

105TH CONGRESS
1ST SESSION

H. R. 1120

To assist local governments in assessing and remediating brownfield sites, to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to encourage State voluntary response programs for remediating such sites, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1997

Mr. DINGELL (for himself, Mr. GEPHARDT, Mr. OBERSTAR, Mr. BORSKI, Ms. DEGETTE, Mr. MANTON, Mr. BROWN of Ohio, Mr. TOWNS, Mr. RUSH, Mr. CLEMENT, Mr. CLYBURN, Mr. WAXMAN, Mr. MARKEY, Mr. MASCARA, Mr. BOUCHER, Mrs. TAUSCHER, Mr. PASCRELL, Ms. FURSE, Mr. DEUTSCH, Mr. BLUMENAUER, Ms. ESHOO, Mr. KLINK, Mr. STUPAK, Mr. ENGEL, Mr. SAWYER, Mr. WYNN, Mr. GREEN, Ms. MCCARTHY of Missouri, Mr. CONYERS, Ms. RIVERS, Ms. KILPATRICK, Mr. BARRETT of Wisconsin, Ms. KAPTUR, Ms. DELAURO, Mr. OLVER, Mr. LIPINSKI, Mr. DOYLE, Mr. DEFazio, Mr. JOHNSON of Wisconsin, Mr. MENENDEZ, Mr. GORDON, Ms. BROWN of Florida, Ms. NORTON, Mr. WISE, Ms. MILLENDER-MCDONALD, Mrs. LOWEY, Mr. CUMMINGS, and Mr. RANGEL) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To assist local governments in assessing and remediating brownfield sites, to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to encourage State voluntary response programs for remediating such sites, 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,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Community Revitalization and Brownfield Cleanup Act
 6 of 1997”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
 8 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL
 CLEANUP

Sec. 101. Definitions.
 Sec. 102. Inventory and assessment grant program.
 Sec. 103. Grants for revolving loan programs.
 Sec. 104. Economic redevelopment grants.
 Sec. 105. Reports.
 Sec. 106. Limitations on use of funds.
 Sec. 107. Effect on other laws.
 Sec. 108. Regulations.
 Sec. 109. Authorizations of appropriations.

TITLE II—STATE VOLUNTARY RESPONSE PROGRAMS

Sec. 201. State voluntary response programs.

TITLE III—INNOCENT LANDOWNERS AND PROSPECTIVE
 PURCHASER LIABILITY

Sec. 301. Innocent landowners.
 Sec. 302. Limitations on liability for response costs for prospective purchasers.
 Sec. 303. Contiguous or nearby properties.

9 **SEC. 2. FINDINGS.**

10 Congress finds the following:

11 (1) Brownfields are parcels of land that contain
 12 or contained abandoned or under-used commercial or
 13 industrial facilities, the expansion or redevelopment
 14 of which is complicated by the presence or potential

1 presence of hazardous substances, pollutants, or con-
2 taminants.

3 (2) Brownfields, which may number in the hun-
4 dreds of thousands nationwide, threaten the environ-
5 ment, devalue surrounding property, erode local tax
6 bases, and prevent job growth.

7 (3) Despite potentially great productive value,
8 prospective developers may avoid brownfields be-
9 cause of the uncertainty of cleanup and development
10 costs, which leads to construction on undeveloped so-
11 called greenfield sites, contributing to urban sprawl,
12 creating infrastructure problems, and reducing the
13 amount of open spaces.

14 (4) Cleanup and redevelopment of brownfields
15 would reduce environmental contamination, encour-
16 age job growth, and curb the development of green-
17 fields.

18 (5) State voluntary programs to address envi-
19 ronmental contamination, and addressing liability
20 concerns to encourage developers and current owners
21 to invest in brownfield sites, can be very effective in
22 promoting the cleanup and redevelopment of
23 brownfields.

1 **TITLE I—BROWNFIELD REMEDI-**
2 **ATION AND ENVIRONMENTAL**
3 **CLEANUP**

4 **SEC. 101. DEFINITIONS.**

5 In this title:

6 (1) ADMINISTRATOR.—The term “Adminis-
7 trator” means the Administrator of the Environ-
8 mental Protection Agency.

9 (2) BROWNFIELD SITE.—The term “brownfield
10 site” means a parcel of land that contains or con-
11 tained abandoned or under-used commercial or in-
12 dustrial facilities, the expansion or redevelopment of
13 which may be complicated by the presence or poten-
14 tial presence of hazardous substances, pollutants, or
15 contaminants.

16 (3) DISPOSAL.—The term “disposal” has the
17 meaning given the term in section 1004 of the Solid
18 Waste Disposal Act (42 U.S.C. 6903).

19 (4) ENVIRONMENT.—The term “environment”
20 has the meaning given the term in section 101 of the
21 Comprehensive Environmental Response, Compensa-
22 tion, and Liability Act of 1980 (42 U.S.C. 9601).

23 (5) ENVIRONMENTAL CONTAMINATION.—The
24 term “environmental contamination” means the ex-
25 istence at a brownfield site of one or more hazardous

1 substances, pollutants, or contaminants that may
2 pose a threat to human health or the environment.

3 (6) FACILITY.—The term “facility” has the
4 meaning given the term in section 101 of the Com-
5 prehensive Environmental Response, Compensation,
6 and Liability Act of 1980 (42 U.S.C. 9601).

7 (7) GRANT.—The term “grant” includes a co-
8 operative agreement.

9 (8) GROUND WATER.—The term “ground
10 water” has the meaning given the term in section
11 101 of the Comprehensive Environmental Response,
12 Compensation, and Liability Act of 1980 (42 U.S.C.
13 9601).

14 (9) HAZARDOUS SUBSTANCE.—The term “haz-
15 arduous substance” has the meaning given the term
16 in section 101 of the Comprehensive Environmental
17 Response, Compensation, and Liability Act of 1980
18 (42 U.S.C. 9601).

19 (10) INDIAN TRIBE.—The term “Indian tribe”
20 has the meaning given the term in section 101 of the
21 Comprehensive Environmental Response, Compensa-
22 tion, and Liability Act of 1980 (42 U.S.C. 9601).

23 (11) LOCAL GOVERNMENT.—The term “local
24 government” has the meaning given the term “unit
25 of general local government” in the first sentence of

1 section 102(a)(1) of the Housing and Community
2 Development Act of 1974 (42 U.S.C. 5302(a)(1)),
3 except that the term includes an Indian tribe.

4 (12) NATURAL RESOURCES.—The term “natu-
5 ral resources” has the meaning given the term in
6 section 101 of the Comprehensive Environmental
7 Response, Compensation, and Liability Act of 1980
8 (42 U.S.C. 9601).

9 (13) OWNER OR OPERATOR.—The term “owner
10 or operator” has the meaning given the term in sec-
11 tion 101 of the Comprehensive Environmental Re-
12 sponse, Compensation, and Liability Act of 1980 (42
13 U.S.C. 9601).

14 (14) PERSON.—The term “person” has the
15 meaning given the term in section 101 of the Com-
16 prehensive Environmental Response, Compensation,
17 and Liability Act of 1980 (42 U.S.C. 9601).

18 (15) POLLUTANT OR CONTAMINANT.—The term
19 “pollutant or contaminant” has the meaning given
20 the term in section 101 of the Comprehensive Envi-
21 ronmental Response, Compensation, and Liability
22 Act of 1980 (42 U.S.C. 9601).

23 (16) PROSPECTIVE PURCHASER.—The term
24 “prospective purchaser” has the meaning given the
25 term in section 107(p).

1 (17) RELEASE.—The term “release” has the
2 meaning given the term in section 101 of the Com-
3 prehensive Environmental Response, Compensation,
4 and Liability Act of 1980 (42 U.S.C. 9601).

5 (18) RESPONSE ACTION.—The term “response
6 action” has the meaning given the term “response”
7 in section 101 of the Comprehensive Environmental
8 Response, Compensation, and Liability Act of 1980
9 (42 U.S.C. 9601).

10 (19) SITE ASSESSMENT.—

11 (A) IN GENERAL.—The term “site assess-
12 ment” means an investigation that determines
13 the nature and extent of a release or potential
14 release of a hazardous substance at a
15 brownfield site and meets the requirements of
16 subparagraph (B).

17 (B) INVESTIGATION.—For the purposes of
18 this paragraph, an investigation that meets the
19 requirements of this subparagraph—

20 (i) shall include—

21 (I) an onsite evaluation; and

22 (II) sufficient testing, sampling,
23 and other field-data-gathering activi-
24 ties to accurately determine whether
25 the brownfield site is contaminated

1 and the threats to human health and
2 the environment posed by the release
3 of hazardous substances, pollutants,
4 or contaminants at the brownfield
5 site; and

6 (ii) may include—

7 (I) review of such information re-
8 garding the brownfield site and pre-
9 vious uses as is available at the time
10 of the review; and

11 (II) an offsite evaluation, if ap-
12 propriate.

13 (20) STATE.—The term “State” has the mean-
14 ing given the term in section 101 of the Comprehen-
15 sive Environmental Response, Compensation, and
16 Liability Act of 1980 (42 U.S.C. 9601).

17 **SEC. 102. INVENTORY AND ASSESSMENT GRANT PROGRAM.**

18 (a) IN GENERAL.—The Administrator shall establish
19 a program to award grants to local governments to inven-
20 tory brownfield sites and to conduct site assessments of
21 brownfield sites.

22 (b) SCOPE OF PROGRAM.—

23 (1) GRANT AWARDS.—To carry out subsection

24 (a), the Administrator may, on approval of an appli-

1 cation, provide financial assistance to a local govern-
2 ment.

3 (2) GRANT APPLICATION.—An application for a
4 grant under this section shall include, to the extent
5 practicable, each of the following:

6 (A) An identification of the brownfield
7 sites for which assistance is sought and a de-
8 scription of the effect of the brownfield sites on
9 the community, including a description of the
10 nature and extent of any known or suspected
11 environmental contamination within the sites.

12 (B) A description of the need of the appli-
13 cant for financial assistance to inventory
14 brownfield sites and conduct site assessments.

15 (C) A demonstration of the potential of the
16 grant assistance to stimulate economic develop-
17 ment or creation of recreational areas, including
18 the extent to which the assistance will stimulate
19 the availability of other funds for site assess-
20 ment, site identification, or environmental re-
21 mediation and subsequent redevelopment of the
22 areas in which eligible brownfield sites are situ-
23 ated.

24 (D) A description of the local commitment
25 as of the date of the application, which shall in-

1 clude a community involvement plan that dem-
2 onstrates meaningful community involvement.

3 (E) A plan that shows how the site assess-
4 ment, site identification, or environmental re-
5 mediation and subsequent development will be
6 implemented, including—

7 (i) an environmental plan that ensures
8 the use of sound environmental procedures;

9 (ii) an explanation of the appropriate
10 government authority and support for the
11 project as in existence on the date of the
12 application;

13 (iii) proposed funding mechanisms for
14 any additional work; and

15 (iv) a proposed land ownership plan.

16 (F) A statement on the long-term benefits
17 and the sustainability of the proposed project
18 that includes—

19 (i) the ability of the project to be rep-
20 licated nationally and measures of success
21 of the project; and

22 (ii) to the extent known, the potential
23 of the plan for each area in which an eligi-
24 ble brownfield site is situated to stimulate
25 economic development of the area or cre-

1 ation of recreational areas on completion of
2 the environmental remediation.

3 (G) Such other factors as the Adminis-
4 trator considers relevant to carry out this title.

5 (3) APPROVAL OF APPLICATION.—

6 (A) IN GENERAL.—In making a decision
7 whether to approve an application under this
8 subsection, the Administrator shall—

9 (i) consider the need of the local gov-
10 ernment for financial assistance to carry
11 out this section;

12 (ii) consider the ability of the appli-
13 cant to carry out an inventory and site as-
14 sessment under this section; and

15 (iii) consider such other factors as the
16 Administrator considers relevant to carry
17 out this section.

18 (B) GRANT CONDITIONS.—As a condition
19 of awarding a grant under this section, the Ad-
20 ministrator—

21 (i) shall require the recipient of the
22 grant to notify the State in which the re-
23 cipient is located of the receipt of the
24 grant; and

1 (ii) may, on the basis of the criteria
2 considered under subparagraph (A), attach
3 such other conditions to the grant as the
4 Administrator determines appropriate.

5 (4) GRANT AMOUNT.—The amount of a grant
6 awarded to any local government under subsection
7 (a) for inventory and site assessment of one or more
8 brownfield sites shall not exceed \$200,000.

9 (5) TERMINATION OF GRANTS.—If the Admin-
10 istrator determines that a local government that re-
11 ceives a grant under this subsection is in violation
12 of a condition of a grant referred to in paragraph
13 (3)(B), the Administrator may terminate the grant
14 made to the local government and require full or
15 partial repayment of the grant.

16 (6) AUTHORITY TO AWARD GRANTS TO
17 STATES.—The Administrator may award a grant to
18 a State under the program established under this
19 section if the Administrator determines that a grant
20 to the State is necessary in order to facilitate the re-
21 ceipt of funds by one or more local governments that
22 otherwise do not have the capabilities, such as per-
23 sonnel and other resources, to manage grants under
24 the program.

1 **SEC. 103. GRANTS FOR REVOLVING LOAN PROGRAMS.**

2 (a) IN GENERAL.—

3 (1) ESTABLISHMENT.—The Administrator shall
4 establish a program to award grants to be used by
5 local governments to capitalize revolving loan funds
6 for the cleanup of brownfield sites.

7 (2) LOANS.—The loans may be provided by the
8 local government to finance cleanups of brownfield
9 sites by the local government, or by an owner or a
10 prospective purchaser of a brownfield site (including
11 a local government) at which a cleanup is being con-
12 ducted or is proposed to be conducted.

13 (b) SCOPE OF PROGRAM.—

14 (1) IN GENERAL.—

15 (A) GRANTS.—In carrying out subsection
16 (a), the Administrator may award a grant to a
17 local government that submits an application to
18 the Administrator that is approved by the Ad-
19 ministrator.

20 (B) USE OF GRANT.—The grant shall be
21 used by the local government to capitalize a re-
22 volving loan fund to be used for cleanup of one
23 or more brownfield sites.

24 (C) GRANT APPLICATION.—An application
25 for a grant under this section shall be in such
26 form as the Administrator determines appro-

1 appropriate. At a minimum, the application shall in-
2 clude the following:

3 (i) Evidence that the grant applicant
4 has the financial controls and resources to
5 administer a revolving loan fund in accord-
6 ance with this title.

7 (ii) Provisions that—

8 (I) ensure that the grant appli-
9 cant has the ability to monitor the use
10 of funds provided to loan recipients
11 under this title;

12 (II) ensure that any cleanup con-
13 ducted by the applicant is protective
14 of human health and the environment;
15 and

16 (III) ensure that any cleanup
17 funded under this Act will comply
18 with all laws that apply to the clean-
19 up.

20 (iii) Identification of the criteria to be
21 used by the local government in providing
22 for loans under the program. The criteria
23 shall include the financial standing of the
24 applicants for the loans, the use to which
25 the loans will be put, the provisions to be

1 used to ensure repayment of the loan
2 funds, and the following:

3 (I) A complete description of the
4 financial standing of the applicant
5 that includes a description of the as-
6 sets, cash flow, and liabilities of the
7 applicant.

8 (II) A written statement that at-
9 tests that the cleanup of the site
10 would not occur without access to the
11 revolving loan fund.

12 (III) The proposed method, and
13 anticipated period of time required, to
14 clean up the environmental contami-
15 nation at the brownfield site.

16 (IV) An estimate of the proposed
17 total cost of the cleanup to be con-
18 ducted at the brownfield site.

19 (V) An analysis that dem-
20 onstrates the potential of the
21 brownfield site for stimulating eco-
22 nomic development or creation of rec-
23 reational areas on completion of the
24 cleanup of the brownfield site.

1 (2) GRANT APPROVAL.—In determining wheth-
2 er to award a grant under this section, the Adminis-
3 trator shall consider—

4 (A) the need of the local government for fi-
5 nancial assistance to clean up brownfield sites
6 that are the subject of the application, taking
7 into consideration the financial resources avail-
8 able to the local government;

9 (B) the ability of the local government to
10 ensure that the applicants repay the loans in a
11 timely manner;

12 (C) the extent to which the cleanup of the
13 brownfield site or sites would reduce health and
14 environmental risks caused by the release of
15 hazardous substances, pollutants, or contami-
16 nants at, or from, the brownfield site or sites;

17 (D) the demonstrable potential of the
18 brownfield site or sites for stimulating economic
19 development or creation of recreational areas on
20 completion of the cleanup;

21 (E) the demonstrated ability of the local
22 government to administer such a loan program;

23 (F) the demonstrated experience of the
24 local government regarding brownfield sites and
25 the reuse of contaminated land, including

1 whether the government has received any grant
2 under the Comprehensive Environmental Re-
3 sponse, Compensation, and Liability Act of
4 1980 (42 U.S.C. 9601 et seq.) to assess
5 brownfield sites, except that applicants who
6 have not previously received such a grant may
7 be considered for awards under this section;

8 (G) the experience of administering any
9 loan programs by the entity, including the loan
10 repayment rates;

11 (H) the demonstrations made regarding
12 the ability of the local government to ensure a
13 fair distribution of grant funds among
14 brownfield sites within the jurisdiction of the
15 local government; and

16 (I) such other factors as the Administrator
17 considers relevant to carry out this section.

18 (3) GRANT AMOUNT.—The amount of a grant
19 made to an applicant under this section shall not ex-
20 ceed \$500,000.

21 (4) REVOLVING LOAN FUND APPROVAL.—Each
22 application for a grant to capitalize a revolving loan
23 fund under this section shall, as a condition of ap-
24 proval by the Administrator, include a written state-
25 ment by the local government that cleanups to be

1 funded under the loan program of the local govern-
2 ment shall be conducted under the auspices of, and
3 in compliance with, the State voluntary cleanup pro-
4 gram or State Superfund program or Federal au-
5 thority.

6 (c) GRANT AGREEMENTS.—Each grant under this
7 section for a revolving loan fund shall be made pursuant
8 to a grant agreement. At a minimum, the grant agreement
9 shall include provisions that ensure the following:

10 (1) COMPLIANCE WITH LAW.—The local govern-
11 ment will include in all loan agreements a require-
12 ment that the loan recipient shall comply with all
13 laws applicable to the cleanup and shall ensure that
14 the cleanup is protective of human health and the
15 environment.

16 (2) REPAYMENT.—The local government will
17 require repayment of the loan consistent with this
18 title.

19 (3) USE OF FUNDS.—The local government will
20 use the funds solely for purposes of establishing and
21 capitalizing a loan program in accordance with this
22 title and of cleaning up the environmental contami-
23 nation at the brownfield site or sites.

24 (4) REPAYMENT OF FUNDS.—The local govern-
25 ment will require in each loan agreement, and take

1 necessary steps to ensure, that the loan recipient will
2 use the loan funds solely for the purposes stated in
3 paragraph (3), and will require the return of any ex-
4 cess funds immediately on a determination by the
5 appropriate local official that the cleanup has been
6 completed.

7 (5) NONTRANSFERABILITY.—The funds will not
8 be transferable, unless the Administrator agrees to
9 the transfer in writing.

10 (6) LIENS.—

11 (A) DEFINITIONS.—In this paragraph, the
12 terms “security interest” and “purchaser” have
13 the meanings given the terms in section
14 6323(h) of the Internal Revenue Code of 1986.

15 (B) LIENS.—A lien in favor of the grant
16 recipient shall arise on the contaminated prop-
17 erty subject to a loan under this section.

18 (C) COVERAGE.—The lien shall cover all
19 real property included in the legal description of
20 the property at the time the loan agreement
21 provided for in this section is signed, and all
22 rights to the property, and shall continue until
23 the terms and conditions of the loan agreement
24 have been fully satisfied.

25 (D) TIMING.—The lien shall—

1 (i) arise at the time a security interest
2 is appropriately recorded in the real prop-
3 erty records of the appropriate office of the
4 State, county, or other governmental sub-
5 division, as designated by State law, in
6 which the real property subject to the lien
7 is located; and

8 (ii) be subject to the rights of any
9 purchaser, holder of a security interest, or
10 judgment lien creditor whose interest is or
11 has been perfected under applicable State
12 law before the notice has been filed in the
13 appropriate office of the State, county, or
14 other governmental subdivision, as des-
15 ignated by State law, in which the real
16 property subject to the lien is located.

17 (7) NOTICE TO STATE.—The local government
18 will notify the State in which the local government
19 is located of the receipt of the grant and of the iden-
20 tity of recipients of loans made under the revolving
21 loan fund.

22 (d) AUDITS.—

23 (1) IN GENERAL.—The Inspector General of
24 the Environmental Protection Agency shall audit a
25 portion of the grants awarded under this section to

1 ensure that all funds are used for the purposes set
2 forth in this section.

3 (2) FUTURE GRANTS.—The result of the audit
4 shall be taken into account in awarding any future
5 grants to the local government.

6 (e) AUTHORITY TO AWARD GRANTS TO STATES.—
7 The Administrator may award a grant to a State under
8 the program established under this section at the request
9 of a local government in the State if the Administrator
10 determines that a grant to the State is necessary in order
11 to facilitate the receipt of funds by one or more local gov-
12 ernments that otherwise do not have the capabilities, such
13 as personnel and other resources, to manage grants under
14 the program.

15 **SEC. 104. ECONOMIC REDEVELOPMENT GRANTS.**

16 (a) EXPENDITURES FROM THE SUPERFUND.—
17 Amounts in the Hazardous Substance Superfund estab-
18 lished by section 9507 of the Internal Revenue Code of
19 1986 shall be made available consistent with, and for the
20 purposes of carrying out, the grant programs established
21 under sections 102 and 103.

22 (b) AUTHORITY TO AWARD GRANTS.—There is au-
23 thorized to be appropriated from the Hazardous Sub-
24 stance Superfund for grants to local governments under

1 sections 102 and 103, \$45,000,000 for each of fiscal years
2 1998 through 2000.

3 **SEC. 105. REPORTS.**

4 (a) IN GENERAL.—Not later than one year after the
5 date of enactment of this Act, and not later than January
6 31 of each of the 3 calendar years thereafter, the Adminis-
7 trator shall prepare and submit a report describing the
8 results of each program established under this title to—

9 (1) the Committees on Commerce and on
10 Transportation and Infrastructure of the House of
11 Representatives; and

12 (2) the Committee on Environment and Public
13 Works of the Senate.

14 (b) CONTENTS OF REPORT.—Each report shall, with
15 respect to each of the programs established under this
16 title, include a description of—

17 (1) the number of applications received by the
18 Administrator during the preceding calendar year;

19 (2) the number of applications approved by the
20 Administrator during the preceding calendar year;
21 and

22 (3) the allocation of assistance under sections
23 102 and 103 among the local governments.

1 **SEC. 106. LIMITATIONS ON USE OF FUNDS.**

2 (a) EXCLUDED FACILITIES.—(1) A grant for site in-
3 ventory and assessment under section 102 or to capitalize
4 a revolving loan fund under section 103 may not be used
5 for any activity involving—

6 (A) a facility or portion of a facility that is the
7 subject of a response action (including a facility or
8 portion of a facility with respect to which a record
9 of decision, other than a no-action record of deci-
10 sion, has been issued) under the Comprehensive En-
11 vironmental Response, Compensation, and Liability
12 Act of 1980 (42 U.S.C. 9601 et seq.), unless a pre-
13 liminary assessment, site investigation, or response
14 action has been completed at such facility or portion
15 of a facility and the President has decided not to
16 take further response action at such facility or por-
17 tion of a facility;

18 (B) a facility included, or proposed for inclu-
19 sion, on the National Priorities List maintained by
20 the President under the Comprehensive Environ-
21 mental Response, Compensation, and Liability Act
22 of 1980 (42 U.S.C. 9601 et seq.);

23 (C) an NPL-caliber facility, as defined in para-
24 graph (2);

25 (D) a facility that is subject to corrective action
26 under section 3004(u) or 3008(h) of the Solid Waste

1 Disposal Act (42 U.S.C. 6924(u) or 6928(h)) to
2 which a corrective action permit or order has been
3 issued or modified to require the implementation of
4 corrective measures;

5 (E) any land disposal unit with respect to which
6 a closure notification under subtitle C of the Solid
7 Waste Disposal Act (42 U.S.C. 6921 et seq.) has
8 been submitted and closure requirements have been
9 specified in a closure plan or permit;

10 (F) a facility at which there has been a release
11 of a polychlorinated biphenyl and that is subject to
12 the Toxic Substances Control Act (15 U.S.C. 2601
13 et seq.);

14 (G) a facility with respect to which an adminis-
15 trative or judicial order or decree requiring cleanup
16 has been issued or entered into by the President
17 under—

18 (i) the Comprehensive Environmental Re-
19 sponse, Compensation, and Liability Act of
20 1980 (42 U.S.C. 9601 et seq.);

21 (ii) the Solid Waste Disposal Act (42
22 U.S.C. 6901 et seq.);

23 (iii) the Federal Water Pollution Control
24 Act (33 U.S.C. 1251 et seq.);

1 (iv) the Toxic Substances Control Act (15
2 U.S.C. 2601 et seq.); or

3 (v) the Safe Drinking Water Act (42
4 U.S.C. 300f et seq.);

5 (H) the portion of a facility at which assistance
6 for response activities may be obtained under sub-
7 title I of the Solid Waste Disposal Act (42 U.S.C.
8 6991 et seq.) from the Leaking Underground Stor-
9 age Tank Trust Fund established by section 9508 of
10 the Internal Revenue Code of 1986; and

11 (I) a facility owned or operated by a depart-
12 ment, agency, or instrumentality of the United
13 States, except for land held in trust by the United
14 States for an Indian tribe.

15 (2) For purposes of paragraph (1), the term “NPL-
16 caliber facility” means a facility for which the President,
17 in consultation with the State concerned, has prepared or
18 is preparing a hazardous ranking system scoring package
19 or that satisfies such other definition as the Administrator
20 may promulgate by regulation. The term does not include
21 a facility for which the President—

22 (A) has obtained a score under the hazardous
23 ranking system; and

24 (B) based on that score, has made a determina-
25 tion not to list on the National Priorities List.

1 (3) Notwithstanding paragraph (1), the President
2 may, on a facility-by-facility basis, allow a grant under
3 section 102 or section 103 to be used for an activity in-
4 volving any facility listed in subparagraph (D), (E), (F),
5 (G)(ii), (G)(iii), (G)(iv), (G)(v), (H), or (I) of paragraph
6 (1). In the case of a facility listed in subparagraph (I),
7 the President may use the authority in the preceding sen-
8 tence only if the facility is not a facility described in sub-
9 paragraph (A), (B), (C), or (G)(i).

10 (b) FINES AND COST-SHARING.—A grant made
11 under this title may not be used to pay any fine or penalty
12 owed to a State or the Federal Government, or to meet
13 any Federal cost-sharing requirement.

14 (c) OTHER LIMITATIONS.—

15 (1) IN GENERAL.—Funds made available to a
16 local government under the grant programs estab-
17 lished under section 102 shall be used only to inven-
18 tory and assess brownfield sites as authorized by
19 this title. Funds made available to a local govern-
20 ment under the grant programs established under
21 section 103 shall be used only for capitalizing a re-
22 volving loan fund as authorized by this title.

23 (2) RESPONSIBILITY FOR CLEANUP ACTION.—
24 Funds made available under this title may not be
25 used to relieve a local government of the commit-

1 ment or responsibilities of the local government
2 under State law to assist or carry out cleanup ac-
3 tions at brownfield sites.

4 **SEC. 107. EFFECT ON OTHER LAWS.**

5 Nothing in this title changes, modifies, or otherwise
6 affects the liability of any person or the obligations im-
7 posed or authorities provided under any other law or regu-
8 lation, including—

9 (1) the Comprehensive Environmental Re-
10 sponse, Compensation, and Liability Act of 1980 (42
11 U.S.C. 9601 et seq.);

12 (2) the Solid Waste Disposal Act (42 U.S.C.
13 6901 et seq.);

14 (3) the Federal Water Pollution Control Act
15 (33 U.S.C. 1251 et seq.);

16 (4) the Toxic Substances Control Act (15
17 U.S.C. 2601 et seq.); and

18 (5) the Safe Drinking Water Act (42 U.S.C.
19 300f et seq.).

20 **SEC. 108. REGULATIONS.**

21 (a) IN GENERAL.—The Administrator may issue
22 such regulations as are necessary to carry out this title.

23 (b) PROCEDURES AND STANDARDS.—The regulations
24 shall include such procedures and standards as the Admin-
25 istrator considers necessary, including procedures and

1 standards for evaluating an application for a grant or loan
2 submitted under this title.

3 **SEC. 109. AUTHORIZATIONS OF APPROPRIATIONS.**

4 (a) SITE ASSESSMENT PROGRAM.—There is author-
5 ized to be appropriated to carry out section 102
6 \$15,000,000 for each of fiscal years 1998 through 2000.

7 (b) ECONOMIC REDEVELOPMENT ASSISTANCE PRO-
8 GRAM.—There is authorized to be appropriated to carry
9 out section 103 \$30,000,000 for each of fiscal years 1998
10 through 2000.

11 (c) AVAILABILITY OF FUNDS.—The amounts appro-
12 priated under this section shall remain available until ex-
13 pended.

14 **TITLE II—STATE VOLUNTARY**
15 **RESPONSE PROGRAMS**

16 **SEC. 201. STATE VOLUNTARY RESPONSE PROGRAMS.**

17 Title I of the Comprehensive Environmental Re-
18 sponse, Compensation, and Liability Act of 1980 (42
19 U.S.C. 9601 et seq.) is amended by adding at the end
20 the following new section:

21 **“SEC. 127. STATE VOLUNTARY RESPONSE PROGRAMS.**

22 “(a) PURPOSES AND OBJECTIVES.—The purposes
23 and objectives of this section are—

24 “(1) to significantly increase the pace of re-
25 sponse activities at contaminated sites by promoting

1 and encouraging the creation, development, and en-
2 hancement of State voluntary response programs;
3 and

4 “(2) to benefit the public health, welfare, and
5 the environment by cleaning up and returning con-
6 taminated sites to economically productive or other
7 beneficial uses.

8 “(b) ASSISTANCE TO STATES.—The Administrator
9 shall provide technical, financial, and other assistance to
10 States to establish and enhance voluntary response pro-
11 grams. The Administrator shall encourage the States to
12 develop risk sharing pools, indemnity pools, or insurance
13 mechanisms to provide financing for response actions
14 under their voluntary response programs.

15 “(c) LIMITATION ON FEDERAL AUTHORITY TO LIST
16 ON NATIONAL PRIORITIES LIST.—Except as provided in
17 subsection (e), the President shall not list on the National
18 Priorities List the portion of a facility subject to a re-
19 sponse action plan approved under a State program quali-
20 fied under subsection (i)—

21 “(1) while substantial and continuous voluntary
22 response activities are being conducted in compliance
23 with the plan at that portion of the facility; or

1 “(2) after response activities conducted in com-
2 pliance with the plan at that portion of the facility
3 have been certified by the State as complete.

4 “(d) LIMITATION ON FEDERAL AUTHORITY TO RE-
5 COVER COSTS.—(1) Except as provided in subsection (e),
6 if substantial and continuous voluntary response activities
7 are being conducted at a voluntary response action site
8 in compliance with a response action plan approved under
9 a State program qualified under subsection (i) or if re-
10 sponse activities conducted at such a site in compliance
11 with the plan have been certified by the State as complete,
12 then no person shall be liable to the Administrator under
13 section 107(a) for response costs incurred with respect to
14 a release or substantial threat of release of a hazardous
15 substance addressed by the response action plan unless
16 one or more of the following conditions is met:

17 “(A) The Administrator determines that the re-
18 lease or threat of release may present an imminent
19 and substantial danger to the public health or wel-
20 fare or the environment.

21 “(B) The State requests the Administrator to
22 take action.

23 “(C) Conditions at the site that were unknown
24 to the State at the time the response action plan
25 was approved by the State are discovered, and such

1 conditions indicate, as determined by the Adminis-
2 trator or the State, that the response action is not
3 protective of human health or the environment.

4 “(D) The cleanup of the site under the response
5 action plan of the State program is no longer protec-
6 tive of human health or the environment, as deter-
7 mined by the Administrator or the State, because of
8 a change or a proposed change in the use of the site.

9 “(2) For purposes of this subsection, the term ‘vol-
10 untary response action site’ means a site subject to a re-
11 sponse action plan under a State program qualified under
12 subsection (i).

13 “(3) Nothing in this subsection shall preclude the Ad-
14 ministrator from recovering costs incurred by the Admin-
15 istrator at a site before State approval of a response action
16 plan for that site.

17 “(e) FACILITIES INELIGIBLE FOR LIMITATIONS.—(1)
18 The limitations on Federal authority provided under sub-
19 sections (c) and (d) do not apply to any of the following
20 facilities:

21 “(A) A facility or portion of a facility that is
22 the subject of a response action (including a facility
23 or portion of a facility with respect to which a record
24 of decision, other than a no-action record of deci-
25 sion, has been issued) under this Act, unless a pre-

1 liminary assessment, site investigation, or response
2 action has been completed at such facility or portion
3 of a facility and the President has decided not to
4 take further response action at such facility or por-
5 tion of a facility.

6 “(B) A facility included, or proposed for inclu-
7 sion, on the National Priorities List maintained by
8 the President under this Act.

9 “(C) An NPL-caliber facility, as defined in
10 paragraph (2).

11 “(D) A facility that is subject to corrective ac-
12 tion under section 3004(u) or 3008(h) of the Solid
13 Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h))
14 to which a corrective action permit or order has been
15 issued or modified to require the implementation of
16 corrective measures.

17 “(E) Any land disposal unit with respect to
18 which a closure notification under subtitle C of the
19 Solid Waste Disposal Act (42 U.S.C. 6921 et seq.)
20 has been submitted and closure requirements have
21 been specified in a closure plan or permit.

22 “(F) A facility at which there has been a re-
23 lease of a polychlorinated biphenyl and that is sub-
24 ject to the Toxic Substances Control Act (15 U.S.C.
25 2601 et seq.).

1 “(G) A facility with respect to which an admin-
2 istrative or judicial order or decree requiring cleanup
3 has been issued or entered into by the President
4 under—

5 “(i) this Act;

6 “(ii) the Solid Waste Disposal Act (42
7 U.S.C. 6901 et seq.);

8 “(iii) the Federal Water Pollution Control
9 Act (33 U.S.C. 1251 et seq.);

10 “(iv) the Toxic Substances Control Act (15
11 U.S.C. 2601 et seq.); or

12 “(v) the Safe Drinking Water Act (42
13 U.S.C. 300f et seq.).

14 “(H) The portion of a facility at which assist-
15 ance for response activities may be obtained under
16 subtitle I of the Solid Waste Disposal Act (42
17 U.S.C. 6991 et seq.) from the Leaking Underground
18 Storage Tank Trust Fund established by section
19 9508 of the Internal Revenue Code of 1986.

20 “(I) A facility owned or operated by a depart-
21 ment, agency, or instrumentality of the United
22 States, except for land held in trust by the United
23 States for an Indian tribe.

24 “(2) For purposes of paragraph (1), the term ‘NPL-
25 caliber facility’ means a facility for which the President,

1 in consultation with the State concerned, has prepared or
2 is preparing a hazardous ranking system scoring package
3 or that satisfies such other definition as the Administrator
4 may promulgate by regulation. The term does not include
5 a facility for which the President—

6 “(A) has obtained a score under the hazardous
7 ranking system; and

8 “(B) based on that score, has made a deter-
9 mination not to list on the National Priorities List.

10 “(3) Notwithstanding paragraph (1), the President
11 may, on a facility-by-facility basis and pursuant to an
12 agreement with the State concerned, apply the limitations
13 on authority provided under subsections (c) and (d) to any
14 facility listed in subparagraph (D), (E), (F), (G)(ii),
15 (G)(iii), (G)(iv), (G)(v), (H), or (I) of paragraph (1). In
16 the case of a facility listed in subparagraph (I), the Presi-
17 dent may use the authority in the preceding sentence only
18 if the facility is not a facility described in subparagraph
19 (A), (B), (C), or (G)(i).

20 “(f) EPA ASSISTANCE TO STATES FOR STATE VOL-
21 UNTARY RESPONSE PROGRAMS.—The Administrator shall
22 assist States to establish and administer State voluntary
23 response programs that—

1 “(1) provide voluntary response actions that en-
2 sure adequate site assessment and are protective of
3 human health and the environment;

4 “(2) provide opportunities for technical assist-
5 ance (including grants) for voluntary response ac-
6 tions;

7 “(3) provide meaningful opportunities for public
8 participation on issues that affect the community,
9 which shall include prior notice and opportunity for
10 comment in the selection of response actions and
11 which may include involvement of State and local
12 health officials during site assessment;

13 “(4) provide streamlined procedures to ensure
14 expeditious voluntary response actions;

15 “(5) provide adequate oversight, enforcement
16 authorities, resources, and practices—

17 “(A) to ensure that voluntary response ac-
18 tions are protective of human health and the
19 environment, as provided in paragraph (1), and
20 are conducted in a timely manner in accordance
21 with a State-approved response action plan;

22 “(B) to ensure completion of response ac-
23 tions if the person conducting the response ac-
24 tion fails or refuses to complete the necessary
25 response activities that are protective of human

1 health and the environment, including operation
2 and maintenance or long-term monitoring ac-
3 tivities;

4 “(6) provide mechanisms for the approval of a
5 response action plan; and

6 “(7) provide mechanisms for a certification or
7 similar documentation to the person who conducted
8 the response action indicating that the response is
9 complete.

10 “(g) FINANCIAL ASSISTANCE FOR DEVELOPMENT
11 AND ENHANCEMENT OF STATE VOLUNTARY RESPONSE
12 PROGRAMS AND REPORTING REQUIREMENT.—

13 “(1) AUTHORIZATION OF APPROPRIATIONS.—In
14 each of the first 5 fiscal years commencing after the
15 date of enactment of this section, the sum of
16 \$15,000,000 is authorized to be appropriated for as-
17 sistance to States to develop or enhance State vol-
18 untary response programs.

19 “(2) PUBLIC RECORD.—To assist the Adminis-
20 trator in determining the needs of States for assist-
21 ance under this section, the Administrator shall en-
22 courage the States to maintain a public record of fa-
23 cilities, by name and location, that have been or are
24 planned to be addressed under a State voluntary re-
25 sponse program.

1 “(3) REPORTING REQUIREMENT.—Each State
2 receiving financial assistance under this section shall
3 submit to the Administrator a report at the end of
4 each calendar year on the progress of its voluntary
5 response program, which shall include the following
6 information with respect to that calendar year:

7 “(A) The number of sites, if any, under-
8 going voluntary cleanup, with the number of
9 sites in each stage of such cleanup set forth
10 separately.

11 “(B) The number of sites, if any, entering
12 voluntary cleanup.

13 “(C) The number of sites, if any, that re-
14 ceived a certification from the State indicating
15 that a response action is complete.

16 “(h) EPA REVIEW OF STATE PROGRAMS.—At any
17 time after the date of enactment of this section, a State
18 may submit, for review by the Administrator, documenta-
19 tion that the State considers appropriate to describe a
20 State voluntary response program, together with a certifi-
21 cation that the program is consistent with the elements
22 set forth in subsection (f), and, if such program is devel-
23 oped by administrative action or regulation, documenta-
24 tion of public comment and State response to comment
25 on the adequacy of the State voluntary response program.

1 “(i) QUALIFICATION OF STATE PROGRAM.—

2 “(1) APPROVAL OR DISAPPROVAL.—(A) The
3 Administrator shall approve a State voluntary re-
4 sponse program submitted under subsection (h)
5 within 180 days after the Administrator receives
6 documentation and certification under subsection (h)
7 if the Administrator determines that the State’s sub-
8 mission is consistent with the elements set forth in
9 subsection (f). A program so approved by the Ad-
10 ministrator shall be considered a qualified program
11 under this Act.

12 “(B) The Administrator shall publish in the
13 Federal Register the reasons for the approval or dis-
14 approval of any such program.

15 “(C) If the Administrator needs additional in-
16 formation under subparagraph (A)(ii), the 180-day
17 time period referred to in subparagraph (A) shall be
18 extended until such date as the Administrator is sat-
19 isfied that enough additional information has been
20 obtained in order to make a determination.

21 “(2) WITHDRAWAL OF QUALIFICATION.—When-
22 ever the Administrator determines that a State is
23 not administering and enforcing a qualified program
24 in accordance with subsection (f), the Administrator
25 shall notify the State in writing of such determina-

1 tion. If appropriate corrective action is not taken by
2 the State within 120 days after receipt of the notice,
3 the Administrator shall propose to withdraw ap-
4 proval of the program and publish a notice of such
5 proposed withdrawal in the Federal Register. The
6 Administrator shall not withdraw approval of any
7 such program unless the Administrator provides to
8 the State in writing and publishes in the Federal
9 Register the reasons for such withdrawal. If the
10 State subsequently completes the necessary correc-
11 tive measures as determined by the Administrator,
12 the Administrator shall reinstate the program as a
13 qualified program under this section.

14 “(j) EFFECT OF RESPONSE.—Performance of a vol-
15 untary response action pursuant to this section shall not
16 constitute an admission of liability under any Federal,
17 State, or local law or regulation or in any citizens suit
18 or other private action.

19 “(k) COMPLIANCE WITH NCP.—Solely for the pur-
20 pose of private cost recovery and contribution claims
21 under this Act, response actions conducted pursuant to
22 a qualified program shall be presumed to be consistent
23 with the National Contingency Plan.

24 “(l) ANNUAL REPORTING.—

1 “(1) REPORTS BY STATE.—Each State with a
2 qualified program under this section shall submit to
3 the Administrator a report at the end of each cal-
4 endar year on the status of its program. Each such
5 report shall include a statement regarding whether
6 the program continues to be consistent with the ele-
7 ments set forth in subsection (f).

8 “(2) REPORT BY ADMINISTRATOR.—The Ad-
9 ministrator shall report, not later than two years
10 after the enactment of this section, and annually
11 thereafter, to the Congress on the status of State
12 voluntary response programs. The report shall in-
13 clude an analysis of whether qualified State vol-
14 untary response action programs continue to be con-
15 sistent with the elements set forth in subsection (f).

16 “(m) EFFECT ON EXISTING STATE PROGRAMS.—
17 This section is not intended to impose any requirement
18 on any State voluntary response program, including a pro-
19 gram existing on or before the date of the enactment of
20 the Community Revitalization and Brownfield Cleanup
21 Act of 1997. A program shall not be considered to be a
22 qualified program under this Act unless the program is
23 approved in accordance with this section.

24 “(n) EFFECT ON AGREEMENTS BETWEEN STATE
25 AND EPA.—This section is not intended to modify or oth-

1 erwise affect a memorandum of agreement, or a coopera-
2 tive agreement, relating to Superfund between a State
3 agency and the Environmental Protection Agency in effect
4 on or before the date of the enactment of the Community
5 Revitalization and Brownfield Cleanup Act of 1997. Such
6 an agreement shall remain in effect, subject to the terms
7 of the agreement. This section is not intended to restrict
8 or limit the President’s discretionary authority to enter
9 into or modify an agreement with a State or other person
10 relating to the President’s implementation of statutory au-
11 thorities.

12 “(o) EFFECT ON OTHER LAWS.—Except as provided
13 in subsections (c) and (d), this section does not change,
14 modify, or otherwise affect the liability of any person or
15 the obligations imposed or authorities provided under any
16 law or regulation, including this Act, the Solid Waste Dis-
17 posal Act, the Clean Water Act, the Toxic Substances
18 Control Act, and title XIV of the Public Health Service
19 Act (the Safe Drinking Water Act).

20 “(p) RELATIONSHIP TO INNOCENT LANDOWNER AND
21 PROSPECTIVE PURCHASER.—(1) The successful comple-
22 tion of a response action at a facility pursuant to a re-
23 sponse action plan approved under a qualified program
24 under this section shall be evidence to be considered for
25 purposes of section 107(o)(3)(B) and section 101(39)(D).

1 “(2) Nothing in this section shall be construed to re-
2 quire any person to participate in a qualified voluntary
3 response program under this section or in any other vol-
4 untary response program in order to qualify as an inno-
5 cent landowner or bona fide prospective purchaser for pur-
6 poses of subsections (o) and (p) of section 107.”.

7 **TITLE III—INNOCENT LAND-**
8 **OWNERS AND PROSPECTIVE**
9 **PURCHASER LIABILITY**

10 **SEC. 301. INNOCENT LANDOWNERS.**

11 (a) ENVIRONMENTAL SITE ASSESSMENT.—Section
12 107 of the Comprehensive Environmental Response, Com-
13 pensation, and Liability Act of 1980 (42 U.S.C. 9607) is
14 amended by adding at the end the following new sub-
15 section:

16 “(o) INNOCENT LANDOWNERS.—

17 “(1) CONDUCT OF ENVIRONMENTAL ASSESS-
18 MENT.—A person who has acquired real property
19 shall have made all appropriate inquiry within the
20 meaning of subparagraph (B) of section 101(35) if
21 he establishes that, within 180 days prior to the
22 time of acquisition, an environmental site assess-
23 ment of the real property was conducted which
24 meets the requirements of paragraph (2).

1 “(2) DEFINITION OF ENVIRONMENTAL SITE AS-
2 SESSMENT.—For purposes of this subsection, the
3 term ‘environmental site assessment’ means an as-
4 sessment conducted in accordance with the stand-
5 ards set forth in the American Society for Testing
6 and Materials (ASTM) Standard E1527–94, titled
7 ‘Standard Practice for Environmental Site Assess-
8 ments: Phase I Environmental Site Assessment
9 Process’ or with alternative standards issued by rule
10 by the President or promulgated or developed by
11 others and designated by rule by the President. Be-
12 fore issuing or designating alternative standards, the
13 President shall first conduct a study of commercial
14 and industrial practices concerning environmental
15 site assessments in the transfer of real property in
16 the United States. Any such standards issued or
17 designated by the President shall also be deemed to
18 constitute commercially reasonable and generally ac-
19 cepted standards and practices for purposes of this
20 paragraph. In issuing or designating any such stand-
21 ards, the President shall consider requirements gov-
22 erning each of the following:

23 “(A) Interviews of owners, operators, and
24 occupants of the property to determine informa-
25 tion regarding the potential for contamination.

1 “(B) Review of historical sources as nec-
2 essary to determine previous uses and occupan-
3 cies of the property since the property was first
4 developed. For purposes of this subclause, the
5 term ‘historical sources’ means any of the fol-
6 lowing, if they are reasonably ascertainable: re-
7 corded chain of title documents regarding the
8 real property, including all deeds, easements,
9 leases, restrictions, and covenants, aerial photo-
10 graphs, fire insurance maps, property tax files,
11 USGS 7.5 minutes topographic maps, local
12 street directories, building department records,
13 zoning/land use records, and any other sources
14 that identify past uses and occupancies of the
15 property.

16 “(C) Determination of the existence of re-
17 corded environmental cleanup liens against the
18 real property which have arisen pursuant to
19 Federal, State, or local statutes.

20 “(D) Review of reasonably ascertainable
21 Federal, State, and local government records of
22 sites or facilities that are likely to cause or con-
23 tribute to contamination at the real property,
24 including, as appropriate, investigation reports
25 for such sites or facilities; records of activities

1 likely to cause or contribute to contamination at
2 the real property, including landfill and other
3 disposal location records, underground storage
4 tank records, hazardous waste handler and gen-
5 erator records and spill reporting records; and
6 such other reasonably ascertainable Federal,
7 State, and local government environmental
8 records which could reflect incidents or activi-
9 ties which are likely to cause or contribute to
10 contamination at the real property.

11 “(E) A visual site inspection of the real
12 property and all facilities and improvements on
13 the real property and a visual inspection of im-
14 mediately adjacent properties, including an in-
15 vestigation of any hazardous substance use,
16 storage, treatment, and disposal practices on
17 the property.

18 “(F) Any specialized knowledge or experi-
19 ence on the part of the landowner.

20 “(G) The relationship of the purchase
21 price to the value of the property if
22 uncontaminated.

23 “(H) Commonly known or reasonably as-
24 certainable information about the property.

1 “(I) The obviousness of the presence or
2 likely presence of contamination at the prop-
3 erty, and the ability to detect such contamina-
4 tion by appropriate investigation.

5 A record shall be considered to be ‘reasonably ascer-
6 tainable’ for purposes of this paragraph if a copy or
7 reasonable facsimile of the record is publicly avail-
8 able by request (within reasonable time and cost
9 constraints) and the record is practically reviewable.

10 “(3) APPROPRIATE INQUIRY.—A person shall
11 not be treated as having made all appropriate in-
12 quiry under paragraph (1) unless—

13 “(A) the person has maintained a compila-
14 tion of the information reviewed and gathered
15 in the course of the environmental site assess-
16 ment;

17 “(B) the person exercised appropriate care
18 with respect to hazardous substances found at
19 the facility by taking reasonable steps to stop
20 on-going releases, prevent threatened future re-
21 leases of hazardous substances, and prevent or
22 limit human or natural resource exposure to
23 hazardous substances previously released into
24 the environment; and

1 “(C) the person provides full cooperation,
2 assistance, and facility access to persons au-
3 thorized to conduct response actions or natural
4 resource restoration at the facility, including
5 the cooperation and access necessary for the in-
6 stallation, integrity, operation, and maintenance
7 of any complete or partial response action or
8 natural resource restoration at the facility.”.

9 (b) **CROSS REFERENCE.**—Section 101(35)(B) (42
10 U.S.C. 9601(35)(B)) is amended by inserting after “all
11 appropriate inquiry” the following: “(as specified in sec-
12 tion 107(o))”.

13 **SEC. 302. LIMITATIONS ON LIABILITY FOR RESPONSE**
14 **COSTS FOR PROSPECTIVE PURCHASERS.**

15 (a) **LIMITATIONS ON LIABILITY.**—Section 107 of the
16 Comprehensive Environmental Response, Compensation,
17 and Liability Act of 1980 (42 U.S.C. 9607) is further
18 amended by adding at the end the following new sub-
19 section:

20 “(p) **LIMITATIONS ON LIABILITY FOR PROSPECTIVE**
21 **PURCHASERS.**—Notwithstanding paragraphs (1) through
22 (4) of subsection (a), to the extent the liability of a person,
23 with respect to a release or the threat of a release from
24 a facility, is based solely on subsection (a)(1), the person
25 shall not be liable under this Act if the person—

1 “(1) is a bona fide prospective purchaser of the
2 facility; and

3 “(2) does not impede the performance of any
4 response action or natural resource restoration at a
5 facility.”.

6 (b) PROSPECTIVE PURCHASER AND WINDFALL
7 LIEN.—Section 107 of the Comprehensive Environmental
8 Response, Compensation, and Liability Act of 1980 (as
9 amended by subsection (a)) is amended by adding after
10 subsection (p) the following new subsection:

11 “(q) PROSPECTIVE PURCHASER AND WINDFALL
12 LIEN.—

13 “(1) IN GENERAL.—In any case in which there
14 are unrecovered response costs at a facility for which
15 an owner of the facility is not liable by reason of
16 subsection (p), and the conditions described in para-
17 graph (3) are met, the United States shall have a
18 lien on the facility, or may obtain, from the appro-
19 priate responsible party or parties, a lien on other
20 property or other assurances of payment satisfactory
21 to the Administrator, for the unrecovered costs.

22 “(2) AMOUNT; DURATION.—The lien—

23 “(A) shall be for an amount not to exceed
24 the increase in fair market value of the prop-
25 erty attributable to the response action at the

1 time of a subsequent sale or other disposition of
2 the property;

3 “(B) shall arise at the time costs are first
4 incurred by the United States with respect to a
5 response action at the facility;

6 “(C) shall be subject to the requirements
7 for notice and validity specified in subsection
8 (1)(3); and

9 “(D) shall continue until the earlier of sat-
10 isfaction of the lien or recovery of all response
11 costs incurred at the facility.

12 “(3) CONDITIONS.—The conditions referred to
13 in paragraph (1) are the following:

14 “(A) RESPONSE ACTION.—A response ac-
15 tion for which there are unrecovered costs is
16 carried out at the facility.

17 “(B) FAIR MARKET VALUE.—The response
18 action increases the fair market value of the fa-
19 cility above the fair market value of the facility
20 that existed on the date that is 180 days before
21 the response action was commenced.”.

22 (c) DEFINITION OF BONA FIDE PROSPECTIVE PUR-
23 CHASER.—Section 101 of the Comprehensive Environ-
24 mental Response, Compensation, and Liability Act of

1 1980 (42 U.S.C. 9601) is amended by adding at the end
2 the following:

3 “(39) BONA FIDE PROSPECTIVE PURCHASER.—

4 The term ‘bona fide prospective purchaser’ means a
5 person who acquires ownership of a facility after the
6 date of enactment of the Community Revitalization
7 and Brownfield Cleanup Act of 1997, or a tenant of
8 such a person, who can establish each of the follow-
9 ing by a preponderance of the evidence:

10 “(A) DISPOSAL PRIOR TO ACQUISITION.—

11 All active disposal of hazardous substances at
12 the facility occurred before the person acquired
13 the facility.

14 “(B) INQUIRY.—

15 “(i) IN GENERAL.—The person made
16 all appropriate inquiry into the previous
17 ownership and uses of the facility in ac-
18 cordance with generally accepted good
19 commercial and customary standards and
20 practices.

21 “(ii) STANDARDS.—The ASTM stand-
22 ards described in section 107(o)(2) or the
23 alternative standards issued or designated
24 by the President pursuant to that section

1 shall satisfy the requirements of this sub-
2 paragraph.

3 “(iii) RESIDENTIAL PROPERTY.—In
4 the case of property in residential or other
5 similar use at the time of purchase by a
6 nongovernmental or noncommercial entity,
7 a site inspection and title search that re-
8 veal no basis for further investigation shall
9 satisfy the requirements of this subpara-
10 graph.

11 “(C) NOTICES.—The person provided all
12 legally required notices with respect to the dis-
13 covery or release of any hazardous substances
14 at the facility.

15 “(D) CARE.—The person exercised appro-
16 priate care with respect to hazardous sub-
17 stances found at the facility by taking reason-
18 able steps to—

19 “(i) stop ongoing releases;

20 “(ii) prevent threatened future re-
21 leases of hazardous substances; and

22 “(iii) prevent or limit human or natu-
23 ral resource exposure to hazardous sub-
24 stances previously released into the envi-
25 ronment.

1 “(E) COOPERATION, ASSISTANCE, AND AC-
2 CESS.—The person provides full cooperation,
3 assistance, and facility access to such persons
4 as are authorized to conduct response actions at
5 the facility, including the cooperation and ac-
6 cess necessary for the installation, integrity, op-
7 eration, and maintenance of any complete or
8 partial response action at the facility.

9 “(F) RELATIONSHIP.—The person is not
10 liable, or is not affiliated with any other person
11 that is potentially liable, for response costs at
12 the facility, through any direct or indirect fa-
13 miliar relationship, or any contractual, cor-
14 porate, or financial relationship other than that
15 created by the instruments by which title to the
16 facility is conveyed or financed.”.

17 **SEC. 303. CONTIGUOUS OR NEARBY PROPERTIES.**

18 Section 107 of the Comprehensive Environmental Re-
19 sponse, Compensation, and Liability Act of 1980 (42
20 U.S.C. 9607) is further amended by adding at the end
21 the following new subsection:

22 “(q) CONTIGUOUS PROPERTIES.—(1) A person who
23 owns or operates real property that is contiguous to or
24 otherwise similarly situated with respect to real property
25 on which there has been a release or threatened release

1 of a hazardous substance and that is or may be contami-
2 nated by such release shall not be considered to be an
3 owner or operator of a facility under subsection (a)(1)
4 solely by reason of such contamination, if such person es-
5 tablishes by a preponderance of the evidence that—

6 “(A) such person exercised due care with re-
7 spect to the hazardous substance, in light of all rel-
8 evant facts and circumstances;

9 “(B) such person took precautions against any
10 foreseeable act or omission that resulted in the re-
11 lease or threatened release and the consequences
12 that could foreseeably result from such act or omis-
13 sion; and

14 “(C) such person did not cause or contribute to
15 the release or threatened release.

16 “(2) The President may issue an assurance of no en-
17 forcement action under this Act to any such person and
18 may grant any such person protection against cost recov-
19 ery and contribution actions pursuant to section
20 113(f)(2).”.

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