

103^D CONGRESS
1ST SESSION

H. R. 3043

To provide for the voluntary environmental cleanup of existing industrial sites; to further define the cleanup liability of new industries, financial institutions and tenants; to provide for the voluntary cleanup of industrial sites by responsible owners; to define cleanup liabilities on abandoned industrial sites; to establish the Cleanup Loan Fund and the Industrial Land Recycling Fund to aid industrial site cleanups; and to provide for the registration of environmental consulting professionals.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 1993

Mr. RIDGE introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Public Works and Transportation

A BILL

To provide for the voluntary environmental cleanup of existing industrial sites; to further define the cleanup liability of new industries, financial institutions and tenants; to provide for the voluntary cleanup of industrial sites by responsible owners; to define cleanup liabilities on abandoned industrial sites; to establish the Cleanup Loan Fund and the Industrial Land Recycling Fund to aid industrial site cleanups; and to provide for the registration of environmental consulting professionals.

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 “Industrial and Com-
3 mercial Land Recycling Act”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

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- Sec. 101. Findings.
- Sec. 102. Definitions.
- Sec. 103. Implementation and regulations.
- Sec. 104. Liability of persons conducting environmental assessments.
- Sec. 105. Applicability.

TITLE II—INNOCENT LANDOWNER AND RESPONSIBLE OWNER
CLEANUPS

- Sec. 201. Applicability.
- Sec. 202. Cleanup plans.
- Sec. 203. Protection from liability.
- Sec. 204. Cleanup guarantee.
- Sec. 205. Voluntary Cleanup Loan Program.
- Sec. 206. Penalty.

TITLE III—ABANDONED INDUSTRIAL LAND REDEVELOPMENT

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TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Industrial Land Recycling Fund.
- Sec. 602. Enforcement.
- Sec. 603. Delegation to States.
- Sec. 604. Authority reserved.
- Sec. 605. Construction.
- Sec. 606. Effective date.

1 TITLE I—GENERAL PROVISIONS**2 SEC. 101. FINDINGS.**

3 The Congress finds the following:

4 (1) The reuse and redevelopment of existing in-
5 dustrial and commercial land should be encouraged
6 as a sound land use management policy to prevent
7 the needless development of prime farmland, open
8 space, and natural and recreation areas, and to pre-
9 vent the expansion of urban sprawl.

10 (2) Hundreds of unused industrial sites should
11 be returned to being useful, tax producing properties
12 to protect existing employment opportunities and to
13 provide new opportunities.

14 (3) Persons interested in redeveloping existing
15 industrial sites must have a method of determining
16 with certainty what their legal liabilities and cleanup
17 responsibilities will be when they plan the reuse of
18 existing sites. Financial institutions which invest in
19 the reuse of existing sites and the subsequent owners
20 or lease holders must also be given this same degree
21 of certainty.

1 (4) Incentives should be put in place to encour-
2 age companies to voluntarily develop and implement
3 cleanup plans without the need for adversarial en-
4 forcement actions by the Environmental Protection
5 Agency, which frequently only serve to delay clean-
6 ups and increase their cost.

7 (5) Cleanup responsibilities should be based on
8 the actual risk that contamination on the site may
9 pose to public health and the environment taking
10 into account its future use, and on the degree to
11 which contamination can spread off-site and expose
12 the public or the environment to risk, not on cleanup
13 policies based solely on the need to return every site
14 in the Nation to a pristine condition.

15 **SEC. 102. DEFINITIONS.**

16 For purposes of this Act, the following definitions
17 apply:

18 (1) The term “Administrator” means the Ad-
19 ministrator of the Environmental Protection Agency.

20 (2) The term “CERCLA” means the Com-
21 prehensive Environmental Response, Compensation,
22 and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

23 (3) The term “EPA” means the Environmental
24 Protection Agency.

1 (4) The term “Hazardous Substance
2 Superfund” means the fund established by section
3 9507 of the Internal Revenue Code of 1986.

4 (5) The term “hazardous substance” has the
5 meaning provided that term by section 101(14) of
6 CERCLA.

7 (6) The term “industrial activity” means com-
8 mercial, manufacturing, or any other activity done to
9 further either the development, manufacturing, or
10 distribution of goods and services, including adminis-
11 tration, research and development, warehousing,
12 shipping, transport, remanufacturing, and repair
13 and maintenance of commercial machinery and
14 equipment.

15 (7) The term “person” means an individual,
16 firm, corporation, association, partnership, consor-
17 tium, joint venture, commercial entity, authority,
18 nonprofit corporation, interstate body or other legal
19 entity which is recognized by law as the subject of
20 rights and duties. The term includes the United
21 States Government, a State, and a political subdivi-
22 sion of a State.

23 (8) The term “remediate” means cleanup, miti-
24 gate, correct, abate, minimize, eliminate, prevent,
25 study, or assess a release of a regulated substance

1 into the environment in order to protect the present
2 or future public health, safety, welfare, or the envi-
3 ronment.

4 **SEC. 103. IMPLEMENTATION AND REGULATIONS.**

5 The Environmental Protection Agency shall imple-
6 ment this Act and may promulgate any regulations needed
7 to do so. Any regulations needed to implement this Act
8 shall be proposed by the Environmental Protection Agency
9 no later than 6 months after the date of the enactment
10 of this Act and shall be promulgated no later than 18
11 months after such date.

12 **SEC. 104. LIABILITY OF PERSONS CONDUCTING ENVIRON-**
13 **MENTAL ASSESSMENTS.**

14 A person shall not be considered a person responsible
15 for a release or a threatened release of a hazardous sub-
16 stance simply by virtue of conducting an environmental
17 assessment on a property. Nothing in this section relieves
18 a person of any liability for failure to exercise due dili-
19 gence in performing an environmental assessment.

20 **SEC. 105. APPLICABILITY.**

21 This Act does not apply to properties listed or pro-
22 posed on the National Priorities List established under
23 CERCLA.

1 **TITLE II—INNOCENT LAND-**
2 **OWNER AND RESPONSIBLE**
3 **OWNER CLEANUPS**

4 **SEC. 201. APPLICABILITY.**

5 (a) IN GENERAL.—This title applies to a person who
6 is an innocent landowner or a responsible owner.

7 (b) INNOCENT LANDOWNER.—For purposes of this
8 title, an innocent landowner is a person—

9 (1) who either intends to own, as expressed as
10 an option to buy or other formal agreement, or who
11 owns, a parcel of real property on which industrial
12 activities take place;

13 (2) who did not, by act or omission, cause or
14 contribute to any contamination or to the release or
15 threatened release of a hazardous substance on the
16 real property; and

17 (3) who intends to reuse or redevelop the prop-
18 erty to retain or expand employment or who is using
19 the property to retain or expand employment.

20 (c) RESPONSIBLE OWNER.—For purposes of this
21 title, a responsible owner is a person—

22 (1) who owns a parcel of real property on which
23 industrial activities take place; and

1 (2) who intends to reuse or redevelop the prop-
2 erty to retain or expand employment or who is using
3 the property to retain or expand employment.

4 **SEC. 202. CLEANUP PLANS.**

5 (a) IN GENERAL.—A person to which this title ap-
6 plies may submit a cleanup plan with respect to a parcel
7 of real property to the Environmental Protection Agency
8 for review and approval. The Administrator shall review
9 the plan and make a decision on whether the plan meets
10 the requirements of this section within no more than 90
11 days after receipt of the plan.

12 (b) CONTENTS OF PLAN.—A cleanup plan shall in-
13 clude the following with respect to the real property con-
14 cerned:

15 (1) An environmental assessment of the prop-
16 erty which describes the contamination, if any, on
17 the property and the significant actual risk it poses
18 to public health and the environment.

19 (2) Proposals to remediate any contamination
20 or condition causing a release or threatened release
21 which poses an immediate, direct, or imminent ac-
22 tual risk to public health and the environment, con-
23 sidering the present or future use of the property.

24 (3) Descriptions of measures needed to remove
25 significant actual risks to public health and the envi-

1 ronment considering the future use of the property,
2 and a timetable for implementing the measures and
3 for monitoring the measures after they have been
4 completed. The plan is not required to provide for
5 the removal or remediation of the conditions or con-
6 taminants causing a release or threatened release on
7 the identified property if the Environmental Protec-
8 tion Agency determines that—

9 (i) activities required to undertake the pro-
10 posed reuse or redevelopment of the property
11 are proposed to be conducted in a manner
12 which will protect public health and the envi-
13 ronment;

14 (ii) any reuse or redevelopment of the
15 property will not aggravate or contribute to
16 contamination of the air, land, or water or to
17 a release or threatened release; and

18 (iii) the owner of the property agrees to co-
19 operate with the Environmental Protection
20 Agency or other persons acting at the direction
21 of the Environmental Protection Agency in tak-
22 ing response actions which may be necessary to
23 address any contamination, condition, or re-
24 leases or threatened releases not identified in

1 the Voluntary Cleanup Plan or required to be
2 removed or remediated at a later date.

3 (4) Descriptions of any proposed deed restric-
4 tions on the present or future use of the property
5 designed to prevent contamination or protect the in-
6 tegrity of cleanup measures installed on the site.

7 (c) RISK ASSESSMENT.—Remediation proposals in-
8 cluded in a cleanup plan pursuant to subsection (b)(2) for
9 a property shall be based on the actual risk to human
10 health and the environment posed by contaminants on the
11 property, considering the following factors:

12 (1) The intended and allowable use or subse-
13 quent uses of the property.

14 (2) The ability of the contaminants to move in
15 a form and manner which would result in exposure
16 to humans and the surrounding environment at lev-
17 els considered to be a significant health risk.

18 (3) The potential risk to human health and the
19 environment of containing and isolating contami-
20 nants in a manner which prevents harmful exposure
21 to employees on the property, to the public, and to
22 the environment.

23 (4) The potential environmental risks of pro-
24 posed cleanup alternatives and their economic and
25 technical feasibility and reliability.

1 (d) PUBLIC REVIEW.—A proposed cleanup plan shall
2 be subject to a 30-day public review and comment period.
3 Notice of the proposed plan shall be published in the Fed-
4 eral Register and a newspaper of general circulation serv-
5 ing the area in which the identified property is located.
6 The Environmental Protection Agency may hold a public
7 hearing on the plan if one is requested.

8 (e) CERTIFICATION OF EMPLOYMENT RETENTION OR
9 EXPANSION.—The person submitting a cleanup plan
10 under this section shall also submit to the Environmental
11 Protection Agency a certification regarding employment
12 retention or expansion. The certification shall be a state-
13 ment signed by the person that the person intends to re-
14 tain the same level of employment at the property, or ex-
15 pand employment opportunities by a specific number, for
16 at least 5 years after approval of the cleanup plan by
17 EPA.

18 (f) CERTIFICATION OF COMPLETION.—A person who
19 submits a cleanup plan under this section may request the
20 Environmental Protection Agency to provide a written cer-
21 tification that the plan has been completed. The Environ-
22 mental Protection Agency shall provide such a certifi-
23 cation not later than 30 days after such a request is made.

24 (g) DEED RESTRICTION.—A cleanup plan may in-
25 clude a proposal for placing a restriction on the deed for

1 the property covered by a cleanup plan which restricts the
2 uses of the property to industrial activities as specified in
3 the cleanup plan or to protect the integrity of cleanup
4 measures.

5 **SEC. 203. PROTECTION FROM LIABILITY.**

6 (a) PROTECTION.—Any person to which this section
7 applies shall not be liable under the Comprehensive Envi-
8 ronmental Response, Compensation, and Liability Act of
9 1980 or the Solid Waste Disposal Act (42 U.S.C. 6901
10 et seq.) (including claims for contribution or citizen suits)
11 for any contamination included in or not included in the
12 plan for the identified property, if the person undertakes
13 and the Environmental Protection Agency certifies as
14 complete (under section 202(f)) the actions to remove or
15 remediate contamination or releases or threatened releases
16 of hazardous substances on the identified property as re-
17 quired by the cleanup plan.

18 (b) APPLICABILITY.—The liability protection pro-
19 vided by this section applies to the following persons:

20 (1) Except as provided in subsection (c), a
21 landowner of the identified property.

22 (2) A person providing financing to the person
23 who undertakes and completes the activities required
24 under the cleanup plan, or who acquires the identi-
25 fied property.

1 (3) A person who develops or occupies the iden-
2 tified property as a result of a lease or rent agree-
3 ment.

4 (4) A successor or assign of any person to
5 whom the liability protection applies, provided the
6 successor or assign is not a person responsible for
7 contamination on the property.

8 (c) EXCLUSIONS.—The protection from liability pro-
9 vided by this section does not apply to a property owner—

10 (1) who aggravates or contributes to a release
11 or threatened release identified but not remediated
12 under an approved cleanup plan on the identified
13 property;

14 (2) who obtains approval of a cleanup plan on
15 the identified property by fraud or misrepresentation
16 or by knowingly failing to disclose material informa-
17 tion that would have made the person responsible for
18 a release or threatened release;

19 (3) who does not fulfill the certification require-
20 ment under section 202(e) to retain or expand em-
21 ployment, unless there is an explanation, determined
22 to be valid by the Administrator, for not fulfilling
23 such requirement, based on criteria such as natural
24 disaster, industry trends, labor force, or loss of a
25 major supplier or market; or

1 (4) who was partially responsible for contami-
2 nation on the site, other than contamination identi-
3 fied in a cleanup plan submitted by a responsible
4 owner.

5 (d) FINES AND PENALTIES.—Innocent property own-
6 ers who submit a cleanup plan shall not be responsible
7 for paying any fines or penalties levied against any person
8 responsible for contamination on the property.

9 **SEC. 204. CLEANUP GUARANTEE.**

10 (a) GUARANTEE.—Any person with an approved
11 cleanup plan shall submit to the Environmental Protection
12 Agency a cleanup guarantee fee upon certification by the
13 Environmental Protection Agency under section 202(f)
14 that the plan has been completed. The guarantee shall be
15 in an amount negotiated by the parties that is a certain
16 percentage of the cost of preparing and implementing the
17 cleanup plan. The guarantee is to be held in the Industrial
18 Land Recycling Fund established under section 601 for
19 a period of 2 years after certification of completion under
20 section 202(f).

21 (b) FORM.—The cleanup guarantee fee can be in a
22 form acceptable to the Environmental Protection Agency,
23 which shall include collateral bonds, cash or other market-
24 able securities, certificates of deposit, letters of credit, or
25 other acceptable financial guarantees. The Environmental

1 Protection Agency may also accept phased deposits of col-
2 lateral to meet this requirement.

3 (c) USE.—The cleanup guarantee fee is to be ear-
4 marked specifically for the Environmental Protection
5 Agency's use in the event the cleanup measures approved
6 by the Environmental Protection Agency in a cleanup plan
7 fail to contain or prevent a release or do not result in re-
8 ducing the risk presented by the site.

9 (d) DISPOSITION.—The cleanup guarantee fee will be
10 returned to the person implementing the cleanup plan at
11 the end of 2 years after certification of completion under
12 section 202(f) if the property owner satisfies any monitor-
13 ing or other post-certification requirements described in
14 the cleanup plan and if the measures taken to deal with
15 contamination required by the plan performed as expected.
16 Any successor to the property owner shall maintain the
17 guarantee for the remainder of the 2-year period. The
18 cleanup guarantee fee shall be forfeited if the property
19 owner is excluded from liability protection under section
20 203(b).

21 **SEC. 205. CLEANUP LOAN PROGRAM.**

22 (a) ESTABLISHMENT.—There is hereby established a
23 separate account in the United States Treasury to be
24 known as the Cleanup Loan Fund, which shall be a special
25 fund administered by the Administrator. Within 60 days

1 of the effective date of this Act the Administrator shall
2 finalize guidelines and issue application forms to admin-
3 ister this Fund.

4 (b) PURPOSE.—The purpose of the Cleanup Loan
5 Fund is to help provide funding to persons undertaking
6 an environmental assessment of a site as part of a cleanup
7 plan and for implementing an approved cleanup plan. The
8 funding shall be in the form of low-interest loans at an
9 interest rate not to exceed 2 percent and grants for up
10 to one-half of the costs incurred for completing an environ-
11 mental assessment and implementing a cleanup plan for
12 local economic development agencies and other applicants.

13 (c) FUNDS.—In addition to any funds appropriated
14 by Congress, at least \$5,000,000 shall be transferred on
15 July 1 of each year from the Hazardous Substances
16 Superfund to the Cleanup Loan Fund for the purpose of
17 implementing the program established in this section.
18 Monies received by the Administrator as repayment of out-
19 standing loans shall be deposited in the Cleanup Loan
20 Fund. Any interest earned by monies in the Cleanup Loan
21 Fund shall remain in the Fund. The first transfer of funds
22 from the Hazardous Substances Superfund required by
23 this paragraph shall occur within 60 days of the effective
24 date of this Act.

1 (d) ANNUAL REPORT.—The Administrator shall on
2 October 1 of each year report to Congress on the grants,
3 loans, expenditures, and commitments made from the
4 Cleanup Loan Fund.

5 **SEC. 206. PENALTY.**

6 Where a property owner fails to retain or expand em-
7 ployment as certified under section 202(e), the property
8 owner shall pay a penalty to the Industrial Land Recycling
9 Fund equal to the cost of preparing and implementing the
10 cleanup plan in any year the owner fails to meet employ-
11 ment commitments. This penalty is in addition to any
12 other authority provided to the Environmental Protection
13 Agency by this Act.

14 **TITLE III—ABANDONED INDUS-**
15 **TRIAL LAND REDEVELOP-**
16 **MENT**

17 **SEC. 301. APPLICABILITY.**

18 (a) IN GENERAL.—This title applies to a person
19 who—

20 (1) either intends to own, as expressed as an
21 option to buy or other formal agreement, or who
22 owns, a parcel of real property used for industrial
23 activities where there is no financially viable respon-
24 sible person to cleanup contamination on the prop-

1 erty causing a significant threat to public health or
2 the environment;

3 (2) did not, by act or omission, cause or con-
4 tribute to any contamination or to the release or
5 threatened release of a hazardous substance on the
6 identified real property; and

7 (3) intends to reuse or redevelop the property
8 to expand employment opportunities.

9 (b) EMPLOYMENT EXPANSION.—For purposes of this
10 title, employment expansion shall mean providing employ-
11 ment opportunities for a period of 5 years after an agree-
12 ment is signed under section 302(d).

13 **SEC. 302. ENVIRONMENTAL ASSESSMENT.**

14 (a) ASSESSMENT.—A prospective purchaser or prop-
15 erty owner shall conduct an environmental assessment on
16 the identified property to establish a baseline of any exist-
17 ing contamination on the site.

18 (b) PUBLIC REVIEW.—The proposed environmental
19 assessment shall be subject to a 30-day public review and
20 comment period. Notice of the availability of the completed
21 assessment shall be published in the Federal Register and
22 a newspaper of general circulation serving the area in
23 which the identified property is located. The Environ-
24 mental Protection Agency may hold a public hearing on
25 the assessment if one is requested.

1 (c) EPA REVIEW.—Within 90 days after a completed
2 environmental assessment is received, the Environmental
3 Protection Agency shall determine whether the assessment
4 adequately identified the environmental hazards and risks
5 posed by the site.

6 (d) AGREEMENT.—The Environmental Protection
7 Agency and the prospective purchaser or property owner
8 shall enter into an agreement based on the environmental
9 assessment which outlines cleanup liabilities for the identi-
10 fied property.

11 **SEC. 303. CLEANUP LIABILITY.**

12 (a) IMMEDIATE THREATS.—The prospective pur-
13 chaser or property owner shall be responsible for remedi-
14 ation of any immediate, direct, or imminent threats to
15 public health or the environment which would prevent the
16 property from being occupied for its intended purpose,
17 such as drummed waste.

18 (b) IDENTIFIED CONTAMINATION.—The prospective
19 purchaser or property owner shall not be held responsible
20 for the remediation of any contamination identified in the
21 completed environmental assessment accepted by the En-
22 vironmental Protection Agency.

23 (c) NEW LIABILITY.—Nothing in this Act shall re-
24 lieve the prospective purchaser or property owner of any
25 cleanup liability for contamination later caused by the pro-

1 prospective purchaser or property owner. The prospective
2 purchaser or property owner shall also remain responsible
3 for any contamination which was not identified and which
4 was known to be a significant risk to public health or the
5 environment at the time the assessment was completed.

6 (d) RISK ASSESSMENT.—Remediation alternatives
7 for a property covered by an environmental assessment
8 shall be based on the actual risk to human health and
9 the environment posed by contaminants on the property,
10 considering the following factors:

11 (1) The intended and allowable use or subse-
12 quent uses of the property.

13 (2) The ability of the contaminants to move in
14 a form and manner which would result in exposure
15 to humans and the surrounding environment at lev-
16 els considered to be a significant health risk.

17 (3) The potential risk to human health and the
18 environment of containing and isolating contami-
19 nants in a manner which prevents harmful exposure
20 to employees on the property, to the public, and to
21 the environment.

22 (4) The potential environmental risks of pro-
23 posed cleanup alternatives and their economic and
24 technical feasibility and reliability.

1 (e) LIABILITY OF OTHER PARTIES.—A person pro-
2 viding financing to the prospective purchaser or property
3 owner or a person who develops or occupies the identified
4 property as a result of a lease or rent agreement shall
5 not be considered a responsible person for cleaning up con-
6 tamination on property covered by an agreement developed
7 pursuant to this title.

8 (f) PAST PENALTIES.—A prospective purchaser or
9 property owner submitting an environmental assessment
10 under this title shall not be responsible for paying any
11 fines or penalties levied against any person responsible for
12 contamination on the property.

13 **SEC. 304. OWNER RESPONSIBILITIES.**

14 (a) PREVENTION.—The prospective purchaser or
15 property owner shall take the steps necessary to prevent
16 any existing contamination on the site from becoming
17 worse as the result of its activities.

18 (b) NONINTERFERENCE.—The prospective purchaser
19 or property owner shall not interfere with any subsequent
20 remediation efforts by the Environmental Protection
21 Agency or others to deal with contamination identified in
22 the environmental assessment.

23 (c) DEED RESTRICTION.—The prospective purchaser
24 or property owner and the Environmental Protection
25 Agency may agree to having a restriction placed on the

1 deed for the property covered by this title which restricts
2 the use of the property to industrial activities which will
3 protect the integrity of any cleanup measures implemented
4 on the property or prevent contaminated portions of the
5 property from being disturbed.

6 **SEC. 305. TRANSFERABILITY.**

7 The agreement on cleanup liabilities entered into by
8 the Environmental Protection Agency and the prospective
9 purchaser or property owner pursuant to this title is trans-
10 ferable without review by the Environmental Protection
11 Agency in its entirety to any and all subsequent owners
12 of the property who did not, by act or omission, cause or
13 contribute to any contamination or to the release or
14 threatened release of a hazardous substance on the identi-
15 fied property.

16 **SEC. 306. THIRD PARTIES.**

17 No person who submits an environmental assessment
18 accepted under this title by the Environmental Protection
19 Agency or who is granted liability protection under section
20 303(e) shall be subject to citizen suits or other contribu-
21 tion actions brought by responsible persons for a release
22 or potential release on the identified property.

23 **SEC. 307. FUNDING.**

24 Prospective purchasers and property owners redevel-
25 oping abandoned property under this title shall be eligible

1 for funding under the Cleanup Loan Program established
2 under section 205 to perform environmental assessments
3 or to implement any remediation actions required of the
4 prospective purchaser or property owner under this title.

5 **TITLE IV—NO ACTION**
6 **DETERMINATIONS**

7 **SEC. 401. NO ACTION DETERMINATIONS.**

8 Property owners may request and the Environmental
9 Protection Agency may issue written determinations that
10 it will take no enforcement or cleanup actions under
11 CERCLA or the Solid Waste Disposal Act (42 U.S.C.
12 6901 et seq.) against an innocent landowner who owns
13 real property and is otherwise not responsible for any
14 identified contamination or a release or threatened release
15 of a hazardous substance in any case in which—

16 (1) an environmental assessment or transaction
17 screen analysis performed by a registered environ-
18 mental professional indicates no significant contami-
19 nation or contamination which does not pose signifi-
20 cant actual risk to public health and the environ-
21 ment; or

22 (2) the Environmental Protection Agency finds
23 that contamination or a release or threatened release
24 of a hazardous substance originates from a source
25 on an adjacent or nearby real property.

1 **SEC. 402. REVIEW DEADLINE.**

2 The Environmental Protection Agency shall make a
3 decision on whether or not to issue a no action determina-
4 tion no later than 90 days after a request is made.

5 **SEC. 403. APPLICABILITY.**

6 A no action determination shall also apply to any per-
7 son providing financing to the person named in the deter-
8 mination and to any person developing or occupying the
9 identified property as the result of a lease or rent agree-
10 ment.

11 **SEC. 404. EXCLUSIONS AND CONDITIONS.**

12 The Environmental Protection Agency may invalidate
13 a no action determination if new information indicates the
14 property owned by the person is the source of the contami-
15 nation or release or if the person is later determined to
16 be responsible for the release. The property owner must
17 allow entry to the property for the purpose of taking any
18 remediation and response actions needed to address con-
19 tamination on the adjacent site and not interfere with any
20 response action. The Environmental Protection Agency
21 may attach other conditions it feels are necessary to allow
22 the Environmental Protection Agency to adequately re-
23 spond to a release.

24 **SEC. 405. TRANSFERABILITY.**

25 A no action determination may be transferred by the
26 property owner to successors and assigns, if the successors

1 and assigns are not otherwise responsible for any contami-
2 nation on the adjacent property. The successors and as-
3 signs shall be bound by the conditions placed on the deter-
4 mination by the Environmental Protection Agency. A no
5 action determination shall also be extended to the succes-
6 sors and assigns of parties identified in section 403.

7 **SEC. 406. THIRD PARTIES.**

8 No person who is the subject of a no action deter-
9 mination issued by the Environmental Protection Agency
10 or who is granted liability protection under section 403
11 shall be subject to either citizen suits or other contribution
12 actions brought by responsible persons for a release or po-
13 tential release identified in the no action determination.

14 **TITLE V—REGISTRATION OF EN-**
15 **VIRONMENTAL PROFESSIONALS**

17 **SEC. 501. REGISTRATION.**

18 (a) GENERAL.—The Environmental Protection Agen-
19 cy may only accept environmental assessments or trans-
20 action screen reviews as required under this Act that are
21 prepared by Environmental Professionals registered with
22 the Environmental Protection Agency starting one year
23 after the Environmental Protection Agency qualifications
24 for registration are established under section 502. Both

1 individual Environmental Professionals and corporations
2 can be registered under this title.

3 (b) REGISTRATION PERIOD.—Registration for an En-
4 vironmental Professional shall be valid for a period of one
5 year and shall be renewed annually.

6 (c) INTERIM REVIEWS.—Nothing in this section shall
7 prevent the Environmental Protection Agency from ac-
8 cepting environmental assessments or transaction screen
9 before the registration requirements under this title be-
10 come effective.

11 **SEC. 502. QUALIFICATIONS.**

12 The Environmental Protection Agency shall establish
13 qualifications for Environmental Professionals requesting
14 certification including—

15 (1) education, training, and experience in pre-
16 paring environmental assessments;

17 (2) certification or accreditation by professional
18 groups such as the Institute of Professional Envi-
19 ronmental Practice; and

20 (3) an evaluation of ability to meet best profes-
21 sional and technical standards for preparing environ-
22 mental assessments.

23 **SEC. 503. WITHHOLDING REGISTRATION.**

24 The Environmental Protection Agency may withhold,
25 withdraw, or not renew registration of an Environmental

1 Professional if the applicant does not meet the qualifica-
2 tions to be registered or if the Environmental Protection
3 Agency determines the environmental assessment submit-
4 ted by the Environmental Professional do not meet best
5 professional and technical standards.

6 **SEC. 504. REGISTRATION FEE.**

7 The initial fee for registering Environmental Profes-
8 sionals for the first time shall be \$150. The registration
9 renewal fee shall be \$100. The Environmental Protection
10 Agency may by regulation change the initial registration
11 and registration renewal fees.

12 **TITLE VI—MISCELLANEOUS**
13 **PROVISIONS**

14 **SEC. 601. INDUSTRIAL LAND RECYCLING FUND.**

15 (a) FUND.—There is hereby established a separate
16 account in the United States Treasury to be known as the
17 Industrial Land Recycling Fund, which shall be a special
18 fund administered by the Environmental Protection
19 Agency.

20 (b) PURPOSE.—The monies deposited in this Fund
21 shall be used by the Environmental Protection Agency to
22 remediate a release or threatened release that poses a sig-
23 nificant risk to public health or the environment where
24 the Environmental Protection Agency has certified that a
25 cleanup plan has been completed. Monies from the Haz-

1 arduous Substance Superfund shall also be available to the
2 Environmental Protection Agency to remediate a release
3 or threatened release on a property covered by a cleanup
4 plan.

5 (c) FUNDS.—In addition to any funds appropriated
6 by the Congress, private contributions and any fines and
7 penalties assessed under this Act and the cleanup guaran-
8 tees assessed or forfeited under sections 204 and 304 shall
9 be deposited into the Fund.

10 (d) ANNUAL REPORT.—The Environmental Protec-
11 tion Agency shall on October 1 of each year report to Con-
12 gress on the expenditures and commitments made from
13 the Industrial Land Recycling Fund.

14 **SEC. 602. ENFORCEMENT.**

15 (a) ORDERS.—The Environmental Protection Agency
16 may issue orders to such persons and municipalities as
17 it deems necessary to aid in the enforcement of the provi-
18 sions of this Act. An order issued under this Act shall take
19 effect upon service, unless the order specifies otherwise.
20 The power of the Environmental Protection Agency to
21 issue an order under this Act is in addition to any other
22 remedy which may be afforded to the Environmental Pro-
23 tection Agency pursuant to this Act or any other Act.

24 (b) ADDITIONAL AUTHORITY.—The Environmental
25 Protection Agency may use the enforcement authorities

1 (including penalty provisions) contained in CERCLA and
2 the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)
3 to enforce the provisions of this Act.

4 **SEC. 603. DELEGATION TO STATES.**

5 (a) COMPATIBLE PROGRAM.—If a State has adopted
6 an industrial and commercial land recycling program com-
7 patible with the provisions of this Act, the Administrator
8 may delegate primary authority for the administration and
9 implementation of the programs outlined in titles II and
10 III to that State.

11 (b) LIABILITY PROTECTION.—If a State is delegated
12 primary authority under subsection (a) for administration
13 and implementation, the liability protection provided
14 under sections 203, 303(e), and 306 of this Act concern-
15 ing direct and third party contribution actions and citizen
16 suits under CERCLA and the Solid Waste Disposal Act
17 (42 U.S.C. 6901 et seq.) shall be extended to the partici-
18 pating parties as if such protection were provided by the
19 Administrator.

20 (c) STATE FUNDING.—States delegated primary au-
21 thority to administer and implement titles II and III of
22 this Act shall be eligible to apply for funds from the Indus-
23 trial Land Recycling Fund to help offset the cost of ad-
24 ministering the program.

1 **SEC. 604. AUTHORITY RESERVED.**

2 Nothing in this Act shall affect the ability or author-
3 ity of the Environmental Protection Agency or any person
4 to seek any relief available under this Act or any other
5 Act against any party who is not subject to the liability
6 protection provided under this Act.

7 **SEC. 605. CONSTRUCTION.**

8 The protection from cleanup liability afforded under
9 this Act shall be in addition to the exclusions from being
10 a potentially responsible party existing under Federal en-
11 vironmental statutes.

12 **SEC. 606. EFFECTIVE DATE.**

13 This Act shall take effect 60 days after the date of
14 the enactment of this Act.

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