subparagraph (B).

(2) By inserting "; or" at the end of subparagraph (C). (3) By adding the following new subparagraph after

subparagraph (C):

"(D) the requirements established in section 9003(i),".

#### SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.-Subtitle I of the Solid Waste Disposal Act (42 V.B.C. 6991 et seq.) is amended by adding at the end the following:

#### "SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator the following amounts:

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

"(2) From the Trust Fund, notwithstanding section 9508(c)(I) of the Internal Revenue Code of 1986-

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

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

"(C) to carry out sections 9003(i), 9004(0, and 9005(c) \$100,000,000 for each of fiscal years 2005 through 2009; and

"(D) to carry out sections 9010, 9011, 9012, and 9013 \$55,000,000 for each of fiscal years 2005 through 2009.". (b) TABLE OF CONTENTS.-The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9014. Authorization of appropriations.".

## SEC. 1532. CONFORMING AMENDMENTS.

(a) IN GENERAL.-Section 9001 of the Solid Waste Disposal Act (42 V.S.C. 6991) is amended as follows:

- (1) By striking "For the purposes of this subtitle-" and inserting "In this subtitle:".
- (2) By redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively.
- (3) By inserting before paragraph (2) (as redesignated by paragraph (2) of this subsection) the following:

"(1) INDIAN TRIBE.-

"(A) IN GENERAL.-The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

"(B) INCLUSIONS.-The term 'Indian tribe' includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and".

- (4) By inserting after paragraph (8) (as redesignated by paragraph (2) of this subsection) the following:

"(9) TRUST FUND.-The term 'Trust Fund' means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.".

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

- (1) Section 9003(D (42 U.S.C. 6991b(D) is amended-
  - (A) in paragraph (1), by striking "9001(2)(B)" and inserting "9001(7)(B); and
  - (B) in paragraphs (2) and (3), by striking "9001(2)(A)" each place it appears and inserting "9001(7)(A)".
- (2) Section 9003(h) (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking "Leaking Underground Storage Tank Trust Fund" each place it appears and inserting "Trust Fund".
- (3) Section 9009 (42 U.S.C. 6991h) is amended-
  - (A) in subsection (a), by striking "9001(2)(B)" and inserting "9001(7)(B)"; and
  - (B) in subsection (d), by striking "section 9001(1) (A) and (B) and inserting "subparagraphs (A) and (B) of section 9001(10)".

## SEC. 1533. TECHNICAL AMENDMENTS.

The Solid Waste Disposal Act is amended as follows:

- (1) Section 9001(4)(A) (42 U.S.C. 6991(4)(A)) is amended by striking "sustances" and inserting "substances".

(2) Section 9003(D(1)) (42 U.S.C. 6991b(D(1))) is amended by striking "subsection (c) and (d) of this section" and inserting "subsections (c) and (d)".

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

(4) Section 9005 (42 U.S.C. 6991d) is amended-

(A) in subsection (a), by striking "study taking" and inserting "study, taking";

(B) in subsection (b)(1), by striking "relevent" and inserting "relevant"; and

(C) in subsection (b)(4), by striking "Evironmental" and inserting "Environmental",