

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.

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## 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

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## A BILL

To amend the Solid Waste Disposal Act to provide for secondary 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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