

109TH CONGRESS
1ST SESSION

S. 439

To amend the Solid Waste Disposal Act to provide for secondary containment
to prevent methyl tertiary butyl ether and petroleum contamination.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2005

Mrs. BOXER (for herself and Mr. JEFFORDS) introduced the following bill;
which was read twice and referred to the Committee on Environment and
Public Works

A BILL

To amend the Solid Waste Disposal Act to provide for sec-
ondary containment to prevent methyl tertiary butyl
ether and petroleum contamination.

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

3 **SECTION 1. SECONDARY CONTAINMENT.**

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

7 “(i) SECONDARY CONTAINMENT.—

8 “(1) DEFINITION OF SECONDARILY CON-
9 TAINED.—In this subsection, the term ‘secondarily

1 contained', with respect to an underground storage
2 tank system, means that the underground storage
3 tank system has in place a release detection and pre-
4 vention system that—

5 “(A) meets the requirements of section
6 280.43(g) of title 40, Code of Federal Regula-
7 tions (or a successor regulation); and

8 “(B) includes double-walled tanks and pip-
9 ing systems, dispenser liners, piping sumps, or
10 single-walled tanks or piping systems that are
11 contained within a liner or an impervious bar-
12 rier area as set forth in part 280 of title 40,
13 Code of Federal Regulations (or a successor
14 regulation).

15 “(2) INSTALLATION AND REPLACEMENT.—On
16 and after the effective date of this subsection, any
17 new underground storage tank system that is in-
18 stalled, and any existing underground storage tank
19 system that is replaced, shall be secondarily con-
20 tained and space between the primary and secondary
21 containment of a new or replaced underground stor-
22 age tank system shall be monitored for leaks if the
23 new or replaced underground storage tank or piping
24 is within 1,000 feet of—

25 “(A) a community water system;

1 “(B) a potable drinking water well; or
2 “(C) any other sensitive area, as deter-
3 mined by the agency implementing the program
4 in a State.

5 “(3) LIMITATIONS.—

6 “(A) In the case of the replacement of an
7 existing underground storage tank that is con-
8 nected to other underground storage tanks by
9 piping, paragraph (2) shall apply only to the
10 underground storage tank being replaced and
11 not to such other underground storage tanks.

12 “(B) In the case of the replacement of ex-
13 isting underground pipes connected to an un-
14 derground storage tank, paragraph (2) shall
15 apply only to the underground pipes and not to
16 the underground storage tanks to which the
17 pipes are connected.

18 “(4) PROMULGATION OF REGULATIONS OR
19 GUIDELINES.—The Administrator may promulgate
20 regulations or issue guidelines to implement para-
21 graph (2).

22 “(5) NO EFFECT ON STATE AUTHORITY.—
23 Nothing in this subsection affects the authority of a
24 State to establish or enforce any regulation, require-
25 ment, or standard of performance relating to sec-

1 ondary containment for underground storage tank
2 systems that are more stringent than requirements
3 established under this section.

4 “(6) EFFECTIVE DATE.—This subsection takes
5 effect on the date that is 18 months after the date
6 of enactment of this subsection.”.

7 (b) PENALTIES.—Section 9006(d)(2) of the Solid
8 Waste Disposal Act (42 U.S.C. 6991e(d)(2)) is amend-
9 ed—

10 (1) in subparagraph (B), by striking “or”;
11 (2) in subparagraph (C), by inserting “; or”
12 after “Prohibition’); and
13 (3) by inserting after subparagraph (C) the fol-
14 lowing:

15 “(D) the secondary containment requirements
16 established in section 9003(i);”.

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