

105TH CONGRESS
2D SESSION

H. R. 3262

To reauthorize the Comprehensive Environmental Response, Compensation,
and Liability Act of 1980.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1998

Mr. PALLONE (for himself, Mr. LEWIS of Georgia, Mr. WAXMAN, Mr. MARKEY, Ms. FURSE, Mr. PAYNE, Mr. RUSH, Ms. DEGETTE, Mr. HINCHEY, Ms. MCKINNEY, Mrs. CLAYTON, Mrs. LOWEY, Mr. SERRANO, Mr. VENTO, Ms. CHRISTIAN-GREEN, Mr. WEXLER, Mr. BERMAN, Mr. DIXON, Ms. JACKSON-LEE of Texas, Mr. EVANS, Ms. PELOSI, Ms. DELAURO, Mr. GEJDENSON, Mr. JACKSON of Illinois, Mr. FROST, Mr. YATES, Mr. KENNEDY of Massachusetts, Mr. OLVER, Mr. KUCINICH, Mr. NEAL of Massachusetts, Ms. MILLENDER-McDONALD, Mr. GUTIERREZ, Mr. OWENS, Mr. SANDERS, Mr. BROWN of California, Mr. DAVIS of Illinois, Mr. MCGOVERN, Mr. LANTOS, Mr. STARK, Mr. BARRETT of Wisconsin, Mr. DELAHUNT, Mr. CONYERS, Mr. MILLER of California, and Mr. FARR of California) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, 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 reauthorize the Comprehensive Environmental Response,
Compensation, and Liability Act of 1980.

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 “Children’s Protection
3 and Community Cleanup Act of 1998”.

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

5 The table of contents is as follows:

TITLE I—REMEDY

- Sec. 101. Amendments relating to selection of remedial action.
- Sec. 102. Authorities for institutional controls.
- Sec. 103. Amendments relating to response authorities.

TITLE II—COMMUNITY PARTICIPATION AND HUMAN HEALTH

Subtitle A—Community Participation

- Sec. 201. Definitions.
- Sec. 202. Public participation.
- Sec. 203. Community Information and Access Offices.
- Sec. 204. Community Advisory Groups.
- Sec. 205. Technical outreach services for communities.
- Sec. 206. Recruitment and training program.

Subtitle B—Human Health

- Sec. 211. Disease registry and health care providers.
- Sec. 212. Substance profiles.
- Sec. 213. Exposure levels.
- Sec. 214. Health studies.
- Sec. 215. Relocation of individuals.
- Sec. 216. Grant awards, contracts, and community assistance activities.
- Sec. 217. Indian health provisions.
- Sec. 218. Public health recommendations in remedial actions.

Subtitle C—General Provisions

- Sec. 221. Transition.

TITLE III—RIGHT TO KNOW

- Sec. 301. Right to know.
- Sec. 302. Unstudied chemical release forms.

TITLE IV—ENVIRONMENTAL JUSTICE

- Sec. 401. Environmental justice.

TITLE V—CHILDREN’S ENVIRONMENTAL HEALTH

- Sec. 501. Children’s environmental health.

TITLE VI—BROWNFIELD REMEDIATION AND ENVIRONMENTAL
CLEANUP

Subtitle A—Brownfields

- Sec. 601. Brownfields title.
- Sec. 602. Research, development, and demonstration.
- Sec. 603. Assistance for workforce training.

Subtitle B—Innocent Landowners and Prospective Purchaser Liability

- Sec. 621. Innocent landowners.
- Sec. 622. Limitations on liability for response costs for prospective purchasers.
- Sec. 623. Contiguous or nearby properties.

Subtitle C—Department of Housing and Urban Development Brownfield Grants

- Sec. 631. Economic development grants in connection with community development loan guarantees.

TITLE VII—NATURAL RESOURCE DAMAGES

- Sec. 701. Liability for natural resources damages.
- Sec. 702. Limitations on liability.
- Sec. 703. Damage assessment.
- Sec. 704. Standard of review.
- Sec. 705. Contaminated sediments.
- Sec. 706. Recruitment and training program.
- Sec. 707. Statute of limitations.
- Sec. 708. Archaeological resources.
- Sec. 709. Citizen suits.
- Sec. 710. Transition rules.

TITLE VIII—FEDERAL FACILITIES

- Sec. 801. Federal entities and facilities.
- Sec. 802. Adjoining states.
- Sec. 803. Enforceability of Federal compliance agreements.

TITLE IX—LIABILITY

- Sec. 901. Liability exemptions.

TITLE X—FUNDING

- Sec. 1001. Authorization of appropriations.
- Sec. 1002. Agency for toxic substances and disease registry.
- Sec. 1003. Limitations on research, development, and demonstration programs.
- Sec. 1004. Authorization of appropriations from general revenues.
- Sec. 1005. Additional limitations.
- Sec. 1006. Worker training and education grants.
- Sec. 1007. Extension of Hazardous Substance Superfund.

TITLE XI—MISCELLANEOUS

- Sec. 1101. Penalties.
- Sec. 1102. Employee protection.
- Sec. 1103. Radioactively contaminated sites.

TITLE I—REMEDY

SEC. 101. AMENDMENTS RELATING TO SELECTION OF REMEDIAL ACTION.

(a) AMENDMENTS TO GENERAL RULES.—(1) Section 121(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(b)) is amended in paragraph (1)—

(A) by striking “In making such assessment” and all that follows through “or containment.” at the end of subparagraph (G); and

(B) by inserting after “to the maximum extent practicable.” the following: “Remedial actions shall make contaminated property available for beneficial use to the maximum extent practicable. Wherever technically feasible, remedial actions shall protect uncontaminated ground water and surface water, and restore contaminated ground water and surface water to beneficial uses in a time period that is reasonable given the particular circumstances of the release.”.

(2) Section 121(b) of such Act is further amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

1 “(2) In assessing alternative remedial actions and in
2 selecting a remedial action, the President shall comply
3 with paragraph (1) and, at a minimum, take into account
4 each of the following:

5 “(A) The effectiveness of the remedy in protect-
6 ing human health and the environment, including
7 consideration of fetuses, children, and other highly
8 exposed, highly susceptible, or differentially suscep-
9 tible subpopulations.

10 “(B) The ability of the remedy to maintain a
11 consistent level of protection of human health and
12 the environment over the long term, considering the
13 preference for treatment set forth in the first sen-
14 tence of paragraph (1) of this subsection, the long-
15 term uncertainty associated with containment and
16 institutional controls, and the consequences of rem-
17 edy failure.

18 “(C) Any short-term risk posed by the imple-
19 mentation of the remedy to the affected community,
20 to those engaged in the cleanup effort, and to the
21 environment.

22 “(D) The implementability of the remedy.

23 “(E) The acceptability of the remedy to the af-
24 fected community.

1 “(F) Any consensus recommendation of the
2 Community Advisory Group with respect to land
3 use.

4 “(G) The potential for future remedial action
5 costs if the alternative remedial action in question
6 were to fail.

7 “(H) The acceptability of the remedy to the
8 State in which the facility is located or to the Indian
9 Tribe if the facility is located in Indian country (as
10 defined in section 1151 of title 18 United States
11 Code).

12 “(I) Other environmental exposures to hazard-
13 ous substances, pollutants, or contaminants in the
14 affected community, including those identified under
15 section 117(k).”.

16 (b) AMENDMENT OF SITE REVIEW REQUIREMENT.—
17 Section 121(e) of such Act is amended by striking in the
18 first sentence “the initiation of” and inserting “construc-
19 tion and installation of equipment and structures to be
20 used for” and by adding the following after the first sen-
21 tence: “The President shall review the effectiveness of,
22 legal efficacy of, and compliance with any institutional
23 controls related to the remedial action during the review.”.

24 (c) AMENDMENTS RELATING TO DEGREE OF CLEAN-
25 UP.—

1 (1) Section 121(d) of such Act is amended—

2 (A) by redesignating paragraphs (2), (3),
3 and (4) as paragraphs (3), (4), and (5), respec-
4 tively; and

5 (B) by inserting after paragraph (1) the
6 following:

7 “(2) Unless the President determines that a
8 risk-based standard for a contaminant is based on
9 data and assumptions that are clearly adequate to
10 assure that the standard will be protective of chil-
11 dren’s health, the remedial action selected by the
12 President shall, to the maximum extent technically
13 feasible, reduce contamination to background levels
14 (where more stringent) with respect to that contami-
15 nant. The President may not select a remedial ac-
16 tion that allows hazardous substances, pollutants, or
17 contaminants to remain on site at a facility above
18 levels that would be protective for unrestricted use
19 unless institutional controls are incorporated into
20 the remedial action to achieve protection of human
21 health and the environment during and after comple-
22 tion of the remedial action in accordance with sub-
23 section (g).”.

24 (2) Subparagraph (A) of section 121(d)(3) of
25 such Act, as so redesignated, is amended as follows:

1 (A) By inserting after “is legally applica-
2 ble” the following: “to the conduct or operation
3 of the remedial action or”.

4 (B) By inserting “or Tribal” after “a
5 State” and after “such State” and by inserting
6 “or Tribe” after “the State”.

7 (3) Subsection (d)(3) of such Act, as so redesign-
8 nated, is amended—

9 (A) by redesignating subparagraphs (B)
10 and (C) as subparagraphs (C) and (D), respec-
11 tively; and

12 (B) by inserting after subparagraph (A)
13 the following new subparagraph:

14 “(B)(i) In the case of a remedial action for which
15 the President makes a determination described in clause
16 (ii), the President shall ensure that the remedial action
17 attains levels or standards of control that are protective
18 of human health and the environment.

19 “(ii) The determination referred to in clause (i) is a
20 determination by the President with respect to a remedial
21 action that—

22 “(I) no applicable Federal, State, or Tribal
23 standard, requirement, criteria, or limitation has
24 been established for a specific hazardous substance,

1 pollutant, or contaminant present at the facility at
2 which the remedial action is being undertaken; or

3 “(II) in the case of a remedial action at a facil-
4 ity where there are multiple hazardous substances,
5 pollutants, or contaminants, the remedial action is
6 not protective of human health and the environment
7 even though applicable standards, requirements, cri-
8 teria, or limitations would be attained.

9 “(iii) In the case of a remedial action for a release
10 or threatened release of a hazardous substance, pollutant,
11 or contaminant into a source of drinking water, if the
12 President makes a determination described in clause
13 (ii)(I), the President shall consider proposed maximum
14 contaminant level goals under the Safe Drinking Water
15 Act, health advisories, and other relevant information in
16 ensuring that the remedial action attains levels or stand-
17 ards of control that are protective of human health and
18 the environment.”.

19 (4) Subparagraph (D) of section 121(d)(3) of
20 such Act, as so redesignated, is amended by striking
21 clause (iv).

22 (5) Section 121(d)(5) of such Act, as so redesi-
23 gnated, is amended—

24 (A) in the matter preceding subparagraph

25 (A)—

1 (i) by striking “paragraph (1)” and
2 inserting “paragraphs (1) and (2)”;

3 (ii) by striking “paragraph (2)” and
4 inserting “paragraph (3)”;

5 (B) by striking subparagraph (C);

6 (C) by redesignating subparagraphs (A),
7 (B), (D), (E), and (F) as clauses (i), (ii), (iii),
8 (iv), and (v), respectively;

9 (D) by capitalizing the first word in each
10 of those clauses (as so redesignated);

11 (E) by striking the semicolon and inserting
12 a period at the end of each of clauses (i), (ii),
13 and (iii) (as so redesignated);

14 (F) by striking “; or” at the end of clause
15 (iv) (as so redesignated) and inserting a period;

16 (G) by striking “President finds that—”
17 and inserting “President finds any of the fol-
18 lowing:”;

19 (H) by inserting “(A)” before “The Presi-
20 dent may select”;

21 (I) by designating the text following clause
22 (v) (as so redesignated) as subparagraph (B);
23 and

24 (J) by adding at the end the following new
25 subparagraph:

1 “(C) In any case where the President, in making a
2 finding pursuant to this paragraph, waives any require-
3 ment, standard, criteria, or limitation specified under
4 paragraph (3)(A) relating to contaminated ground water
5 or surface water, the President shall select an appropriate
6 remedy for contaminated ground water or surface water
7 which meets, at a minimum, the following requirements:

8 “(i) Prevention or elimination of any human in-
9 gestion of or exposure to water containing any haz-
10 ardous substance, pollutant, or contaminant at levels
11 in excess of the levels specified under paragraph
12 (3)(A) including, as appropriate, the provision of an
13 alternate water supply.

14 “(ii) To the extent technically feasible, contain-
15 ment and treatment of source areas that may con-
16 tinue to release hazardous substances, pollutants, or
17 contaminants to ground or surface waters.

18 “(iii) Unless technically infeasible, prevention of
19 further contamination or impairment of any surface
20 water designated use established under section 303
21 of the Federal Water Pollution Control Act caused
22 by such hazardous substance, pollutant, or contami-
23 nant in any surface water body into which such con-
24 taminated ground water is known or expected to
25 enter.

1 “(iv) Unless technically infeasible, containment
2 of ground water contamination, except where limited
3 migration of contamination is necessary to facilitate
4 restoration of ground water to beneficial use.

5 “(v) Provision for long-term monitoring of such
6 ground water until contaminants are no longer
7 present (including any information needed for the
8 purposes of review under subsection (c)).

9 “(vi) Assurance that, if the President has se-
10 lected alternative sources of water supply or methods
11 of treating contaminated water, including point-of-
12 entry treatment, the party or parties otherwise re-
13 sponsible for remediation shall assume responsibility
14 and liability for providing water for domestic use
15 meeting the requirements of levels specified in para-
16 graph (3)(A), including all associated incremental
17 costs for operation, maintenance, and delivery of
18 water for present and anticipated future domestic
19 uses until such time as the level of contamination is
20 consistently below the levels specified by paragraph
21 (3)(A).”.

22 (d) INSTITUTIONAL CONTROLS.—Section 121 of such
23 Act is further amended by adding at the end the following
24 new subsection:

25 “(g) INSTITUTIONAL CONTROLS.—

1 “(1) REQUIREMENT FOR USE OF INSTITU-
2 TIONAL CONTROLS IN CERTAIN CIRCUMSTANCES.—
3 The President may not select a remedial action that
4 allows hazardous substances, pollutants, or contami-
5 nants to remain at a facility above levels that would
6 be protective for unrestricted use unless institutional
7 controls meeting the requirements of section 104 are
8 incorporated into the remedial action. Whenever
9 such controls are selected, the President shall ensure
10 that the terms of the controls are specified in all ap-
11 propriate decision documents, enforcement orders,
12 and public information regarding the site. The
13 President may use institutional controls as a supple-
14 ment to, but not as a substitute for, other response
15 measures under this Act.

16 “(2) ASSURANCES.—In any case in which the
17 President selects a response action that relies on in-
18 stitutional controls to provide protection, the Presi-
19 dent shall—

20 “(A) ensure that such controls are ade-
21 quate to protect, over the long term, human
22 health and the environment, including fetuses,
23 children, and other highly exposed, highly sus-
24 ceptible, or differentially susceptible subpopula-
25 tions;

1 “(B) require measures to ensure that such
2 controls will be appropriately implemented,
3 monitored, and enforced;

4 “(C) ensure that such controls are devel-
5 oped in consultation with and are acceptable to
6 the affected community;

7 “(D) upon adoption of such controls, en-
8 sure that public notice is given and that the
9 controls are identified in the register estab-
10 lished under section 104(k)(2)(H) and incor-
11 porated in the recordation systems of the ap-
12 propriate jurisdiction in which the property is
13 located; and

14 “(E) ensure that such controls shall re-
15 main in effect until terminated in accordance
16 with section 104(k)(2)(F).

17 “(3) USE OF INSTITUTIONAL CONTROLS.—

18 “(A) TERMS OF CONTROLS TO BE SPECI-
19 FIED IN DECISION DOCUMENTS.—Whenever in-
20 stitutional controls are selected as a component
21 of a response action, the President shall ensure
22 that the terms of the controls are specified in
23 all appropriate decision documents, enforcement
24 orders, and public information regarding the
25 site. At a minimum, the President shall specify

1 the government official who is primarily respon-
2 sible for monitoring and enforcing the institu-
3 tional controls. Each record of decision with re-
4 spect to a facility shall clearly identify any in-
5 stitutional controls that restrict uses of land or
6 other resources or other activities at the facility.

7 “(B) CHANGES IN CONTROLS.—Any such
8 change shall be undertaken consistent with sec-
9 tion 117 and notice shall be given pursuant to
10 the requirements of section 104.

11 “(4) FACILITY FUND.—

12 “(A) IN GENERAL.—In the case of a facil-
13 ity for which the selected remedial action is
14 containment or which otherwise results in haz-
15 ardous substances, pollutants, or contaminants
16 remaining on site above levels that would allow
17 for unrestricted use of the facility, a fund shall
18 be established specifically for that facility in an
19 amount sufficient to guarantee successful per-
20 formance of a remedy at the facility and, to the
21 extent technically feasible, future beneficial
22 reuse. The fund shall consist of amounts depos-
23 ited into it by potentially responsible parties.

24 “(B) USE OF FACILITY FUND.—The
25 amounts in the fund shall be used at the facility

1 for (i) costs of any response necessary in the
2 event that the remedial action is not protective
3 of human health and the environment; and (ii)
4 costs of any further reductions in the volume,
5 toxicity, or mobility of any hazardous sub-
6 stance, pollutant, or contaminant remaining on
7 site that are facilitated by the development of
8 new technologies. Such costs shall be response
9 costs under section 107(a). The President may,
10 in his discretion, require a fund to be estab-
11 lished as a condition of settlement under section
12 122.

13 “(5) REPORT TO CONGRESS.—The Adminis-
14 trator shall, on March 1, 1999, and annually there-
15 after, report to Congress for each record of decision
16 signed during the previous fiscal year, the type of in-
17 stitutional controls and media affected, and the in-
18 stitution designated to monitor, enforce, and ensure
19 compliance with the institutional controls.”.

20 (e) PROCEDURAL REQUIREMENTS; ENFORCE-
21 MENT.—Section 121(e)(1) is amended by adding the fol-
22 lowing at the end thereof: “Except for recordkeeping and
23 reporting, procedural requirements of State laws shall not
24 apply to the portion of any removal or remedial action con-
25 ducted entirely onsite.”.

1 (f) DEFINITION OF TECHNICALLY INFEASIBLE.—
2 Section 121 of such Act is further amended by adding at
3 the end the following new subsection:

4 “(h) DEFINITIONS.—

5 “(1) The term ‘technically infeasible’ means
6 that a technology or combination of technologies
7 that would be able to achieve a required outcome
8 does not exist.

9 “(2) The term ‘maximum extent technically fea-
10 sible’ means that to the extent that a technology or
11 combination of technologies that is able to achieve a
12 required outcome exists, it should be used to its full-
13 est ability to achieve that required outcome.”.

14 (g) TRANSITION.—

15 (1) EFFECTIVE DATE.—This section, and the
16 amendments made by this section, shall become ef-
17 fective 180 days after the date of enactment of this
18 Act. Remedies selected under the Comprehensive
19 Environmental Response, Compensation, and Liabil-
20 ity Act of 1980 following that effective date shall be
21 selected as provided in section 121(b) of that Act (as
22 amended by this Act) and subject to the Federal and
23 State requirements specified in paragraphs (2) and
24 (3) of section 121(d) of that Act (as amended by
25 this Act).

1 (2) PRIOR RODS.—(A) Nothing in this Act shall
2 place upon the Administrator an obligation to reopen
3 a record of decision signed prior to the effective date
4 of this section.

5 (B) If, pursuant to section 117 of the Com-
6 prehensive Environmental Response, Compensation,
7 and Liability Act of 1980, the Administrator deter-
8 mines that a change to a record of decision signed
9 prior to the effective date of this section is nec-
10 essary, the Administrator may apply the rules in ef-
11 fect at the time the original record of decision was
12 signed.

13 **SEC. 102. AUTHORITIES FOR INSTITUTIONAL CONTROLS.**

14 Section 104 of the Comprehensive Environmental Re-
15 sponse, Compensation, and Liability Act of 1980 (42
16 U.S.C. 9604) is amended by adding at the end the follow-
17 ing:

18 “(k) INSTITUTIONAL CONTROL INSTRUMENTS.—

19 “(1) IN GENERAL.—In any response action that
20 includes institutional controls, the President shall
21 use one or more of the types of institutional control
22 instruments under paragraph (3). Any institutional
23 control instrument that is used in a response action
24 shall meet the criteria of paragraph (2). Any institu-
25 tional control instrument may include terms regard-

1 ing site access by persons involved in carrying out
2 the response action.

3 “(2) CRITERIA.—

4 “(A) CONTENT OF INSTRUMENTS.—An in-
5 stitutional control instrument shall contain, at a
6 minimum—

7 “(i) a legal description of the property
8 affected;

9 “(ii) the name or names of any cur-
10 rent owner or owners of the property as re-
11 flected in public land records;

12 “(iii) a description of the release or
13 threatened release; and

14 “(iv) a statement as to the nature of
15 the restriction, limitation, or control cre-
16 ated by the institutional control instru-
17 ment.

18 “(B) USE RESTRICTION NOTICE.—If the
19 President adopts an institutional control instru-
20 ment (or, in the case of an assignable instru-
21 ment, assigns it to another party), the Presi-
22 dent shall record a notice of property use re-
23 striction in the public land records for the juris-
24 diction in which the affected property is located.
25 Such a notice shall specify restrictions, limita-

1 tions, or controls on the use of the land or
2 other natural resources provided for in the in-
3 stitutional control instrument. If a particular
4 institutional control instrument applies to a
5 large number of properties such that compli-
6 ance with this notice requirement is impractical,
7 the President may substitute another mecha-
8 nism for providing continuing notice of property
9 use restriction.

10 “(C) FILING OF NOTICE.—If recording in
11 the public land records is required under this
12 subsection, the President shall file the notice or
13 other document in the appropriate office within
14 the State (or governmental subdivision) in
15 which the affected property is located, as des-
16 ignated by State law. If the State has not by
17 law designated one office for the recording of
18 interests in real property or claims or rights
19 burdening real property, the notice or other
20 document shall be filed in the office of the clerk
21 of the United States district court for the dis-
22 trict in which the affected property is located
23 and the registry established under subpara-
24 graph (H).

1 “(D) PERSONS SUBJECT TO INSTRU-
2 MENTS.—An institutional control instrument
3 shall be enforceable in perpetuity (unless termi-
4 nated and released as provided for in this sec-
5 tion) against any holder of an interest in the af-
6 fected property at the time the instrument is
7 adopted and all persons who subsequently ac-
8 quire an interest in the property or rights to
9 use the property, including lessees, licensees,
10 and any other person with an interest in the
11 property. In the case of easements, such ease-
12 ments shall apply without respect to privity or
13 lack of privity of estate or contract, lack of ben-
14 efit running to any other property, assignment
15 of the easement to another party or sale or
16 other transfer of the burdened property, or any
17 other circumstance which might otherwise af-
18 fect the enforceability of easements or similar
19 deed restrictions under the laws of the State.
20 The instrument shall be binding upon holders
21 of any other interests in the property regardless
22 of whether such interests are recorded or
23 whether they were recorded prior or subsequent
24 to adoption of the instrument, and shall remain

1 in effect notwithstanding any foreclosure or
2 other assertion of such interests.

3 “(E) ENFORCEMENT.—

4 “(i) EFFECT OF VIOLATIONS.—Viola-
5 tion of any restriction, limitation, or con-
6 trol imposed under an institutional control
7 instrument shall have the same effect as
8 failure to comply with an order issued
9 under section 106 and relief may be sought
10 either in enforcement actions under section
11 106(b)(1), by States under section
12 121(e)(2), or in citizen suits under section
13 310. No citizen suit under section 310 to
14 enforce such an instrument may be com-
15 menced if the holder of the easement has
16 commenced and is diligently prosecuting
17 an action in court to enforce the easement.

18 “(ii) ENFORCEMENT ACTIONS.—The
19 President may take appropriate enforce-
20 ment actions to ensure compliance with the
21 terms of the instrument whenever the Ad-
22 ministrator of the Environmental Protec-
23 tion Agency determines that the terms set
24 forth in the instrument are being violated.

1 “(iii) SAVINGS CLAUSE.—Nothing in
2 this section shall limit rights or remedies
3 available under other laws.

4 “(F) TERMINATION OR MODIFICATION OF
5 INSTITUTIONAL CONTROL INSTRUMENTS.—An
6 institutional control instrument adopted under
7 this subsection shall remain in force until the
8 instrument is modified or terminated by or with
9 the approval of the Administrator upon a deter-
10 mination that the instrument is no longer need-
11 ed to protect human health and the environ-
12 ment, including fetuses, children, and other
13 highly exposed, highly susceptible, or differen-
14 tially susceptible subpopulations. Such modifica-
15 tion or termination shall be recorded in the
16 same manner as the original instrument.

17 “(G) PUBLIC NOTICE.—Not later than 180
18 days after the date of the enactment of this
19 subsection, the President shall issue regulations
20 regarding the procedures to be used for public
21 notice of proposed property use restrictions and
22 institutional control instruments and any termi-
23 nation or modification thereof. Such regulations
24 shall ensure that before acquiring an institu-
25 tional control instrument, and before recording

1 any notice of such instrument, the President
2 will give notice and an opportunity to comment
3 to the owner of the affected property, all other
4 persons with recorded interests in the property,
5 any lessees or other authorized occupants of the
6 property known to the President, the State and
7 any municipalities in which the property is lo-
8 cated, any relevant community advisory group
9 established under section 117, the affected com-
10 munity and the general public.

11 “(H) REGISTRY OF INSTITUTIONAL CON-
12 TROLS.—The President shall maintain a reg-
13 istry of all property at which institutional con-
14 trols have been established in connection with
15 any response action under this Act. The reg-
16 istry shall identify the property and the nature
17 or form of the institutional controls, including
18 any subsequent changes in the nature or form
19 of such controls. Where this section refers to
20 the filing of any document in the local land
21 records, if the State has not by law designated
22 one office for the recording of interests in real
23 property or claims or rights burdening real
24 property, or if the procedures maintained by the
25 designated office do not allow for the filing of

1 such a document, the document shall be filed in
2 this registry.

3 “(3) TYPES OF INSTRUMENTS.—

4 “(A) EASEMENTS.—

5 “(i) AUTHORITY TO ACQUIRE EASE-
6 MENTS.—In connection with any response
7 action under this Act, in order to prevent
8 exposure to, reduce the likelihood of, or
9 otherwise respond to a release or threat-
10 ened release of a hazardous substance, pol-
11 lutant, or contaminant, the President may
12 acquire, at fair market value, or for other
13 consideration as agreed to by the parties,
14 a hazardous substance easement which re-
15 stricts, limits, or controls the use of land
16 or other natural resources, including speci-
17 fying permissible or impermissible uses of
18 land, prohibiting specified activities upon
19 property, prohibiting the drilling of wells
20 or use of ground water, or restricting the
21 use of surface water.

22 “(ii) USE OF EASEMENTS.—A hazard-
23 ous substance easement under this sub-
24 section may be used wherever institutional

1 controls have been selected as a component
2 of a response action.

3 “(iii) METHODS OF ACQUIRING EASE-
4 MENTS.—The President may acquire a
5 hazardous substance easement by purchase
6 or other agreement, by condemnation, or
7 by any other means permitted by law.
8 Compensation for such easement shall be
9 at fair market value, or for other consider-
10 ation as agreed to by the parties, for the
11 interest acquired. For an easement ac-
12 quired from entities that are not respon-
13 sible parties, valuation of such easement
14 shall be based on the value of the property
15 in an uncontaminated condition. The costs
16 of obtaining, ensuring adequate public no-
17 tice of, and otherwise tracking and main-
18 taining the protections afforded by the
19 easements shall be considered response
20 costs which are recoverable under this Act.

21 “(iv) ASSIGNMENT OF EASEMENTS TO
22 PARTIES OTHER THAN THE PRESIDENT.—

23 “(I) AUTHORITY TO ASSIGN.—

24 The President may, where appropriate
25 and with the consent of the State, as-

1 sign an easement acquired under this
2 subsection to a State that has the ca-
3 pacity to effectively enforce the ease-
4 ment over the period of time during
5 which the easement is in effect. In the
6 case of any assignment, the easement
7 shall also be fully enforceable by the
8 assignee. Any assignment of such an
9 easement by the President may be
10 made by following the same proce-
11 dures as are used for the transfer of
12 an interest in real property to a State
13 under section 104(j).

14 “(II) EASEMENTS HELD BY
15 OTHER PERSONS.—Any interest in
16 property granted to a State, an Indian
17 Tribe, or another governmental entity
18 or other person which restricts, limits,
19 or controls the use of land or other
20 natural resources in order to prevent
21 exposure to, reduce the likelihood of,
22 or otherwise respond to, a release or
23 threatened release of a hazardous sub-
24 stance, pollutant, or contaminant, and
25 which is expressly designated in writ-

1 ing as a hazardous substance ease-
2 ment within the meaning of this para-
3 graph, shall create the same rights,
4 have the same legal effect, and be en-
5 forceable in the same manner as a
6 hazardous substance easement ac-
7 quired by the President regardless of
8 whether the interest in property is
9 otherwise denominated as an ease-
10 ment, covenant, or any other form of
11 property right.

12 “(v) APPLICABILITY OF OTHER PROVI-
13 SIONS.—Holding a hazardous substance
14 easement shall not in itself subject either
15 the holder thereof or the owner of the af-
16 fected property to liability under section
17 107. Any such easement acquired by the
18 President shall not be subject to the re-
19 quirements of subsection (j)(2) or section
20 120(h). Nothing in this subsection limits
21 or modifies the authority of the President
22 pursuant to subsection (j)(1).

23 “(B) ORDER IMPOSING RESTRICTIONS.—In
24 connection with any response action under this
25 Act, in order to prevent exposure to, reduce the

1 likelihood of, or otherwise respond to a release
2 or threatened release of a hazardous substance,
3 pollutant, or contaminant, the President may by
4 order establish appropriate restrictions, limita-
5 tions, or controls on the use of land or other
6 natural resources, including specifying permis-
7 sible or impermissible uses of land, prohibiting
8 specified activities upon property, prohibiting
9 the drilling of wells or use of ground water, or
10 restricting the use of surface water. Any such
11 order shall be binding on each person who re-
12 ceives actual notice of the order, and after filing
13 in the appropriate land records shall be binding
14 on the owner's successors, assigns, and lessees,
15 and on any person who subsequently acquires
16 an interest in the property. A finding of immi-
17 nent and substantial endangerment shall not be
18 required to issue an order under this subpara-
19 graph.

20 “(C) STATE INSTITUTIONAL CONTROL IN-
21 STRUMENTS.—In connection with any response
22 action under this Act, in order to prevent expo-
23 sure to, reduce the likelihood of, or otherwise
24 respond to a release or threatened release of a
25 hazardous substance, pollutant, or contaminant,

1 the President may include in a response action
2 institutional controls adopted pursuant to State
3 law, if such controls meet all requirements of
4 paragraph (2) of this subsection.”.

5 **SEC. 103. AMENDMENTS RELATING TO RESPONSE AU-**
6 **THORITIES.**

7 (a) **REMOVAL ACTIONS.**—Section 104(a)(2) of the
8 Comprehensive Environmental Response, Compensation,
9 and Liability Act of 1980 (42 U.S.C. 9604(a)(2)) is
10 amended by adding at the end the following: “The Presi-
11 dent shall ensure that a removal action is not undertaken
12 in lieu of a long-term remedial action.”.

13 (b) **FURTHER RESPONSE ACTION.**—Section 104(a)
14 of such Act is amended by adding at the end the following:
15 “(5) Nothing in this Act shall be interpreted to limit
16 the authority of the President, subsequent to selection of
17 a remedial action, to take any further response action nec-
18 essary to remove or remediate residual hazardous sub-
19 stances, pollutants, or contaminants where such removal
20 or remediation is appropriate for the restoration of natural
21 resources.”.

1 **TITLE II—COMMUNITY PARTICI-**
2 **PATION AND HUMAN HEALTH**
3 **Subtitle A—Community**
4 **Participation**

5 **SEC. 201. DEFINITIONS.**

6 Section 117 of the Comprehensive Environmental Re-
7 sponse, Compensation, and Liability Act of 1980 (42
8 U.S.C. 9617) is amended by adding at the end the follow-
9 ing:

10 “(j) DEFINITIONS.—

11 “(1) COVERED FACILITY.—The term ‘covered
12 facility’ means a facility—

13 “(A) that has been listed or proposed for
14 listing on the National Priorities List;

15 “(B) at which the Administrator is under-
16 taking an action anticipated to exceed 1 year in
17 duration, or with respect to which the funding
18 limit under section 104 of this Act is antici-
19 pated to be reached; or

20 “(C) with respect to which the Adminis-
21 trator of ATSDR has accepted a petition re-
22 questing a health assessment or related health
23 activity under section 104(i)(6)(B).

24 “(2) AFFECTED COMMUNITY.—The term ‘af-
25 fected community’ means any group of 2 or more in-

1 individuals (including representatives of Indian tribes)
2 which may be affected by the release or threatened
3 release of hazardous substances, pollutants, or con-
4 taminants at a covered facility.

5 “(3) NOTICE.—The term ‘notice’ means an an-
6 nouncement, including the date, time, location, and
7 agenda of any meeting to be held, that is issued
8 using communications media targeted to residents of
9 affected communities and posters displayed in public
10 places within the affected community.”.

11 **SEC. 202. PUBLIC PARTICIPATION.**

12 (a) TAG GRANTS.—Section 117(e) of the Com-
13 prehensive Environmental Response, Compensation, and
14 Liability Act of 1980 (42 U.S.C. 9617(e)) is amended to
15 read as follows:

16 “(e) GRANTS FOR TECHNICAL ASSISTANCE.—

17 “(1) AUTHORITY.—In accordance with the rules
18 promulgated by the Administrator, the Adminis-
19 trator may make grants available to any Community
20 Advisory Group or affected community. Such grants
21 shall be known as Technical Assistance Grants
22 (‘TAGs’).

23 “(2) SPECIAL RULES.—No matching contribu-
24 tion shall be required for a Technical Assistance
25 Grant. The Administrator may make the lesser of

1 \$10,000 or 10 percent of the total grant amount
2 available to the grant recipient, in advance of the ex-
3 penditures to be covered by the grant.

4 “(3) GRANT AVAILABILITY.—The Administrator
5 shall promptly notify residents and Indian tribes liv-
6 ing near a covered facility that a technical assistance
7 grant is available under this section.

8 “(4) NUMBER OF TAGS PER FACILITY.—Except
9 as provided in this paragraph, not more than one
10 grant may be made at a time under this subsection
11 with respect to a single covered facility, but the
12 grant may be renewed to facilitate public participa-
13 tion at all stages of response action, including oper-
14 ation and maintenance. Limits shall be established
15 with respect to the number of years for which grants
16 may be available based on the duration, type, and
17 extent of response activity at a covered facility. The
18 Administrator may provide more than one grant
19 under this subsection with respect to a single cov-
20 ered facility, considering such factors as the area af-
21 fected by the covered facility and the distances be-
22 tween affected communities.

23 “(5) FUNDING AMOUNT.—The initial amount of
24 any grant under this subsection may not exceed
25 \$100,000 (based on fiscal year 1998 constant dol-

1 lars) for a single grant recipient, except that the Ad-
2 ministrator may increase the amount of the grant if
3 the grant recipient demonstrates that the covered fa-
4 cility’s characteristics indicate additional funds are
5 necessary due to the complexity of the response ac-
6 tion, including the size and complexity of the covered
7 facility or the nature or volume of site-related infor-
8 mation, or if the grant recipient requests such addi-
9 tional funds to perform biological sampling under
10 paragraph (7)(C). In addition, the Administrator
11 must find that the grant recipient’s management of
12 a previous grant award, if any, was satisfactory, and
13 that the costs incurred under the award are allow-
14 able and reasonable.

15 “(6) SIMPLIFICATION.—To ensure that the ap-
16 plication process is accessible to all affected persons,
17 including those that reside in a special priority area
18 listed under section 116(f)(2), the Administrator
19 shall review the existing guidelines and application
20 procedures for the TAGs and, within 180 days after
21 the date of enactment of this section, revise, as ap-
22 propriate, such guidelines and procedures to simplify
23 the process of obtaining such grants.

24 “(7) AUTHORIZED GRANT ACTIVITIES.—

1 “(A) INTERPRETATION OF INFORMA-
2 TION.—Grants awarded under this subsection
3 may be used to obtain technical assistance in
4 interpreting information and providing input
5 with regard to (i) the nature of the hazard at
6 a covered facility; (ii) sampling and monitoring
7 plans, (iii) the remedial investigation and fea-
8 sibility study; (iv) the record of decision; (v) the
9 selection, design, and construction of the reme-
10 dial action; (vi) operation and maintenance;
11 (vii) removal activities at such covered facility;
12 or (viii) health assessment or related health ac-
13 tivity.

14 “(B) ENVIRONMENTAL SAMPLING.—

15 “(i) IN GENERAL.—Grants awarded
16 under this subsection may be used to ob-
17 tain technical assistance in developing en-
18 vironmental sampling plans, collecting
19 samples, analyzing samples, and interpret-
20 ing sample data.

21 “(ii) APPROVAL OF SAMPLING
22 PLANS.—Before any samples are collected
23 by a TAG recipient, a sampling plan shall
24 be submitted to the Administrator for ap-
25 proval. The Administrator shall promul-

1 gate regulations regarding the submittal of
2 such plans.

3 A sampling plan shall be deemed to be approved
4 unless such approval is denied by the Adminis-
5 trator within 60 days after the date on which
6 the plan is submitted. If the Administrator de-
7 nies approval of the plan, the Administrator
8 shall provide an explanation of such denial to
9 the entity that submitted the plan. The entity
10 may revise and resubmit the plan accordingly.”.

11 “(C) BIOLOGICAL SAMPLING.—Grants
12 awarded under this section also may be used to
13 collect and analyze biological samples. Such
14 sample collection and analysis shall be per-
15 formed by an accredited health care profes-
16 sional.

17 “(D) ADDITIONAL ACTIVITIES.—(i) Sub-
18 ject to clause (ii), grants awarded under this
19 section also may be used—

20 “(I) to obtain technical assistance in
21 interpreting information used to rank fa-
22 cilities according to the Hazard Ranking
23 System;

24 “(II) to hire a community coordinator;

1 “(III) to hire health experts to advise
2 affected residents on health assessment
3 and data gathering efforts and response
4 activities, and on the design of any health
5 studies that a government agency per-
6 forms;

7 “(IV) to hire technical or legal experts
8 to file comments with governmental agen-
9 cies and generate other documents as nec-
10 essary to ensure full participation by the
11 grant recipient;

12 “(V) to publish newsletters or other-
13 wise finance the dissemination of informa-
14 tion; and

15 “(VI) to evaluate the reliability of
16 long-term operation and maintenance and
17 institutional controls.

18 “(ii) Not more than 10 percent of the
19 amount of a technical assistance grant may be
20 used for hiring legal experts or for travel ex-
21 penses.

22 “(E) AVAILABILITY OF INFORMATION.—
23 Information generated by the recipients of
24 grants under this section shall be made avail-

1 able, as appropriate, to the appropriate Com-
2 munity Information and Access Office.

3 “(8) NON-SITE-SPECIFIC GRANTS.—In accord-
4 ance with the rules promulgated by the Adminis-
5 trator, the Administrator may make Technical As-
6 sistance Grant funds available to Indian tribes, non-
7 profit organizations, and citizens groups to enhance
8 their participation in rulemaking processes carried
9 out in accordance with this Act. Total funding for
10 all such grants shall not exceed \$100,000.

11 “(9) NATIONAL CONFERENCE.—

12 “(A) IN GENERAL.—The Administrator
13 shall convene a national conference once every
14 two years for TAG advisors and recipients for
15 purposes of exchanging information and making
16 recommendations to the Administrator.

17 “(B) REPORT TO THE ADMINISTRATOR.—
18 The participants in a national conference shall,
19 not later than 180 days after the conference
20 ends, submit to the Administrator a report. The
21 report shall contain such findings and rec-
22 ommendations as the participants in the con-
23 ference consider appropriate.”.

24 (b) IMPROVING CITIZEN AND COMMUNITY PARTICI-
25 PATION.—(1) Section 117 of the Comprehensive Environ-

1 mental Response, Compensation, and Liability Act of
2 1980 (42 U.S.C. 9617) is amended by—

3 (A) redesignating paragraphs (1) and (2) of
4 subsection (a) as subparagraphs (A) and (B);

5 (B) striking “under paragraph (1)” in such
6 subsection (a) and inserting “under subparagraph
7 (A)”;

8 (C) redesignating such subsection (a) as para-
9 graph (4);

10 (D) by redesignating subsections (b) and (c) as
11 paragraphs (6) and (7) of subsection (a); and

12 (E) inserting the following immediately after
13 the section heading:

14 “(a) IMPROVING CITIZEN AND COMMUNITY PARTICI-
15 PATION IN DECISIONMAKING.—

16 “(1) IN GENERAL.—In order to provide an op-
17 portunity for meaningful public participation in
18 every significant phase of response activities under
19 this Act, the President shall take the actions speci-
20 fied in this subsection.

21 “(2) HEALTH ASSESSMENT AND PRELIMINARY
22 ASSESSMENT AND SITE INSPECTION.—The President
23 shall provide the opportunity for public meetings and
24 provide a notice of such meetings before or during
25 performance of the health assessment or related

1 health activity and the preliminary assessment and
2 site inspection, as appropriate. Before or during the
3 health assessment or related health activity and site
4 inspection, the President shall solicit and evaluate
5 concerns, interests, and information from the Com-
6 munity Advisory Group, if any, affected Indian
7 tribes, the affected community, local government of-
8 ficials and local health officials. The evaluation shall
9 include, as appropriate, face-to-face community sur-
10 veys to identify the location of private drinking
11 water wells, potential exposure pathways, including
12 historic, current, and potential use of water, and
13 other environmental resources in the community; a
14 public meeting; written responses to significant con-
15 cerns; and other appropriate participatory activities.

16 “(3) REMEDIAL INVESTIGATION AND FEASIBIL-
17 ITY STUDY.—The President shall provide the oppor-
18 tunity for public meetings and publish a notice of
19 such meetings before or during the Remedial Inves-
20 tigation and Feasibility Study (RI/FS). During the
21 remedial investigation and feasibility study, the
22 President shall solicit the views and preferences of
23 the Community Advisory Group, if any, affected In-
24 dian tribes, the affected community, local govern-
25 ment officials and local health officials on the reme-

1 diation and disposition of hazardous substances, pol-
2 lutants, or contaminants at the covered facility.
3 Such views and preferences shall be described in the
4 remedial investigation and feasibility study and con-
5 sidered in the screening of remedial alternatives for
6 the covered facility.”.

7 (2) Such section 117, as amended by this subsection,
8 is amended by adding the following new paragraph after
9 paragraph (4) of subsection (a):

10 “(5) COMPLETION OF WORK PLAN.—The Presi-
11 dent shall provide the opportunity for public meet-
12 ings and publish a notice of such meetings before or
13 during the completion of the work plan for the Re-
14 medial Design and Remedial Action.”.

15 (3) Such section 117, as amended by this subsection,
16 is amended by adding the following new paragraphs after
17 paragraphs (6) and (7):

18 “(8) ALTERNATIVES.—Pursuant to paragraph
19 (4), members of the Community Advisory Group, if
20 any, affected Indian tribes, the affected community,
21 local government officials and local health officials
22 may propose remedial alternatives to the President,
23 and the President shall consider such alternatives in
24 the same manner as the President considers alter-
25 natives proposed by other parties.

1 “(9) SELECTING APPROPRIATE PROCEDURES.—

2 In determining which of the procedures set forth in
3 paragraph (2) may be appropriate, the Adminis-
4 trator may consult with the Community Advisory
5 Group, if any, affected Indian tribe, the affected
6 community, local government officials and local
7 health officials.

8 “(10) PROVIDING INFORMATION.—The Presi-
9 dent, with the assistance of the Community Informa-
10 tion and Access Offices (as provided for in sub-
11 section (c)), shall provide information to the Com-
12 munity Advisory Group, if any, affected Indian
13 tribes, the affected community, local government of-
14 ficials and local health officials throughout all sig-
15 nificant phases of the response action at the covered
16 facility. The President, on a regular basis, shall in-
17 form such entities of the progress and substance of
18 technical meetings between the lead agency and po-
19 tentially responsible parties regarding a covered fa-
20 cility. The President shall notify the Community Ad-
21 visory Group, if any, affected Indian tribes, the af-
22 fected community, local government officials and
23 local health officials concerning—

24 “(A) the schedule for commencement of
25 construction activities at the covered facility

1 and the location and availability of construction
2 plans;

3 “(B) the results of any review under sec-
4 tion 121(c) and any modifications to the cov-
5 ered facility made as a result of the review; and

6 “(C) the execution of and any revisions to
7 institutional controls being used as part of a re-
8 medial action.

9 “(11) PUBLIC MEETINGS.—Public meetings re-
10 quired under this subsection shall be designed to ob-
11 tain information from the affected community and
12 disseminate information to the affected community
13 concerning the President’s covered facility activities
14 and pending decisions. Public meetings shall be held
15 at a convenient and easily accessible location within
16 the affected community and at a time when the ma-
17 jority of residents of the affected community is able
18 to attend the meeting. A notice of any such meeting
19 shall be issued at least 10 days before the date of
20 the meeting.

21 “(12) SPECIAL PRIORITY AREAS.—In taking the
22 actions specified in this subsection, the President
23 shall consider the unique needs of residents of spe-
24 cial priority areas listed under section 116(f)(2).”.

1 (4) Such section 117 is amended by striking “major”
2 in subsection (d).

3 (5) Such section 117 is amended by adding the fol-
4 lowing new subsection after subsection (a), as amended
5 by this section:

6 “(b) ADDITIONAL PUBLIC INVOLVEMENT REQUIRE-
7 MENTS.—(1) The President shall make records relating to
8 the covered facility available to the public throughout all
9 phases of response action at the covered facility. Such in-
10 formation shall be made available to the public for inspec-
11 tion and copying without the need to file a formal request,
12 subject to reasonable service charges as appropriate, in ac-
13 cordance with the schedule of fees promulgated in regula-
14 tions under section 552(a)(4)(A) of title 5, United States
15 Code. This paragraph shall not apply to a record that is
16 exempt from disclosure under section 552 of title 5,
17 United States Code, or to any record that is exchanged
18 between parties to a dispute under this Act for the pur-
19 poses of settling the dispute.

20 “(2) The President, in carrying out responsibilities
21 under this Act, shall ensure that the presentation of infor-
22 mation on risk is unbiased and informative and clearly dis-
23 closes any uncertainties and data gaps.

24 “(3) Notwithstanding any other provision of this sub-
25 section, in the case of a removal action taken in accord-

1 ance with section 104 which is expected to extend beyond
2 180 days, the President shall comply with the require-
3 ments of this section unless the President determines that
4 such compliance presents an imminent and substantial
5 endangerment to human health or the environment.
6 Whenever the planning period for a removal action is ex-
7 pected to be greater than 180 days, the Administrator
8 shall provide the Community Advisory Group, if any, af-
9 fected Indian tribes, the affected community, local govern-
10 ment officials and local health officials with notice of the
11 anticipated removal action and a public comment period
12 of no less than 30 days.

13 “(4) Any resident of an affected community shall
14 have the ability to fully initiate or participate in any rem-
15 edy review processes or mechanisms established by the Ad-
16 ministrator.”.

17 (6) Such section 117 is further amended by adding
18 the following new subsection after subsection (e):

19 “(f) UNDERSTANDABLE PRESENTATION OF MATE-
20 RIALS.—The President shall ensure that information pre-
21 pared for distribution to the public under this section shall
22 be provided or summarized in a manner that may be easily
23 understood, considering any unique cultural needs of the
24 affected community, including presentation of information

1 orally and distribution of information in languages other
2 than English, as appropriate.”.

3 **SEC. 203. COMMUNITY INFORMATION AND ACCESS**
4 **OFFICES.**

5 Section 117 of the Comprehensive Environmental Re-
6 sponse, Compensation, and Liability Act of 1980 (42
7 U.S.C. 9617) is amended by adding the following after
8 subsection (b), as added by section 202:

9 “(c) COMMUNITY INFORMATION AND ACCESS OF-
10 FICES.—

11 “(1) ESTABLISHMENT.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), not later than 18 months after the
14 date of enactment of this subsection, a State
15 with a covered facility, or an Indian tribe in the
16 case of such a facility in Indian country (as de-
17 fined in section 1151 of title 18, United States
18 Code), shall establish a Community Information
19 and Access Office to perform the functions set
20 forth in paragraph (3).

21 “(B) EXISTING OFFICES.—The Adminis-
22 trator may determine that a State or tribal of-
23 fice in existence before the date of enactment of
24 this subsection can or does already perform the
25 functions of a Community Information and Ac-

1 cess Office and is eligible for funding under
2 paragraph (2).

3 “(C) PROCESS.—Each State or tribe shall
4 decide the process for establishing a Commu-
5 nity Information and Access Office.

6 “(D) EPA ROLE.—The Administrator
7 shall approve the Office if it meets the require-
8 ments of this subsection. If the Administrator
9 determines that the State or tribe has not es-
10 tablished an office or offices that can perform
11 the functions of a Community Information and
12 Access Office, the Administrator shall establish
13 an office or offices in the State.

14 “(E) NUMBER OF OFFICES.—The Admin-
15 istrator may require the establishment of more
16 than one Community Information and Access
17 Office in a State, considering factors such as
18 the number of covered facilities in the State,
19 the geographic distance between such facilities,
20 and the number of people affected by such fa-
21 cilities in the State.

22 “(2) FUNDING.—

23 “(A) IN GENERAL.—Funding for the oper-
24 ation of Community Information and Access
25 Offices, or State, tribal, or Environmental Pro-

1 tection Agency offices that perform similar
2 functions, collectively, shall not exceed
3 \$50,000,000 for a fiscal year.

4 “(B) STATE OR TRIBAL GRANTS.—Each
5 State or Indian tribe that has a Community In-
6 formation and Access Office, or each State, In-
7 dian tribe, or Environmental Protection Agency
8 office performing the functions of a Community
9 Information and Access Office, shall receive not
10 less than \$500,000, and not more than
11 \$1,000,000, for a fiscal year.

12 “(C) FORMULA.—

13 “(i) IN GENERAL.—The Administrator
14 shall publish guidelines establishing a for-
15 mula for determining the actual amount of
16 funding for each Community Information
17 and Access Office.

18 “(ii) FACTORS.—The formula shall in-
19 clude factors such as the number of facili-
20 ties listed or proposed for listing on the
21 National Priorities List that would be cov-
22 ered by the Community Information and
23 Access Office.

24 “(3) FUNCTIONS.—

1 “(A) IN GENERAL.—A Community Infor-
2 mation and Access Office shall—

3 “(i) assist the Administrator (I) in
4 disseminating information regarding facili-
5 ties, information regarding the existence of
6 the Office and its services, and information
7 regarding opportunities for public partici-
8 pation under this Act, (II) in notifying citi-
9 zens of public meetings, notifying the com-
10 munity living or working near a facility of
11 the opportunity to establish a community
12 advisory group, and notifying the public of
13 the availability of TAGs, (III) in informing
14 citizens of their rights under this Act, in-
15 cluding the availability of health services
16 and the right of petition for assessment of
17 release, for performance of a health assess-
18 ment, and for establishment of a Commu-
19 nity Advisory Group, and (IV) in providing
20 citizens with information relating to the
21 operation of Federal, State, and tribal haz-
22 ardous substance and waste laws with re-
23 spect to facilities within the State or in In-
24 dian country (as defined in section 1151 of
25 title 18, United States Code);

1 “(ii) serve as a clearinghouse, main-
2 tain records, and provide electronic access
3 as appropriate, for facility information, in-
4 cluding a description of the Administra-
5 tor’s process for identifying facilities and
6 undertaking response actions under this
7 Act, a list of facilities located in the State
8 or in Indian country (as defined in section
9 1151 of title 18 United States Code), and
10 with respect to each such facility and to
11 the extent information becomes available—

12 “(I) the location, name of owner
13 or operator, and characteristics of the
14 facility;

15 “(II) the hazardous substances,
16 pollutants, and contaminants present,
17 including the quantities and relative
18 toxicities of the substances, pollutants,
19 and contaminants;

20 “(III) the response actions being
21 taken, including records of any insti-
22 tutional controls that are included in
23 the response actions;

24 “(IV) any health data generated
25 in connection with the facility;

1 “(V) the status of the response
2 actions at the facility;

3 “(VI) any report generated as a
4 result of a review under section
5 121(e);

6 “(VII) the location of the Admin-
7 istrative Record created for the facil-
8 ity, if any, under section 113(k); and

9 “(VIII) any ongoing operation
10 and maintenance requirements or in-
11 stitutional controls in place;

12 “(iii) assist members of an affected
13 community or Community Advisory Group
14 in applying for technical assistance grants
15 under subsection (e); and

16 “(iv) assist individuals in petitioning
17 for assessment of release under section
18 105(d), in petitioning for a health assess-
19 ment under section 104(i)(6)(B), or in pe-
20 titioning for establishment of a Community
21 Advisory Group under section
22 117(g)(1)(B).

23 “(B) REPORT.—

24 “(i) IN GENERAL.—Each Community
25 Information and Access Office shall annu-

1 ally submit a report to the Administrator
2 summarizing the performance of its duties
3 and shall certify in the report that any
4 funds used under paragraph (2) by the
5 Community Information and Access Office
6 have been used in compliance with the re-
7 quirements of this subsection. The Admin-
8 istrator shall make such report available to
9 the public.

10 “(ii) VERIFICATION BY INSPECTOR
11 GENERAL.—The Inspector General of the
12 Environmental Protection Agency shall pe-
13 riodically review the programs carried out
14 under this subsection and reports made
15 under this subparagraph and shall verify
16 the accuracy of the certifications contained
17 in the reports.

18 “(iii) TERMINATION OF GRANT.—If
19 the Administrator of the Environmental
20 Protection Agency is unable to verify the
21 information provided in the report, or if
22 the Administrator determines that the
23 grant is not being used in a manner con-
24 sistent with the functions under subpara-

1 graph (A), the Administrator may termi-
2 nate the grant.”.

3 **SEC. 204. COMMUNITY ADVISORY GROUPS.**

4 Section 117 of the Comprehensive Environmental Re-
5 sponse, Compensation, and Liability Act of 1980 (42
6 U.S.C. 9617) is further amended by adding after sub-
7 section (f) the following:

8 “(g) COMMUNITY ADVISORY GROUPS.—

9 “(1) CREATION AND RESPONSIBILITIES.—The
10 President shall provide the opportunity for the es-
11 tablishment of a representative public forum, known
12 as a Community Advisory Group (CAG), to achieve
13 direct, regular, and meaningful consultation with all
14 interested parties throughout all stages of a response
15 action whenever—

16 “(A) the President determines such a
17 group will be helpful; or

18 “(B) 10 individuals residing in or at the
19 area in which the covered facility is located, or
20 10 percent of the population of a locality in
21 which the covered facility is located, whichever
22 is less, petition for a Community Advisory
23 Group to be established.

24 “(2) DUTIES.—Each Community Advisory
25 Group shall provide information and views to the

1 President, and, as appropriate, any or all of the fol-
2 lowing: the Agency for Toxic Substances and Dis-
3 ease Registry, State agencies, Federal agencies, Fed-
4 eral, State, and tribal natural resource trustees, and
5 potentially responsible parties conducting response
6 actions. The information and views reported shall in-
7 clude the various subjects related to facility remedi-
8 ation, including facility health assessments and
9 health related activities, potential remedial alter-
10 natives, and selection and implementation of reme-
11 dial and removal actions. The Community Advisory
12 Group shall attempt to achieve consensus among its
13 members before reporting positions to agencies,
14 trustees, or potentially responsible parties. In cases
15 in which consensus cannot be reached, the Commu-
16 nity Advisory Group shall allow the presentation of
17 divergent views.

18 “(3) LAND USE.—The President shall adopt, as
19 part of the remedy selected at the facility, any con-
20 sensus recommendation of the Community Advisory
21 Group on land use to be used as part of the remedy.
22 Notwithstanding the previous sentence, the Presi-
23 dent shall decline to adopt such a consensus rec-
24 ommendation upon determining that the rec-
25 ommendation is not adequate to protect human

1 health and the environment. In cases in which there
2 is substantive disagreement within the Community
3 Advisory Group over a recommendation regarding
4 land use, the Administrator shall make reasonable
5 efforts to reconcile the differences.

6 “(4) COMMUNITY ADVISORY GROUP INPUT.—
7 With the exception of land use recommendations,
8 input received from the Community Advisory Groups
9 shall be considered by the President to be of equal
10 weight with the advice received from the Technical
11 Assistance Grant recipients and other affected com-
12 munity members.

13 “(5) COMMUNITY ADVISORY GROUP MEM-
14 BERS.—Members shall serve on the Community Ad-
15 visory Group without pay. The President shall pro-
16 vide notice and opportunity to participate on a Com-
17 munity Advisory Group to the affected community,
18 including to persons who are or historically have
19 been disproportionately affected by facility contami-
20 nation in their community. The President shall en-
21 sure that each Community Advisory Group, to the
22 extent practicable, reflects the composition and di-
23 versity of interests of the community near the facil-
24 ity. Residents of the area most affected by releases
25 from the facility shall comprise a majority of the

1 total membership of the CAG. At least one person
2 in the CAG shall represent the Technical Assistance
3 Grant recipient if such a grant has been awarded
4 under subsection (e). To the extent practicable, the
5 President shall ensure that members of the following
6 groups are represented on a CAG:

7 “(A) Persons residing or owning residen-
8 tial property in the area in which the covered
9 facility is located or persons who may be af-
10 fected by releases from the facility.

11 “(B) Medical professionals practicing in
12 the affected community.

13 “(C) Members of local Indian tribes or In-
14 dian communities.

15 “(D) Local citizen, civic, environmental, or
16 public interest groups with members residing in
17 the affected community.

18 “(E) Current and former employees of the
19 facility during facility operation.

20 “(F) Local business community members.

21 “(6) FACA.—The Federal Advisory Committee
22 Act shall not apply to a CAG established under this
23 Act or ATSDR Community Advisory Panels.

24 “(7) TECHNICAL AND ADMINISTRATIVE SUP-
25 PORT FOR COMMUNITY ADVISORY GROUPS.—The

1 President may provide administrative support for
2 Community Advisory Groups.

3 “(8) ADDITIONAL PARTICIPANTS.—The Admin-
4 istrator of the Environmental Protection Agency, the
5 Administrator of the Agency for Toxic Substances
6 and Disease Registry, the State, representatives cho-
7 sen by the governing body of local Indian tribes or
8 Indian community local governments (which may in-
9 clude pertinent city or county governments, or both),
10 and any other governmental unit which regulates
11 land use in the vicinity of the facility, as appropriate
12 nonresidential owners or operators, and local rep-
13 resentatives of the Potentially Responsible Parties
14 (PRPs) who represent, wherever practicable, a bal-
15 ance of PRP interests, may participate in Commu-
16 nity Advisory Group meetings to provide information
17 and technical expertise, but shall not be members of
18 the Community Advisory Group.

19 “(9) OTHER PUBLIC INVOLVEMENT.—The ex-
20 istence of a Community Advisory Group shall not di-
21 minish any other obligation of the President to con-
22 sider the views of any person in selecting response
23 actions under this Act. Nothing in this section shall
24 affect the status of any Citizen Advisory Group
25 formed before the enactment of this subsection.

1 Nothing in this section shall affect the status, deci-
2 sions, or future formation of any Department of De-
3 fense Restoration Advisory Board, or Department of
4 Energy Site Specific Advisory Board, and no Citizen
5 Advisory Group must be established for a facility if
6 any such Board has been established for the facility.

7 “(h) COMMUNITY STUDY.—

8 “(1) REPORT BY THE ADMINISTRATOR.—The
9 Administrator shall prepare and submit to Congress
10 a Community Study two years after the date of en-
11 actment of this Act, shall periodically update the
12 study, and shall also provide such study to the Com-
13 munity Information and Access Office. The Adminis-
14 trator and Community Information and Access Of-
15 fices shall ensure that copies of such studies are
16 made available to the public.

17 “(2) CONTENT OF THE REPORT.—The Admin-
18 istrator’s report shall include an analysis of the
19 speed of listing; the speed and nature of response
20 action; the degree to which public views are reflected
21 in response actions; use of institutional controls; and
22 the population, race, ethnicity, and income charac-
23 teristics of each community affected by each facility
24 listed or proposed for listing on the National Prior-
25 ities List.

1 “(3) EVALUATION.—The Administrator shall
2 evaluate the information in the study to determine
3 whether priority setting, response actions, and public
4 participation requirements were conducted in a fair
5 and equitable manner and identify program areas
6 that require improvements or modification.

7 “(4) ACTIONS BASED ON EVALUATION.—The
8 Administrator shall institute the necessary improve-
9 ments or modifications to address any deficiencies
10 identified by the study prepared under this section.”.

11 **SEC. 205. TECHNICAL OUTREACH SERVICES FOR COMMU-**
12 **NITIES.**

13 Section 311(d)(2) of the Comprehensive Environ-
14 mental Response, Compensation, and Liability Act of
15 1980 (42 U.S.C. 9660(d)(2)) is amended to read as fol-
16 lows:

17 “(2) RESPONSIBILITIES OF CENTERS.—The re-
18 sponsibilities of a hazardous substance research cen-
19 ter under this subsection shall include—

20 “(A) the conduct of research and training
21 relating to the manufacture, use, transpor-
22 tation, disposal, and management of hazardous
23 substances and publication and dissemination of
24 the results of the research; and

1 “(B) the conduct of a program to provide
2 educational and technical assistance to commu-
3 nities affected by contamination.”.

4 **SEC. 206. RECRUITMENT AND TRAINING PROGRAM.**

5 Section 117 of the Comprehensive Environmental Re-
6 sponse, Compensation, and Liability Act of 1980 (42
7 U.S.C. 9617) is amended by adding after subsection (h)
8 the following:

9 “(i) RECRUITMENT AND TRAINING PROGRAM.—

10 “(1) IN GENERAL.—The Administrator, in con-
11 sultation with the National Institute of Environ-
12 mental Health Studies, shall conduct a program to
13 assist in the recruitment and training of individuals
14 in an affected community for employment in re-
15 sponse activities conducted at the facility concerned.

16 “(2) RECRUITMENT, TRAINING, AND EMPLOY-
17 MENT.—The Administrator shall encourage a person
18 conducting a response action under this Act to train
19 and employ persons from the affected community in
20 remediation skills.”.

1 **Subtitle B—Human Health**

2 **SEC. 211. DISEASE REGISTRY AND HEALTH CARE PROVID-**
3 **ERS.**

4 Section 104 of the Comprehensive Environmental Re-
5 sponse, Compensation, and Liability Act of 1980 (42
6 U.S.C. 9604) is amended as follows:

7 (1) In subsection (b), by adding the following
8 new paragraph at the end thereof:

9 “(3) NOTICE TO HEALTH AUTHORITIES.—The Presi-
10 dent shall notify State and local public health authorities
11 and Tribal health officials whenever the President has rea-
12 son to believe that a release of a hazardous substance, pol-
13 lutant, or contaminant has occurred, is occurring, or is
14 about to occur or that there is a threat of such a release.”.

15 (2) By amending subparagraph (A) of sub-
16 section (i)(1) to read as follows:

17 “(A) in cooperation with the States, establish
18 and maintain a national registry of serious diseases
19 and illnesses, a national registry of persons exposed
20 to toxic substances, including a subregistry of those
21 persons exposed within special priority areas listed
22 under section 116(f)(2), and a national registry of
23 health clinics and services available within affected
24 communities as authorized under section
25 104(i)(15)(C), including a subregistry of clinics and

1 services available within such special priority
2 areas;”.

3 (3) In subparagraph (E) of subsection (i)(1), by
4 striking “admission to hospitals and other facilities
5 and services operated or provided by the Public
6 Health Service” and inserting “referral to health
7 care providers”.

8 (4) Paragraph (6)(A) of subsection (i) is
9 amended to read as follows:

10 “(A)(i) The Administrator of ATSDR shall perform
11 a health assessment for each facility listed or proposed for
12 listing on the National Priorities List established under
13 section 105, including a facility owned or operated by a
14 department, agency, or instrumentality of the United
15 States. In the case of a facility that is listed or proposed
16 for listing on the National Priorities List for ecological
17 reasons only, a related health activity (including bio-
18 medical testing, clinical evaluations, medical monitoring,
19 and referral to accredited health care providers) may be
20 performed in lieu of a health assessment. Such health as-
21 sessment or related health activity shall be completed for
22 each facility listed or proposed for listing on the National
23 Priorities List not later than 1 year after the date of pro-
24 posal for inclusion on such list for each facility.

1 “(ii) The Administrator of the Environmental Protec-
2 tion Agency and the Administrator of ATSDR shall de-
3 velop strategies, in consultation with State, Tribal, and
4 local health officials, to obtain relevant on-site and off-
5 site characterization data, taking into account the needs
6 and conditions of the affected community.

7 “(iii) The Administrator of the Environmental Pro-
8 tection Agency shall, to the maximum extent practicable,
9 provide the Administrator of ATSDR with the data and
10 information necessary to make a public health determina-
11 tion in a timely manner in order to allow the Adminis-
12 trator of ATSDR to complete the assessment.

13 “(iv) If appropriate, the Administrator of ATSDR
14 shall provide recommendations for sampling environ-
15 mental media to the Administrator of the Environmental
16 Protection Agency as soon as practicable after discovering
17 a release or threat of release of a hazardous substance,
18 pollutant, or contaminant at a facility. To the maximum
19 extent practicable, the Administrator of the Environ-
20 mental Protection Agency shall incorporate such rec-
21 ommendations into the facility investigation activities.

22 “(v) In order to improve community involvement in
23 health assessments, the Administrator of ATSDR shall
24 carry out each of the following duties:

1 “(I) The Administrator of ATSDR shall ac-
2 tively collect data from residents of affected commu-
3 nities and from other sources in communities af-
4 fected or potentially affected by releases of hazard-
5 ous substances, pollutants, or contaminants regard-
6 ing exposure, relevant human activities, and other
7 factors.

8 “(II) The Administrator of ATSDR shall design
9 health assessments that take into account the needs
10 and conditions of the affected community. In prepar-
11 ing such designs, the Administrator of ATSDR shall
12 permit each affected community to play an active
13 and early role in reviewing the designs, shall place
14 emphasis on collection of actual exposure data, and
15 shall consider sources of multiple exposure to envi-
16 ronmental pollutants.”.

17 (5) Subparagraph (F) of subsection (i)(6) is
18 amended to read as follows:

19 “(F) For the purposes of this subsection and section
20 111(c)(4), the term ‘health assessments’ shall include pre-
21 liminary assessments of the potential risk to human
22 health, including fetuses, children, and other highly ex-
23 posed, highly susceptible, or differentially susceptible sub-
24 populations, posed by individual sites and facilities, based
25 on such factors as the nature and extent of contamination,

1 the past, present, or future existence of potential pathways
2 of human exposure and the community’s historic exposure
3 to site-related and non-site-related sources of contamina-
4 tion (including ground or surface water contamination, air
5 emissions, and food chain contamination, including con-
6 tamination of human breast milk), the size and potential
7 susceptibility of the community within the likely pathways
8 of exposure, the comparison of expected human exposure
9 levels to the short-term and long-term health effects asso-
10 ciated with identified hazardous substances and any avail-
11 able recommended exposure or tolerance limits for such
12 hazardous substances, and the comparison of existing
13 morbidity and mortality data on diseases that may be as-
14 sociated with the observed levels of exposure.”.

15 (6) In paragraph (14) of subsection (i) by—

16 (A) striking “distribute to the States, and
17 upon request to medical colleges, physicians,
18 and” and inserting the following: “distribute to
19 the States, including State health departments,
20 Tribal health officials, and upon request to
21 medical colleges, local health departments, med-
22 ical centers, physicians, nursing institutions,
23 nurses, and”;

24 (B) inserting “(A)” after “(14)”; and

1 (C) adding the following at the end there-
2 of:

3 “(B) The Administrator of ATSDR shall also assem-
4 ble, develop, as necessary, and distribute to the general
5 public and to at-risk populations appropriate educational
6 materials and other information on the human health ef-
7 fects of hazardous substances.”.

8 **SEC. 212. SUBSTANCE PROFILES.**

9 Section 104(i)(3) of the Comprehensive Environ-
10 mental Response, Compensation, and Liability Act of
11 1980 (42 U.S.C. 9604(i)(3)) is amended as follows:

12 (1) By inserting “(A)” after “(3)”.

13 (2) By redesignating subparagraphs (A), (B),
14 and (C) as clauses (i), (ii), and (iii), respectively.

15 (3) By striking out the matter beginning with
16 “Any toxicological profile or revision thereof” and all
17 that follows through the end of such paragraph and
18 inserting in lieu thereof the following:

19 “(B) Any toxicological profile or revision thereof shall
20 reflect the Administrator of ATSDR’s assessment of all
21 relevant toxicological testing which has been peer re-
22 viewed. The profiles prepared under this paragraph shall
23 be for those substances highest on the list of priorities
24 under paragraph (2) for which profiles have not previously
25 been prepared or for substances not on the listing but

1 which have been found at National Priorities List facilities
2 and non-National Priorities List facilities and which have
3 been determined by ATSDR to be of health concern. Pro-
4 files required under this paragraph shall be revised and
5 republished as appropriate, based on scientific develop-
6 ment. Such profiles shall be provided to the States, includ-
7 ing State health departments, Tribal health officials, and
8 local health departments, and made available to other in-
9 terested parties.”.

10 **SEC. 213. EXPOSURE LEVELS.**

11 (a) EXPOSURE AND TOLERANCE LIMITS.—Section
12 104(i)(5)(A) of the Comprehensive Environmental Re-
13 sponse, Compensation, and Liability Act of 1980 (42
14 U.S.C. 9604(i)(5)) is amended by striking the first three
15 sentences and inserting the following:

16 “(5)(A) For each hazardous substance listed pursu-
17 ant to paragraph (2), the Administrator of ATSDR (in
18 consultation with the Administrator of the Environmental
19 Protection Agency and other agencies and programs of the
20 Public Health Service) shall assess whether adequate in-
21 formation on the health effects of such substance is avail-
22 able, including the availability of recommended exposure
23 or tolerance limits. For any such substance for which ade-
24 quate information is not available (or under development),
25 the Administrator of ATSDR, in cooperation with the Di-

1 rector of the National Toxicology Program or the Admin-
2 istrator of the Environmental Protection Agency, shall as-
3 sure the initiation of a program of research designed to
4 determine the health effects of and exposure or tolerance
5 limits for (and techniques for development of methods to
6 determine such effects and limits) such substance, includ-
7 ing the determination of such effects and limits for
8 fetuses, children, and other highly exposed, highly suscep-
9 tible, or differentially susceptible subpopulations. Where
10 feasible, such program shall seek to develop methods to
11 determine the health effects of and exposure or tolerance
12 limits for such substance in combination with other sub-
13 stances with which it is commonly found.”.

14 (b) ADDITIONAL DUTY OF ADMINISTRATOR OF
15 ATSDR.—Section 104(i)(1) of the Comprehensive Envi-
16 ronmental Response, Compensation, and Liability Act of
17 1980 (42 U.S.C. 9604(i)(1)) is amended—

18 (1) by redesignating subparagraphs (B), (C),
19 and (D) as subparagraphs (C), (D), and (E), respec-
20 tively; and

21 (2) by inserting after subparagraph (A) the fol-
22 lowing:

23 “(B) establish and maintain an inventory of
24 available exposure or tolerance limits for hazardous
25 substances identified in paragraph (2);”.

1 (c) RESEARCH TO ESTABLISH EXPOSURE AND TOL-
2 ERANCE LIMITS.—Section 311(a)(1)(A)(i) of the Com-
3 prehensive Environmental Response, Compensation, and
4 Liability Act of 1980 (42 U.S.C. 9660(a)(1)(A)(i)) is
5 amended by inserting “and for the establishment of expo-
6 sure or tolerance limits for hazardous substances” before
7 the period.

8 **SEC. 214. HEALTH STUDIES.**

9 (a) HUMAN HEALTH STUDY.—Subparagraph (A) of
10 section 104(i)(7) of the Comprehensive Environmental Re-
11 sponse, Compensation, and Liability Act of 1980 (42
12 U.S.C. 9604(i)(7)) is amended to read as follows: “(A)
13 Whenever in the judgment of the Administrator of
14 ATSDR it is appropriate on the basis of the results of
15 a health assessment or related health activity or on the
16 basis of other appropriate information, the Administrator
17 of ATSDR shall conduct a human health study of expo-
18 sure or other health effects for selected groups or individ-
19 uals in order to determine the desirability of conducting
20 full scale epidemiologic or other health studies of the en-
21 tire exposed population.”.

22 (b) RESEARCH PROGRAM.—Section 104(i)(5)(A) of
23 the Comprehensive Environmental Response, Compensa-
24 tion, and Liability Act of 1980 (42 U.S.C. 9604(i)(5)(A)),
25 as amended by section 213, is amended as follows:

1 (1) By inserting after “program of research”
2 the following: “conducted directly or by such means
3 as cooperative agreements and grants with appro-
4 priate public and nonprofit institutions. The pro-
5 gram shall be”.

6 (2) In the last sentence—

7 (A) in clause (iii), by striking “and” at the
8 end;

9 (B) by redesignating clause (iv) as clause
10 (v); and

11 (C) by inserting after clause (iii) the fol-
12 lowing:

13 “(iv) laboratory and other studies that
14 can lead to the development of innovative
15 techniques for predicting organ-specific,
16 tissue-specific, and system-specific acute
17 and chronic toxicity; and”.

18 **SEC. 215. RELOCATION OF INDIVIDUALS.**

19 Section 104(i)(11) of the Comprehensive Environ-
20 mental Response, Compensation, and Liability Act of
21 1980 (42 U.S.C. 9604(i)(11)) is amended—

22 (1) by redesignating subparagraphs (A) and
23 (B) as clauses (i) and (ii), respectively;

24 (2) by inserting “(A)” after “(11)”;

1 (3) by striking “In any case” and inserting the
2 following:

3 “(B) In any case”;

4 (4) in subparagraph (A) (as so redesignated),
5 by striking “or substantially mitigate the significant
6 risk” and inserting “the risk”; and

7 (5) by adding at the end of subparagraph (A)
8 (as so redesignated) the following:

9 “In any case in which the President permanently relocates
10 an individual, the President shall provide to the individual
11 the replacement value of the individual’s residence.”.

12 **SEC. 216. GRANT AWARDS, CONTRACTS, AND COMMUNITY**
13 **ASSISTANCE ACTIVITIES.**

14 (a) CARRYING OUT ACTIVITIES OF ATSDR.—Sec-
15 tion 104(i)(15) of the Comprehensive Environmental Re-
16 sponse, Compensation, and Liability Act of 1980 (42
17 U.S.C. 6904(i)(15)) is amended as follows:

18 (1) By inserting “(A)” before “The activities”.

19 (2) In the first sentence, by striking “coopera-
20 tive agreements with States (or political subdivisions
21 thereof)” and inserting “grants, cooperative agree-
22 ments, or contracts with States (or political subdivi-
23 sions thereof), Indian tribes, other appropriate pub-
24 lic authorities, public or private institutions or orga-
25 nizations, colleges, universities (including historically

1 black colleges and universities) and other edu-
2 cational institutions that primarily serve minorities
3 or represent the interests of affected communities”.

4 (3) By adding at the end the following new sub-
5 paragraphs:

6 “(B) When a health assessment is conducted at a fa-
7 cility on the National Priorities List, or a release is being
8 evaluated for inclusion on the National Priorities List, the
9 Administrator of ATSDR may provide the assistance spec-
10 ified in subparagraph (C) to public or private nonprofit
11 entities, individuals, and community-based groups that
12 may be affected by the release or threatened release of
13 hazardous substances in the environment.

14 “(C) The Administrator of ATSDR, pursuant to the
15 grants, cooperative agreements, and contracts referred to
16 in this paragraph, is authorized and directed to provide,
17 where appropriate, health services to communities affected
18 by the release of hazardous substances. Such health serv-
19 ices may include diagnostic services, testing, counseling,
20 specialized treatment, health data registries, and preven-
21 tive public health education. Such services may be pro-
22 vided at existing health clinics within the affected commu-
23 nity. If such a clinic does not already exist within the af-
24 fected community, the Administrator shall establish such

1 a clinic within 1 year after the date of enactment of this
2 paragraph.”.

3 (b) FUNDING.—Section 111 of the Comprehensive
4 Environmental Response, Compensation, and Liability Act
5 of 1980 (42 U.S.C. 9611) is amended—

6 (1) in subsection (c)(4), by inserting “operating
7 support for and establishment of environmental
8 health clinics and health services,” after “assess-
9 ments,”; and

10 (2) in subsection (m), by adding at the end the
11 following: “There shall be directly available to the
12 Agency for Toxic Substances and Disease Registry
13 to be used for the establishment of environmental
14 health clinics and health services under section
15 104(i)(15)(C) not less than \$50,000,000 for each of
16 fiscal years 2000 through 2004.”.

17 **SEC. 217. INDIAN HEALTH PROVISIONS.**

18 Section 104(i) of the Comprehensive Environmental
19 Response, Compensation, and Liability Act of 1980 (42
20 U.S.C. 9406(i)) is amended as follows:

21 (1) In paragraph (1)—

22 (A) by inserting “the Indian Health Serv-
23 ice” after “the Secretary of Transportation”;

24 (B) by inserting “and tribal” after “and
25 local”;

1 (C) in subparagraph (A) by inserting “and
2 Indian tribes” after “the States”; and

3 (D) in subparagraph (C) by inserting “In-
4 dian tribes” after “States,”.

5 (2) In paragraph (4) by—

6 (A) striking “State officials and local offi-
7 cials” and inserting “State, tribal, and local of-
8 ficials”; and

9 (B) inserting in the second sentence “or
10 Indian tribes” after “States”.

11 (3) In paragraph (5)(A) by inserting “and the
12 Indian Health Service” after “Public Health Serv-
13 ice”.

14 (4) In paragraph (6)(C) by inserting “where
15 low population density is not used as an excluding
16 risk factor” after “health appears highest”.

17 (5) In paragraph (6)(E)—

18 (A) by inserting “Indian tribe” after
19 “Any”; and

20 (B) by inserting at the end of the subpara-
21 graph the following: “If the ATSDR or the Ad-
22 ministrator of the Environmental Protection
23 Agency does not act on the recommendations of
24 the State or Indian tribe, then the Administra-
25 tors must respond in writing to the State or

1 tribe why they have not acted on the rec-
2 ommendations.”.

3 (6) In paragraph (6)(F) by striking “and” after
4 “emissions,” and inserting “and any other pathways
5 resulting from subsistence activities” after “contami-
6 nation”.

7 (7) In paragraph (6)(G) by striking the period
8 at the end of the last sentence and inserting the fol-
9 lowing: “and give special consideration, where appro-
10 prium, to any practices of the affected community
11 that may result in increased exposure to hazardous
12 substances, pollutants, or contaminants, such as
13 subsistence hunting, fishing, and gathering.”.

14 (8) In paragraph (10)—

15 (A) by striking “and” at the end of sub-
16 paragraph (D);

17 (B) by striking the period at the end of
18 subparagraph (E) and inserting “; and”; and

19 (C) by inserting after revised subpara-
20 graph (E) the following new subparagraph:

21 “(F) and the health impacts from pollut-
22 ants, contaminants, and hazardous substances
23 on Indian tribes from covered facilities.”.

1 **SEC. 218. PUBLIC HEALTH RECOMMENDATIONS IN REME-**
2 **DIAL ACTIONS.**

3 Section 121(c) of the Comprehensive Environmental
4 Response, Compensation, and Liability Act of 1980 (42
5 U.S.C. 9621(c)) is amended in the first sentence by insert-
6 ing after “remedial action” the second time it appears the
7 following: “, including public health recommendations and
8 decisions resulting from activities under section 104(i),”.

9 **Subtitle C—General Provisions**

10 **SEC. 221. TRANSITION.**

11 (a) **EFFECTIVE DATE IN GENERAL.**—Except as pro-
12 vided in subsection (b), this title and the amendments
13 made by this title shall become effective upon the date of
14 enactment of this Act.

15 (b) **SPECIAL RULE.**—The requirements of para-
16 graphs (2), (3), (5), (8), (9), and (10) of section 117(a)
17 and of the Comprehensive Environmental Response, Com-
18 pensation, and Liability Act of 1980, as added by section
19 302(b) shall become effective 180 days after the date of
20 enactment of this Act.

21 **TITLE III—RIGHT TO KNOW**

22 **SEC. 301. RIGHT TO KNOW.**

23 (a) **AMENDMENT OF SUPERFUND.**—Section 117 of
24 title I of the Comprehensive Environmental Response,
25 Compensation, and Liability Act of 1980, as amended by

1 title II, is further amended by adding at the end the fol-
2 lowing:

3 “(k) DISCLOSURE OF HAZARDOUS SUBSTANCES AT
4 FACILITIES.—

5 “(1) PURPOSE AND MEANS OF DISCLOSURE.—

6 The information required under this subsection is in-
7 tended for use by Federal, State, and local govern-
8 ments and the public, including but not limited to
9 residents of affected communities and researchers.
10 The information on facilities not on the National
11 Priorities List, in particular, is intended to identify
12 the multiple sources of toxic chemicals to which com-
13 munities may be potentially exposed. The Adminis-
14 trator shall publish such information using language
15 and methods of communication, including computer
16 telecommunication, that the Administrator believes
17 to be clear and understandable to persons not expert
18 in environmental or legal matters. Such methods
19 shall allow persons to retrieve all the publicly avail-
20 able information gathered by the Administrator for
21 one or more facilities through one point of access.

22 “(2) DATES OF DISCLOSURE.—The potentially
23 responsible parties named by the Environmental
24 Protection Agency in regard to each facility listed on
25 the National Priorities List, and the owner or opera-

1 tor of each facility subject to section 313 of the
2 Superfund Amendments and Reauthorization Act of
3 1986, shall submit to the Administrator and to an
4 official or officials of the State designated by the
5 Governor the information listed under (3) on or be-
6 fore July 1, 2000, for the calendar year 1999, and
7 annually thereafter on or before July 1 for the pre-
8 ceding calendar year. If the Administrator is carry-
9 ing out a response action at such a facility, the Ad-
10 ministrator shall compile such information in lieu of
11 potentially responsible parties.

12 “(3) INFORMATION DISCLOSED.—The items of
13 information to be submitted under paragraph (2) for
14 each facility are as follows:

15 “(A) The name, location, regulatory status,
16 common identifiers, and principal activities at
17 the facility.

18 “(B) In the case of a facility listed on the
19 National Priorities List, the identity of all po-
20 tentially responsible parties associated with the
21 facility.

22 “(C) An appropriate certification, signed
23 by a senior official with management respon-
24 sibility for the person or persons completing the

1 report, regarding the accuracy and complete-
2 ness of the report.

3 “(D) Subject to section 322 of the Super-
4 fund Amendments and Reauthorization Act of
5 1986, each of the items of information listed in
6 subparagraph (E) for the following substances:

7 “(i) Each hazardous substance, pollutant,
8 or contaminant identified in the pre-
9 liminary site assessment as being present
10 in higher than naturally occurring back-
11 ground concentrations, if the facility is on
12 the National Priorities List.

13 “(ii) Each of the following substances
14 being released from the facility above natu-
15 rally occurring background levels: lead,
16 mercury, dioxin, cadmium, chromium, and
17 substances listed as bioaccumulative chemi-
18 cals of concern at 60 Federal Register
19 15393, and each substance, pollutant, or
20 contaminant which the Administrator de-
21 termines may present a significant hazard
22 to health or the environment due to its
23 persistence or potential to bioaccumulate
24 or disrupt endocrine systems, or to other
25 characteristics. The Administrator may ex-

1 empt from the requirements of this clause
2 any of the bioaccumulative chemicals of
3 concern at 60 Federal Register 15393 that
4 the Administrator determines do not
5 present a significant hazard to health or
6 the environment.

7 “(iii) Each substance for which the
8 facility is required to submit a toxic chemi-
9 cal release form under section 313 of the
10 Superfund Amendments and Reauthoriza-
11 tion Act of 1986.

12 “(E) The items referred to in subpara-
13 graph (D) are as follows:

14 “(i) If the substance was present or
15 released as a waste or contaminant, a de-
16 scription of the form in which the sub-
17 stance was present or released, or other-
18 wise a description of the uses of the sub-
19 stance at the facility.

20 “(ii) The quantity of the substance
21 present at the facility at the beginning of
22 the reporting year.

23 “(iii) The quantity of the substance
24 present at the facility at the end of the re-
25 porting year.

1 “(iv) The quantity of the substance
2 destroyed or consumed at the facility, and,
3 if destroyed or consumed as a waste, the
4 treatment, energy recovery, or recycling
5 methods employed.

6 “(v) The quantity of the substance
7 generated or produced at the facility, and
8 if generated or produced as a residual of
9 the process of waste treatment, whether it
10 remained on site or was released during
11 the reporting year.

12 “(vi) The quantity of the substance
13 removed as waste from the facility for
14 treatment, disposal, energy recovery, or re-
15 cycling and the destination and mode of
16 transportation.

17 “(vii) The quantity of the substance
18 recycled at the facility that is subsequently
19 used at the facility, except for substances
20 referred to in subparagraph (D)(i).

21 “(viii) The quantity of the substance
22 brought into the facility and the mode of
23 transportation, except for substances re-
24 ferred to in subparagraph (D)(i).

1 “(ix) The quantity of the substance
2 removed from the facility as or in products
3 and the mode of transportation, except for
4 substances referred to in subparagraph
5 (D)(i).

6 “(x) The quantity of the substance re-
7 leased into each environmental medium
8 from the facility.

9 “(xi) The ‘hazardous substance
10 throughput’, which shall be calculated by
11 adding the quantities reported under
12 clauses (ii), (v), (vii), and (viii) and sub-
13 tracting the quantity reported under clause
14 (iii). If the sum of the quantities reported
15 under clauses (ii), (v), and (viii) does not
16 equal the sum of the quantities reported
17 under clauses (iii), (iv), (vi), (ix), and (x),
18 an explanation of the difference shall be
19 provided.

20 “(xii) The number of employees, in-
21 cluding contractors, at the facility; the
22 number of employees, including contrac-
23 tors, at the facility exposed to the sub-
24 stance; and an estimate of occupational ex-
25 posures to the substance.

1 “(F) For substances referred to in sub-
2 paragraph (D)(i), within 3 years after the date
3 of enactment of this subparagraph, a statement
4 of whether the set of information defined under
5 section 302(d) of the Children’s Protection and
6 Community Cleanup Act of 1998 is publicly
7 available. Such a statement shall not be re-
8 quired for chemicals listed under section 302(e)
9 of such Act. In lieu of such a statement, a cer-
10 tification under section 302(g) of such Act may
11 be submitted where appropriate.

12 “(4) METHODS OF CALCULATION AND REPORT-
13 ING.—

14 “(A) Readily available data (including
15 monitoring data) collected pursuant to other
16 provisions of law, or, where such data are not
17 readily available, reasonable estimates of the
18 amounts involved may be used to provide the
19 information required under this subsection.
20 Nothing in this section requires the monitoring
21 or measurement of the quantities, concentra-
22 tion, or frequency of any substance beyond that
23 monitoring and measurement required under
24 other provisions of law or regulation.

1 “(B) The Administrator shall, within 5
2 years after the enactment of this paragraph,
3 consolidate all annual reporting pursuant to
4 this title and other Federal environmental laws
5 for each entity subject to such reporting, to the
6 extent not explicitly prohibited by such laws.
7 Such consolidated reporting requirements shall
8 allow reporting to one point of contact using
9 one form or electronic reporting system. In
10 order to assure consistency, the Administrator
11 shall require that data be expressed in common
12 units and shall integrate the reporting require-
13 ments and public dissemination of information
14 under this Act with that of section 313 of the
15 Superfund Amendments and Reauthorization
16 Act of 1986. Reports shall be submitted in an
17 electronic format to be determined by the Ad-
18 ministrator, except for those facilities which the
19 Administrator believes would be unduly bur-
20 dened by using such an electronic format.

21 “(5) INFORMATION PROVIDED TO TECHNICAL
22 ASSISTANCE RECIPIENTS AND APPLICANTS.—The
23 Administrator shall provide to recipients of, and ap-
24 plicants for, technical assistance grants awarded
25 under subsection (e), community advisory groups es-

1 established under subsection (g), and other interested
2 persons, each of the following items of information:

3 “(A) The information reported to or com-
4 piled by the Administrator under paragraph (3)
5 regarding the facility or facilities on the Na-
6 tional Priorities List of concern to such per-
7 sons.

8 “(B) All publicly available information re-
9 ported to the Administrator under Federal envi-
10 ronmental laws regarding regulated facilities
11 and the use and release of hazardous sub-
12 stances in the geographic area of the facility or
13 facilities on the National Priorities List of con-
14 cern to such persons. Such information shall be
15 organized by facility and by other identifiers to
16 facilitate use by such persons.

17 “(C) Information that the Administrator
18 believes to be useful in understanding the po-
19 tential hazards that may be posed to human
20 health and the environment by the uses and re-
21 leases of hazardous substances disclosed under
22 subparagraphs (A) and (B).

23 “(6) INFORMATION PROVIDED TO PERSONS
24 STUDYING NATIONAL AND REGIONAL TRENDS.—The
25 Administrator shall provide or make available to any

1 person all publicly available information reported to
2 the Administrator under Federal environmental laws
3 regarding facilities and the use and release of haz-
4 arduous substances in order to study national and re-
5 gional trends and for other purposes. Such informa-
6 tion shall be provided through a system that allows
7 for the retrieval and analysis of information regard-
8 ing one or more parent companies, facilities, indus-
9 tries, chemicals, geographic locations, ecological indi-
10 cators, and categories of regulatory status.”.

11 (b) AMENDMENT OF SUPERFUND.—Section 117(a)
12 of title I of the Comprehensive Environmental Response,
13 Compensation, and Liability Act of 1980 is amended as
14 follows:

15 (1) By striking “both of the following actions”
16 and inserting “the following actions”.

17 (2) By striking “(2)” and inserting “(3)”.

18 (3) By inserting after paragraph (1) the follow-
19 ing:

20 “(2) Publish a notice of availability of the infor-
21 mation listed under subsection (k)(5).”.

22 (c) NO PREEMPTION OF STATE PROGRAMS.—Sub-
23 section (a) of section 114 of the Comprehensive Environ-
24 mental Response, Compensation, and Liability Act of

1 1980 is amended by inserting “or reporting” after “re-
2 lease”.

3 (d) PENALTIES FOR NONCOMPLIANCE.—Subsection
4 (a)(1) of section 109 of the Comprehensive Environmental
5 Response, Compensation, and Liability Act of 1980 is
6 amended by adding the following after subparagraph (E):

7 “(F) A violation of the requirements of
8 section 117(k).”.

9 (e) ADDITIONAL CATEGORIES OF FACILITIES.—Sec-
10 tion 313(b)(1)(B) of the Superfund Amendments and Re-
11 authorization Act of 1986 is amended as follows:

12 (1) By striking “(B) The Administrator” and
13 inserting “(B)(i) The Administrator”.

14 (2) By adding at the end the following:

15 “(ii) Within 24 months after the date
16 of enactment of this clause, the Adminis-
17 trator shall promulgate a final regulation
18 that adds all additional categories of facili-
19 ties that manufactured, processed, used, or
20 released toxic chemicals in volumes similar
21 to those of facilities that are covered by
22 this section as of such date of enactment.
23 This clause shall not apply to any farm.”.

1 (f) TRADE SECRET PROTECTION.—Section 322 of
2 the Superfund Amendments and Reauthorization Act of
3 1986 is amended as follows:

4 (1) In subsection (a)(1) by adding the following
5 at the end thereof:

6 “(C) Any person required to submit infor-
7 mation under section 117(k)(3)(D) of the Com-
8 prehensive Environmental Response, Compensa-
9 tion, and Liability Act of 1980 may withhold an
10 element or portion of such information, as de-
11 fined in regulations prescribed by the Adminis-
12 trator under subsection (c) of this section, if
13 the person complies with paragraph (2) with re-
14 spect to the information to be withheld. This
15 subparagraph shall not provide authority to
16 withhold any information referred to in the Pol-
17 lution Prevention Act of 1990 (42 U.S.C.
18 13101 and following). Any person withholding
19 information under this paragraph shall, in the
20 place on the submittal where the information
21 would normally be included, indicate that the
22 information has been withheld as a trade secret.
23 Any person withholding information under this
24 subparagraph shall provide to the Adminis-
25 trator the information required under in writing

1 and in such manner as the Administrator may
2 prescribe by regulation.”.

3 (2) Subsection (b)(4) is amended by inserting
4 “or other information withheld” after “The chemical
5 identity”.

6 (3) Subsection (d)(1) is amended by inserting
7 “or other information” after “toxic chemical”.

8 (4) Subsection (d)(2) is amended by inserting
9 “or other information withheld” after “specific
10 chemical identity”.

11 (5) Subsection (d)(3)(A) is amended by insert-
12 ing “or other information withheld” after “specific
13 chemical identity”.

14 (6) Subsection (d)(3)(B) is amended by insert-
15 ing “or other information withheld” after “chemical
16 identity”.

17 (7) Subsection (d)(3)(C) is amended by insert-
18 ing “or other information withheld” after “chemical
19 identity” in each place it appears.

20 (8) Subsection (d)(4)(A) is amended by insert-
21 ing “or other information withheld” after “chemical
22 identity”.

23 (9) Subsection (f) is amended by inserting “or
24 other information withheld under subsection (a)(1)”
25 after “specific chemical identity”.

1 (10) Subsection (h)(1) is amended by inserting
2 “or other information withheld” before “is claimed
3 as a”.

4 (11) Subsection (h)(2) is amended by inserting
5 “or other information withheld” after “identity of a
6 toxic chemical”.

7 **SEC. 302. UNSTUDIED CHEMICAL RELEASE FORMS.**

8 (a) BASIC REQUIREMENT.—The owner or operator of
9 a facility subject to the requirements of this section shall
10 complete an unstudied chemical release form as published
11 under subsection (h) for each unstudied chemical subject
12 to the requirements of this section that was manufactured,
13 processed, or otherwise used in quantities exceeding the
14 threshold quantity established by subsection (f) during the
15 preceding calendar year at such facility. Such form shall
16 be submitted to the Administrator and to an official or
17 officials of the State designated by the Governor on or
18 before July 1 of the year commencing 24 months after
19 the date of enactment of this section and annually there-
20 after on July 1, and shall contain data reflecting releases
21 during the preceding calendar year.

22 (b) COVERED OWNERS AND OPERATORS OF FACILI-
23 TIES.—

24 (1) IN GENERAL.—The requirements of this
25 section shall apply to owners and operators of facili-

1 ties that are required to report pursuant to section
2 313(b) of the Emergency Planning and Community
3 Right-To-Know Act (42 U.S.C. 11023(b)).

4 (2) ADDITION OF FACILITIES.—The Adminis-
5 trator may by rule apply the requirements of this
6 section to the owners and operators of any particu-
7 lar facility or class of facilities that manufactures,
8 processes, or otherwise uses an unstudied chemical
9 subject to the requirements of this section if the Ad-
10 ministrator determines that such action is warranted
11 on the basis of—

12 (A) the potential volume of the unstudied
13 chemical manufactured, processed, or otherwise
14 used at the facility;

15 (B) the proximity of the facility to other
16 facilities that manufacture, process, or other-
17 wise use the unstudied chemical or other chemi-
18 cals of known or potential toxicity;

19 (C) the proximity of the facility to popu-
20 lation centers; or

21 (D) such other factors as the Adminis-
22 trator deems appropriate.

23 (3) EXCLUSION OF FACILITIES.—The Adminis-
24 trator may by rule exclude from reporting under this
25 section a class of facilities in a Standard Industrial

1 Classification Code that is required to report under
2 section 313(b) of the Emergency Planning and Com-
3 munity Right-To-Know Act (42 U.S.C. 11023(b)),
4 upon determining that there is sufficient information
5 to conclude that all unstudied chemicals subject to
6 the requirements of this section released by such fa-
7 cilities will not cause one or more of the effects list-
8 ed in clause (i), (ii), or (iii) of subsection (d)(2)(A).
9 (c) UNSTUDIED CHEMICALS COVERED.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), the unstudied chemicals subject to the re-
12 quirements of this section are the following:

13 (A) Any chemical—

14 (i) for which the information needed
15 to complete a preliminary assessment of
16 potential toxicity defined in subsection (d)
17 is not available, in whole or in part; and

18 (ii) that is a compound that is a mem-
19 ber of one or more of the following cat-
20 egories:

21 (I) Compounds containing at
22 least the elements of carbon, hydro-
23 gen, and one or more of the following
24 elements: chlorine, fluorine, or bro-
25 mine.

1 (II) Compounds included on the
2 1990 High Production Volume List
3 compiled by the Administrator based
4 on the Inventory Update Rule issued
5 pursuant to section 8 of the Toxic
6 Substances Control Act, or any subse-
7 quent version of that list.

8 (B) Such additional chemicals or cat-
9 egories of chemicals as the Administrator may
10 by rule add, based on the potential ability of
11 the chemical or categories of chemicals to cause
12 one or more of the effects listed in clause (i),
13 (ii), or (iii) of subsection (d)(2)(A) or based on
14 the presence of the chemical or category of
15 chemicals in human tissues, in food stuffs, or in
16 drinking water.

17 (2) EXCEPTIONS.—Notwithstanding paragraph
18 (1), the following chemicals shall not be subject to
19 the requirements of this section:

20 (A) Chemicals listed under section 313(b)
21 of the Emergency Planning and Community
22 Right-To-Know Act (42 U.S.C. 11023(b)).

23 (B) Chemicals that are high molecular
24 weight polymers.

1 (C) Chemicals listed by the Administrator
2 under subsection (e).

3 (3) AGGREGATED REPORTING.—Information re-
4 quired to be reported under this section may be re-
5 ported on an aggregated basis for chemicals contain-
6 ing 20 or more carbon atoms. The Administrator
7 may by rule increase or decrease the number in the
8 preceding sentence, but shall not decrease it below
9 14 carbon atoms.

10 (d) INFORMATION NEEDED FOR PRELIMINARY AS-
11 SESSMENT OF POTENTIAL TOXICITY.—

12 (1) IN GENERAL.—The Administrator may by
13 rule define the set of information needed to conduct
14 a preliminary assessment of potential toxicity of a
15 chemical. If the Administrator does not promulgate
16 such a rule prior to the date 9 months after the date
17 of enactment of this section, the set of information
18 needed to conduct a preliminary assessment of po-
19 tential toxicity shall be deemed to be the Screening
20 Information Data Set established by the Organiza-
21 tion for Economic Cooperation and Development and
22 published in the SIDS Manual, Second Edition, May
23 1996, Chapter 2.2.

24 (2) ALTERATIONS TO SET OF INFORMATION.—

1 (A) ADDITIONS.—The Administrator shall
2 add a new element to the set of information
3 needed for a preliminary assessment of poten-
4 tial toxicity if the Administrator determines
5 that adding such element of information is like-
6 ly to facilitate the completion, or enhance the
7 reliability, of a preliminary assessment of poten-
8 tial toxicity because the information relates to
9 the potential for exposure to the chemical or to
10 the potential ability of the chemical to cause
11 one or more of the following:

12 (i) Significant adverse acute human
13 health effects.

14 (ii) In humans—

15 (I) cancer or teratogenic effects;

16 or

17 (II) serious or irreversible repro-
18 ductive dysfunctions, neurological dis-
19 orders, heritable genetic mutations,
20 disruption of endocrine function, or
21 other chronic health effects.

22 (iii) A significant adverse effect on the
23 environment because of the chemical's—

24 (I) toxicity;

1 (II) toxicity and persistence in
2 the environment; or

3 (III) toxicity and tendency to bio-
4 accumulate in the environment.

5 (B) DELETIONS.—The Administrator may
6 delete an element of information from the set of
7 information needed for a preliminary assess-
8 ment of potential toxicity if the Administrator
9 determines that—

10 (i) deleting the element will facilitate
11 compliance with this section; and

12 (ii) following the deletion, the set of
13 elements of information will be adequate to
14 allow the conduct of a preliminary assess-
15 ment of potential toxicity at least as reli-
16 ably as would occur through use of the
17 Screening Information Data Set.

18 (3) MODIFICATIONS OF ELEMENTS OF INFOR-
19 MATION.—The Administrator may modify an ele-
20 ment of information needed for a preliminary assess-
21 ment of potential toxicity if the Administrator deter-
22 mines that—

23 (A) modifying the element is likely to—

24 (i) facilitate the completion or en-
25 hance the reliability of a preliminary as-

1 assessment of potential toxicity, taking into
2 account the factors listed in paragraph (2),
3 or

4 (ii) facilitate compliance with this sec-
5 tion; and

6 (B) following the modification, the set of
7 elements of information will be adequate to
8 allow the conduct of a preliminary assessment
9 of potential toxicity at least as reliably as would
10 occur through use of the Screening Information
11 Data Set.

12 (e) CHEMICALS FOR WHICH REPORTING IS NOT RE-
13 QUIRED.—

14 (1) IN GENERAL.—Reporting requirements
15 under this section shall not apply to chemicals listed
16 by the Administrator under paragraph (2).

17 (2) LISTED CHEMICALS.—The Administrator
18 may determine, for a particular covered chemical,
19 that the set of information referred to in subsection
20 (d) is publicly available. The Administrator shall
21 maintain a list of such chemicals and update the list
22 at least annually.

23 (3) REQUIREMENT TO MAKE INFORMATION
24 ELECTRONICALLY AVAILABLE.—Upon adding a
25 chemical to the list of chemicals for which reporting

1 is not required, the Administrator shall ensure that
2 the information needed to conduct a preliminary as-
3 sessment of potential toxicity of the chemical is pub-
4 licly accessible through electronic means.

5 (4) ADDITIONAL DETERMINATION REQUIRED
6 FOR LISTED CHEMICALS.—Upon adding a chemical
7 to the list of chemicals for which reporting is not re-
8 quired, the Administrator shall make one of the fol-
9 lowing determinations and publish a statement of
10 the basis for the determination:

11 (A) Based on available information, the
12 chemical is a low priority for further consider-
13 ation or action by the Environmental Protection
14 Agency.

15 (B) Based on available information, the
16 chemical is a priority for additional testing.

17 (C) Releases of the chemical appear to
18 warrant reporting under 313 of the Emergency
19 Planning and Community Right-To-Know Act
20 (42 U.S.C. 11023).

21 (D) Based on available information, regu-
22 latory action by the Environmental Protection
23 Agency appears to be warranted.

1 (E) Based on available information, regu-
2 latory action by another Federal agency ap-
3 pears to be warranted.

4 (5) SPECIFIC REQUIREMENTS FOR CERTAIN DE-
5 TERMINATIONS.—(A) For a chemical with respect to
6 which the Administrator makes a determination
7 under paragraph (4)(B), the Administrator shall
8 issue a rule to require testing under section 4 of the
9 Toxic Substances Control Act within 90 days after
10 the date of the determination unless the Adminis-
11 trator by that date has entered into an enforceable
12 voluntary testing agreement for the chemical. If no
13 such rule is issued or voluntary agreement estab-
14 lished within such 90 days, or if the data required
15 to be submitted by the rule are not submitted within
16 the period specified by the rule, the requirements of
17 section 313 of the Emergency Planning and Com-
18 munity Right-To-Know Act (42 U.S.C. 11023) shall
19 automatically apply to the chemical.

20 (B) For chemicals with respect to which the
21 Administrator makes a determination under para-
22 graph (4)(C), the Administrator shall propose by
23 rule adding the chemical to the list of toxic chemi-
24 cals covered by section 313 of such Act within 90
25 days after the date of the determination. If no final

1 rule adding the chemical, or final determination not
2 to add the chemical, is issued within 6 months after
3 such date of determination the requirements of sec-
4 tion 313 of the Emergency Planning and Commu-
5 nity Right-To-Know Act (42 U.S.C. 11023) shall
6 automatically apply to the chemical.

7 (C) For chemicals with respect to which the Ad-
8 ministrator makes a determination under paragraph
9 (4)(D), the Administrator shall propose by rule an
10 appropriate action within 180 days after the date of
11 the determination. Unless such a rule is proposed
12 within 9 months, or unless the Administrator pub-
13 lishes a determination stating that no such rule is
14 warranted, the requirements of section 313 of the
15 Emergency Planning and Community Right-To-
16 Know Act (42 U.S.C. 11023) shall automatically
17 apply to the chemical.

18 (D) For chemicals with respect to which the
19 Administrator makes a determination under para-
20 graph (4)(E), the Administrator shall notify the
21 head of the other Federal agency of the Administra-
22 tor's determination within 180 days after the date of
23 the determination. Unless such a rule is proposed
24 within 9 months, or unless the head of the other
25 Federal agency publishes a determination stating

1 that no such rule is warranted, the requirements of
2 section 313 of the Emergency Planning and Com-
3 munity Right-To-Know Act (42 U.S.C. 11023) shall
4 automatically apply to the chemical.

5 (f) THRESHOLD FOR REPORTING.—

6 (1) UNSTUDIED CHEMICAL THRESHOLD
7 AMOUNT.—The threshold amounts for purposes of
8 reporting unstudied chemicals under this section are
9 as follows:

10 (A) With respect to an unstudied chemical
11 used at a facility, 10,000 pounds of the unstud-
12 ied chemical per year.

13 (B) With respect to an unstudied chemical
14 manufactured (other than as nonproduct out-
15 put) or processed at a facility, 25,000 pounds
16 of the unstudied chemical per year.

17 (C) With respect to an unstudied chemical
18 manufactured as nonproduct output at a facil-
19 ity, 500 pounds of the unstudied chemical per
20 year.

21 (2) REVISIONS.—The Administrator may estab-
22 lish a threshold amount for an unstudied chemical
23 different from the amount established by paragraph
24 (1). Such revised threshold shall obtain reporting on
25 at least 80 percent of total releases and production

1 of nonproduct output of the chemical at all facilities
2 subject to the requirements of this section. The
3 amounts established under this paragraph may, at
4 the Administrator's discretion, be based on classes of
5 chemicals or categories of facilities.

6 (g) CERTIFICATION IN LIEU OF REPORTING.—

7 (1) IN GENERAL.—A facility owner or operator
8 who is otherwise required to submit a report under
9 this section with regard to a chemical need not sub-
10 mit such a report if the owner or operator submits
11 a certification that identifies the chemical and states
12 that the set of information referred to in subsection
13 (d) is publicly available for that chemical.

14 (2) FORMAT.—Such certification shall provide
15 the name and location of the facility, and shall in-
16 clude a statement, signed by a senior official with
17 management responsibility for the person or persons
18 submitting the certification, regarding the accuracy
19 of the certification. The Administrator may issue
20 rules regarding the format for such certifications.

21 (3) AVAILABILITY.—The Administrator shall
22 make such certifications publicly available in con-
23 junction with, and by the same means as, forms sub-
24 mitted under this section.

25 (h) FORM.—

1 (1) INFORMATION REQUIRED.—

2 (A) IN GENERAL.—Not later than June 1
3 of the year commencing 18 months after the
4 date of enactment of this Act, the Adminis-
5 trator shall publish a uniform unstudied chemi-
6 cal release form for facilities covered by this
7 section. If the Administrator does not publish
8 such a form, owners and operators of facilities
9 subject to the requirements of this section shall
10 provide the information required under this
11 subsection by letter postmarked on or before
12 the date on which the form is due. In the Ad-
13 ministrator's discretion such form either shall
14 be a supplement to the forms required under
15 section 313 of the Emergency Planning and
16 Community Right-To-Know Act (42 U.S.C.
17 11023), or shall integrate the information re-
18 quired by subparagraph (B) into the forms re-
19 quired under section 313 of the Emergency
20 Planning and Community Right-To-Know Act
21 (42 U.S.C. 11023).

22 (B) INFORMATION REQUIRED.—The form
23 referred to in subparagraph (A) shall provide
24 for submission of each of the following items of
25 information for each covered unstudied chemi-

1 cal present at the facility in quantities greater
2 than the threshold established under subsection
3 (f):

4 (i) The identity of each such chemical,
5 including the structure and, if any, the
6 Chemical Abstracts Service Number.

7 (ii) Whether the unstudied chemical
8 at the facility is manufactured as a prod-
9 uct output, manufactured as a nonproduct
10 output, processed, or otherwise used, and
11 the general category or categories of use of
12 the chemical.

13 (iii) An estimate of the maximum
14 amounts (in ranges) of the unstudied
15 chemical present at the facility at any time
16 during the preceding calendar year.

17 (iv) For each wastestream, the waste
18 treatment or disposal methods employed,
19 and an estimate of the treatment efficiency
20 typically achieved by such methods for that
21 wastestream.

22 (v) The annual quantity of the un-
23 studied chemical entering each environ-
24 mental medium.

1 (2) USE OF AVAILABLE DATA.—In order to pro-
2 vide the information required under this section, the
3 owner or operator of a facility may use readily avail-
4 able data (including monitoring data) collected pur-
5 suant to other provisions of law, or, where such data
6 are not readily available, reasonable estimates of the
7 amounts involved. Nothing in this section requires
8 the monitoring or measurement of the quantities,
9 concentration, or frequency of any unstudied chemi-
10 cal released into the environment beyond that mon-
11 itoring and measurement required under other provi-
12 sions of law or regulation. In order to assure consist-
13 ency, the Administrator shall require that data be
14 expressed in common units.

15 (3) CONTINUED OBLIGATION TO CONDUCT
16 ANALYSES.—Nothing in paragraph (2) shall be in-
17 terpreted to relieve the owner or operator of a facil-
18 ity covered by this section of any requirement to
19 conduct mass balance or other analyses as needed in
20 order to identify unstudied compounds covered by
21 this section.

22 (i) USE OF RELEASE FORM.—The release forms re-
23 quired under this section are intended to provide informa-
24 tion to the Federal, State, and local governments and the
25 public, including recipients of, and applicants for, tech-

1 nical assistance grants awarded under section 117(e) of
2 the Comprehensive Environmental Response, Compensa-
3 tion, and Liability Act of 1980 (as amended by this Act),
4 community advisory groups established under section
5 117(g) of such Act (as amended by this Act), and other
6 interested persons. The release form shall be available con-
7 sistent with section 324(a) of the Emergency Planning
8 and Community Right-To-Know Act (42 U.S.C.
9 11044(a)).

10 (j) PETITIONS.—

11 (1) IN GENERAL.—Any person may petition the
12 Administrator to take any of the actions listed in
13 paragraph (2). Within 180 days after receipt of a
14 petition, the Administrator shall take one of the fol-
15 lowing actions:

16 (A) Initiate a rulemaking to take the re-
17 quested action.

18 (B) Publish an explanation of why the pe-
19 tition is denied.

20 (2) TYPES OF PETITIONS.—A petition under
21 paragraph (1) may request that the Administrator
22 take any of the following actions:

23 (A) Add or exclude facilities or classes of
24 facilities required to report under this section
25 under subsection (b).

1 (B) Add a chemical or category of chemi-
2 cals to the chemicals subject to the require-
3 ments of this section under subsection (c) on
4 the basis of the potential ability of some or all
5 chemicals in the category to harm human
6 health or the environment.

7 (C) Add, delete, or modify elements in the
8 set of information needed to conduct a prelimi-
9 nary assessment of potential toxicity of a chem-
10 ical under subsection (d).

11 (D) Add or delete chemicals from the list
12 of chemicals for which reporting is not required
13 under subsection (e)(2).

14 (E) Revise the threshold for purposes of
15 reporting unstudied chemicals under subsection
16 (f).

17 (k) EPA MANAGEMENT OF DATA.—The Adminis-
18 trator shall establish and maintain in a computer database
19 a national unstudied chemicals inventory based on data
20 submitted to the Administrator under this section. The
21 Administrator shall make these data accessible by com-
22 puter telecommunication and other means to any person
23 on a cost reimbursable basis.

24 (l) ENFORCEMENT.—

1 (1) IN GENERAL.—A violation of this section
2 shall be subject to civil and administrative penalties
3 under section 325(c) of the Emergency Planning
4 and Community Right-To-Know Act (42 U.S.C.
5 11045(c)), as if it were a violation of section 313 of
6 such Act (42 U.S.C. 11023).

7 (2) BURDEN OF PROOF.—In any enforcement
8 proceeding in which it is alleged that a certification
9 under subsection (g) is erroneous, the burden shall
10 be on the defendant to show that the set of informa-
11 tion required under subsection (d) is publicly avail-
12 able.

13 (m) TRADE SECRETS.—Section 322 of the Emer-
14 gency Planning and Community Right-To-Know Act (42
15 U.S.C. 11042) shall apply to the owner or operator of a
16 facility subject to the requirements of this section with re-
17 gard to an unstudied chemical subject to such require-
18 ments in the same manner as that section applies to per-
19 sons described in subsection (a)(1) of that section with
20 regard to a hazardous chemical, an extremely hazardous
21 substance, and a toxic chemical.

22 (n) RELATIONSHIP TO OTHER LAW.—Nothing in this
23 section shall—

24 (1) preempt any State or local law;

1 (2) otherwise affect any State or local law or
2 the authority of any State or local government to
3 adopt or enforce any State or local law; or

4 (3) affect or modify in any way the obligations
5 or liabilities of any person under other Federal law.

6 (o) EFFECTIVE DATE OF REGULATIONS.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), regulations implementing this section
9 shall take effect 60 days after the date of promulga-
10 tion.

11 (2) CERTAIN REGULATIONS.—The following
12 regulations shall take effect on July 1 of the year
13 commencing 24 months after the date of promulga-
14 tion:

15 (A) Additions to the facilities or classes of
16 facilities required to report under this section
17 under subsection (b).

18 (B) Additions to the unstudied chemicals
19 subject to the requirements of this Act under
20 subsection (c)(1)(B).

21 (C) Additions to and significant modifica-
22 tions of the set of information under subsection
23 (d).

1 (D) Deletions from the list of chemicals
2 under subsection (e)(2) for which reporting is
3 not required under this section.

4 (E) Decreases in the threshold for pur-
5 poses of reporting unstudied chemicals under
6 subsection (f).

7 (p) DEFINITIONS.—For purposes of this section, the
8 following definitions apply:

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

11 (2) The term “manufacture” means to produce,
12 prepare, import, or compound an unstudied chemi-
13 cal.

14 (3) The term “process” means the preparation
15 of an unstudied chemical, after its manufacture, for
16 distribution in commerce—

17 (A) in the same form or physical state as,
18 or in a different form or physical state from,
19 that in which it was received by the person so
20 preparing such chemical; or

21 (B) as part of an article containing the un-
22 studied chemical.

23 (4) The term “high molecular weight polymer”
24 means chemicals that would be exempted from re-
25 porting under regulations adopted pursuant to sec-

1 tion 5 of the Toxic Substances Control Act (15
2 U.S.C. 2604).

3 (5) The term “nonproduct output” means the
4 quantity of a reported substance that was generated
5 prior to storage, out-of-process recycling, treatment,
6 control, or disposal, and that was not intended for
7 use as a product. The term includes environmental
8 releases of such a substance, off-site transfers of
9 such a substance for energy recovery or recycling,
10 and off-site transfers of such a substance as (or in)
11 waste for treatment or disposal.

12 **TITLE IV—ENVIRONMENTAL** 13 **JUSTICE**

14 **SEC. 401. ENVIRONMENTAL JUSTICE.**

15 Section 116 of the Comprehensive Environmental Re-
16 sponse, Compensation, and Liability Act of 1980 (42
17 U.S.C. 9616) is amended by adding at the end the follow-
18 ing:

19 “(f) ENVIRONMENTAL JUSTICE.—

20 “(1) PURPOSE.—The purpose of this subsection
21 is to ensure that Superfund sites in economically
22 distressed and socially disenfranchised communities
23 are identified, evaluated, and cleaned up as quickly
24 and effectively as Superfund sites in other areas.

1 “(2) DESIGNATION OF SPECIAL PRIORITY
2 AREAS.—Not later than six months after the enact-
3 ment of this subsection, the President, acting
4 through the Secretary of Commerce, shall publish a
5 list of ‘special priority areas’, which shall be geo-
6 graphic areas in which residents face a high degree
7 of economic distress or social disenfranchisement.
8 The President shall update the list not later than
9 two years after each official census count on social
10 and economic characteristics performed by the Bu-
11 reau of the Census under title 13, United States
12 Code. The President shall state the reason for in-
13 cluding each area on the list. The list shall include—

14 “(A) all census tracts (or where not
15 tracted, all equivalent county divisions as de-
16 fined by the Bureau of the Census for the pur-
17 pose of defining poverty areas) in which the
18 poverty rate was more than 20 percent, as de-
19 termined by the most recent census data avail-
20 able;

21 “(B) areas that consist of parts of one or
22 more census tracts or block numbering areas,
23 and which the President believes experience a
24 high degree of pervasive poverty, unemploy-
25 ment, and general distress;

1 “(C) all electoral precincts in which the
2 percent of voting age residents who voted in the
3 three most recent Presidential elections ranks
4 among the lowest 10 percent in the United
5 States;

6 “(D) all census tracts or block numbering
7 areas in which more than 50 percent of resi-
8 dents identify themselves as Black, Asian,
9 American Indian, Pacific Islander, Eskimo, or
10 Aleut, or of any other non-white origin or of
11 Hispanic origin, as determined by the Bureau
12 of the Census using the most recent census
13 data available;

14 “(E) areas in which the President deter-
15 mines there is the potential for a higher than
16 average incidence of cancer, neurotoxic effects,
17 disorders of the human reproductive system, en-
18 doerine disruption, respiratory disorders, der-
19 matologic disorders, or other health effects that
20 the President believes may be related to expo-
21 sure to hazardous substances, as determined by
22 the President using data gathered from Fed-
23 eral, State, and local government agencies and
24 other sources of information; and

1 “(F) areas in which the President believes
2 residents may be subject to higher than average
3 exposure to hazardous substances, as deter-
4 mined by the President using data gathered
5 from Federal, State, and local government
6 agencies and other sources of information.

7 “(3) ADVERTISING THE RIGHT OF PETITION
8 FOR ASSESSMENT OF RELEASE IN SPECIAL PRIORITY
9 AREAS.—Not later than one year after the enact-
10 ment of this subsection and annually thereafter, the
11 President shall advertise the right of petition for as-
12 sessment of release, as established under section
13 105(d), in all special priority areas, using means of
14 communication that the President believes will be ef-
15 fective in reaching residents of such areas. Such
16 means of communication shall include communica-
17 tions media targeted to area residents or posters in
18 public places and places of worship. The President
19 may also provide technical assistance to individuals
20 seeking to exercise such right of petition in such
21 areas.

22 “(4) DESIGNATION OF SPECIAL PRIORITY FA-
23 CILITIES.—(A) Not later than one year after enact-
24 ment of this subsection, and annually thereafter, the
25 President shall publish a list of facilities designated

1 as ‘special priority facilities’, which shall be those fa-
2 cilities which are located in special priority areas
3 and are—

4 “(i) listed in the Comprehensive Environ-
5 mental Response, Compensation, and Liability
6 Information System (CERCLIS);

7 “(ii) the subject of a petition made under
8 section 105(d); or

9 “(iii) other facilities as the President con-
10 siders appropriate.

11 “(B) In order to maximize efficiency, for each
12 facility designated as a special priority facility, the
13 President shall prepare within 60 days of such des-
14 ignation a preliminary schedule setting out the per-
15 formance of the preliminary assessment, site inspec-
16 tion, ranking, remedial action selection, and remedial
17 action implementation which complies with the time
18 periods set forth in this subsection.

19 “(5) PRELIMINARY ASSESSMENT OF SPECIAL
20 PRIORITY FACILITIES.—Not later than six months
21 after designating any facility as a special priority fa-
22 cility, the President shall complete a preliminary as-
23 sessment of the facility.

24 “(6) SITE INSPECTION AND RANKING OF SPE-
25 CIAL PRIORITY FACILITIES.—(A) Not later than one

1 year after designating a facility as a special priority
2 facility, the President shall complete a site inspec-
3 tion of the facility and score the facility using the
4 Hazard Ranking System, unless the President—

5 “(i) finds in performing the preliminary
6 assessment at the facility that a site inspection
7 is not necessary; and

8 “(ii) publishes a statement explaining the
9 reasons that a site inspection is not necessary.

10 “(B) For any facility located in a State which
11 has a cooperative agreement with the Environmental
12 Protection Agency to perform site inspections, the
13 President may amend such agreement to gather the
14 information necessary to comply with this para-
15 graph. Failure to amend such agreement shall not
16 relieve the President of the obligations set forth in
17 this subsection.

18 “(7) PROPOSED LISTING OF SPECIAL PRIORITY
19 FACILITIES.—Not later than two years after des-
20 ignating a facility as a special priority facility, if the
21 facility ranks highly enough using the Hazard Rank-
22 ing System to be a candidate for placement on the
23 National Priorities List established under section
24 105, the President shall propose placing the facility

1 on the National Priorities List and shall publish no-
2 tice of such proposal.

3 “(8) LISTING OF SPECIAL PRIORITY FACILI-
4 TIES.—Not later than three years after designating
5 a facility as a special priority facility, if the facility
6 ranks highly enough using the Hazard Ranking Sys-
7 tem to be a candidate for placement on the National
8 Priorities List established under section 105, the
9 President shall place the facility on the National
10 Priorities List, except as provided in paragraph
11 (10).

12 “(9) TIMELINESS IN CLEANING UP SPECIAL
13 PRIORITY FACILITIES.—For any special priority fa-
14 cility placed on the National Priorities List, the
15 President shall ensure that a remedial action is se-
16 lected not later than 2 years after the facility is
17 placed on the List, and that the remedial action is
18 implemented not later than 3 years after the facility
19 is placed on the List (or within such time period as
20 may be provided under paragraph (11)). Nothing in
21 this section shall be interpreted to change the condi-
22 tions under which the President shall perform a re-
23 moval action.

24 “(10) EXCEPTION FROM LISTING SPECIAL PRI-
25 ORITY FACILITIES.—The President may refrain from

1 placing a special priority facility on the National
2 Priorities List if—

3 “(A) a remedial action is selected for the
4 facility not later than 3 years after the facility
5 is placed on the list of special priority facilities,
6 and the remedial action is implemented not
7 later than 4 years after the facility is placed on
8 the list of special priority facilities (or within
9 such time period as may be provided under
10 paragraph (11));

11 “(B) in the opinion of the President, the
12 remedial action selected and implemented pro-
13 vides the same level of protection of human
14 health and environment as would be provided if
15 the President had selected and implemented a
16 remedial action under this Act; and

17 “(C) in the opinion of the President, the
18 process of selecting the remedial action provides
19 the same level of public participation as would
20 be provided if the President had carried out
21 such process under section 117.

22 “(11) ADDITIONAL TIME PERIOD FOR EX-
23 TRAORDINARY CONDITIONS.—For any special prior-
24 ity facility that the President finds to be subject to
25 extraordinarily complex conditions, the dates by

1 which remedial actions are to be selected and imple-
2 mented under paragraphs (9) and (10) may be ex-
3 tended by one year.

4 “(12) REPORTING ON THE CLEANUP OF SPE-
5 CIAL PRIORITY FACILITIES.—Not later than four
6 years after the enactment of this subsection, and
7 every two years thereafter, the President shall sub-
8 mit to Congress a report containing the following:

9 “(A) A discussion of the progress made in
10 cleaning up special priority facilities.

11 “(B) A comparison between special priority
12 facilities and other facilities on the National
13 Priorities List of—

14 “(i) the time required for investiga-
15 tion, remedy selection, and remedy imple-
16 mentation at such facilities;

17 “(ii) the type of remedy implemented
18 at such facilities; and

19 “(iii) the level of public participation
20 found in the selection and implementation
21 of the remedy at such facilities.”.

1 **TITLE V—CHILDREN’S**
2 **ENVIRONMENTAL HEALTH**

3 **SEC. 501. CHILDREN’S ENVIRONMENTAL HEALTH.**

4 (a) IN GENERAL.—Title I of the Comprehensive En-
5 vironmental Response, Compensation, and Liability Act of
6 1980 (42 U.S.C. 9601 et seq.), is amended by adding at
7 the end the following:

8 **“SEC. 128. CHILDREN’S ENVIRONMENTAL HEALTH.**

9 “(a) IDENTIFICATION AND EVALUATION OF SUB-
10 STANCES HAZARDOUS TO CHILDREN.—

11 “(1) LISTING OF SUBSTANCES HAZARDOUS TO
12 CHILDREN.—The Administrator of the Agency for
13 Toxic Substances and Disease Registry (in this sec-
14 tion referred to as ‘ATSDR’) and the Administrator
15 of the Environmental Protection Agency shall create
16 within 1 year after the date of enactment of this sec-
17 tion (and review and revise every 2 years thereafter)
18 a scientifically peer-reviewed list of environmental
19 pollutants commonly found at facilities listed or pro-
20 posed for listing on the National Priorities List with
21 known, likely, or suspected health risks to which
22 fetuses and children are especially susceptible.

23 “(2) REVISION OF GUIDELINES FOR PREPARA-
24 TION OF TOXICOLOGICAL PROFILES.—Not later than
25 1 year after the date of enactment of this section,

1 the Administrator of ATSDR and the Administrator
2 of the Environmental Protection Agency shall revise
3 the guidelines for preparation of toxicological pro-
4 files of hazardous substances (as developed pursuant
5 to section 104(i)(3)) to include—

6 “(A) consideration of exposure pathways
7 and health effects of particular concern with re-
8 gard to fetuses and children;

9 “(B) development of exposure levels spe-
10 cific to different age ranges, as appropriate;
11 and

12 “(C) identification of priority data needs
13 specific to fetal and children’s environmental
14 health.

15 “(3) PREPARATION AND REVISION OF TOXI-
16 COLOGICAL PROFILES.—The Administrator of
17 ATSDR shall prepare within 3 years after the date
18 of enactment of this section (and review and revise
19 every 5 years thereafter) scientifically peer-reviewed
20 toxicological profiles of each of the substances listed
21 pursuant to paragraph (1) using the guidelines re-
22 vised pursuant to paragraph (2). Toxicological pro-
23 files for substances listed under section 104(i)(2) be-
24 fore the date of enactment of this section shall be

1 revised using such guidelines not later than 3 years
2 after such date of enactment.

3 “(b) REVISION OF PUBLIC HEALTH AND ENVIRON-
4 MENTAL STANDARDS.—

5 “(1) IN GENERAL.—The Administrator of the
6 Environmental Protection Agency or the Secretary
7 of Health and Human Services, as appropriate, shall
8 review, and revise where necessary, environmental
9 and public health regulations, risk assessment poli-
10 cies and procedures, and guidance documents, issued
11 or used under this Act, to determine whether they
12 consider and fully protect fetal and children’s health.

13 “(2) REVIEW OF STANDARDS.—In carrying out
14 paragraph (1), not later than 1 year after the date
15 of enactment of this section, the Administrator, in
16 cooperation with the Secretary, shall—

17 “(A) develop an administrative process for
18 reviewing regulations, risk assessment policies
19 and procedures, and guidance documents;

20 “(B) develop a peer-reviewed list of regula-
21 tions, risk assessment policies and procedures,
22 and guidance documents that require revision
23 and prioritize the list based on the degree of
24 risk posed to fetal and children’s health; and

1 “(C) identify, through peer review, which
2 regulations, risk assessment policies and proce-
3 dures, and guidance documents on the list will
4 require additional research in order to be re-
5 vised and identify the time and resources re-
6 quired to carry out the necessary research.

7 “(3) REVISION OF STANDARDS.—The Adminis-
8 trator shall propose within 3 years after the date of
9 enactment of this section (and review and revise
10 every 5 years thereafter) revised regulations, risk as-
11 sessment policies and procedures, and guidance doc-
12 uments for those regulations, risk assessment poli-
13 cies and procedures, and guidance documents identi-
14 fied under paragraph (2)(B) that were not also iden-
15 tified under paragraph (2)(C). All regulations, risk
16 assessment policies and procedures, and guidance
17 documents identified under paragraph (2)(B) shall
18 be revised within 6 years after the date of enactment
19 of this section.

20 “(4) EFFECTIVE DATE.—If the Administrator
21 or the Secretary revises any regulations, risk assess-
22 ment policies and procedures, and guidance docu-
23 ments identified under paragraph (2)(B), notwith-
24 standing any other provision of law, the effective

1 date of such revision shall be no later than one year
2 after the date of the issuance of such revision.

3 “(5) REPORT.—The Administrator shall submit
4 to Congress every 2 years a report on the progress
5 being made in carrying out the objectives of this
6 subsection.

7 “(c) CONSIDERATION OF CHILDREN’S HEALTH IN
8 HEALTH ASSESSMENTS.—When conducting a health as-
9 sessment at a facility, the Administrator of ATSDR shall,
10 at a minimum, consider—

11 “(1) the potential risk to fetal and children’s
12 health posed by the facility, including long-term,
13 synergistic, and cumulative health effects;

14 “(2) the existence of potential exposure path-
15 ways that are of particular concern with regard to
16 fetuses and children; and

17 “(3) the comparison of expected exposure levels
18 for children posed by a release from the facility and
19 any recommended, child-specific exposure or toler-
20 ance levels.

21 “(d) CHILDREN’S ENVIRONMENTAL HEALTH RE-
22 SEARCH.—

23 “(1) IN GENERAL.—In order to address the pri-
24 ority data needs identified in the toxicological pro-
25 files prepared pursuant to subsection (a) and to ob-

1 tain additional information on the health effects of
2 hazardous substances on fetuses and children, fetal
3 and children’s environmental health concerns shall
4 be systematically incorporated into health studies
5 and research programs conducted pursuant to sec-
6 tions 104(i)(5) and 104(i)(7) and all other health re-
7 search initiatives pursuant to this Act.

8 “(2) GUIDELINES.—Not later than 1 year after
9 the date of enactment of this section, the Adminis-
10 trator of ATSDR, in cooperation with the Adminis-
11 trator of the Environmental Protection Agency, the
12 Centers for Disease Control and Prevention, and the
13 Director of the National Institute of Environmental
14 Health Sciences, and the Indian Health Service shall
15 develop guidelines for addressing fetal and children’s
16 environmental health issues in health studies and re-
17 search programs, including studies and research con-
18 ducted by ATSDR and other Federal agencies, State
19 departments of public health, and university-based
20 investigators.

21 “(3) CHILD-SPECIFIC HEALTH STUDIES.—Not
22 later than 1 year after the date of enactment of this
23 section, the Administrator of ATSDR, in cooperation
24 with the Administrator of the Environmental Protec-
25 tion Agency, the Centers for Disease Control and

1 Prevention, the Director of the National Institute of
2 Environmental Health Sciences, and the Indian
3 Health Service shall develop criteria for determining
4 when and what type of child-specific health study
5 shall be conducted based on the results of a health
6 assessment conducted by the Administrator.

7 “(4) COSTS.—It is the sense of Congress that
8 the costs of research programs under this paragraph
9 be borne by the manufacturers and processors of the
10 hazardous substance in question using the same reg-
11 ulations promulgated under section 104(i)(5)(D).

12 “(e) NATIONAL CHILDREN’S EXPOSURE REG-
13 ISTRY.—To assist in carrying out this section, the Admin-
14 istrator of ATSDR, in cooperation with the States, shall
15 establish and maintain not later than 2 years after the
16 date of enactment of this section an exposure registry for
17 all children exposed to hazardous substances as the result
18 of a release at a facility listed on the National Priorities
19 List, where ATSDR determines that levels of exposure are
20 significant for children’s health.

21 “(f) CHILDREN’S ENVIRONMENTAL HEALTH EDU-
22 CATION PROGRAM.—Not later than 3 years after the date
23 of enactment of this section, the Administrator of
24 ATSDR, in cooperation with the Administrator of the En-
25 vironmental Protection Agency, the Centers for Disease

1 Control and Prevention, the Director of the National Insti-
2 tute of Environmental Health Sciences, and the Indian
3 Health Service shall—

4 “(1) assemble, develop as necessary, and dis-
5 tribute to State health departments, tribal health of-
6 ficials, waste site information offices, school dis-
7 tricts, health clinics, medical colleges, and, upon re-
8 quest, to physicians and other health professionals,
9 appropriate educational materials (including short
10 courses) on the medical surveillance, screening, and
11 methods of diagnosis and treatment of injury or dis-
12 ease related to exposure to hazardous substances
13 that are of particular concern with regard to fetuses
14 and children;

15 “(2) develop and implement wherever health
16 services are being provided pursuant to section
17 104(i)(15)(C) a children’s environmental health care
18 training program for health care providers serving
19 communities affected by the release of hazardous
20 substances, including training in techniques for as-
21 sessing exposure of children to hazardous sub-
22 stances, methods of diagnosis and treatment of in-
23 jury and disease related to exposure to hazardous
24 substances that are of particular concern with re-

1 gard to fetuses and children, and primary preven-
2 tion; and

3 “(3) develop and distribute to State health de-
4 partments, tribal health officials, waste site informa-
5 tion offices, school districts, health clinics, and, upon
6 request, to medical colleges, physicians, and other
7 health professionals, a family right-to-know informa-
8 tion kit that includes helpful information and guid-
9 ance to families regarding children’s environmental
10 health, including—

11 “(A) information on the potential health
12 effects of exposure to hazardous substances;

13 “(B) practical suggestions on how parents
14 can reduce their children’s exposure to hazard-
15 ous substances;

16 “(C) the rights of families living in af-
17 fected communities to receive health services
18 under section 104(i)(15)(C);

19 “(D) how further information can be ob-
20 tained on children’s environmental health; and

21 “(E) other relevant information, as deter-
22 mined by the Administrator.

23 “(g) PEDIATRIC PEER REVIEW.—All lists, profiles,
24 studies, and results of research conducted under this sec-
25 tion shall be reported or adopted only after appropriate

1 peer review, including review by pediatricians and environ-
2 mental health specialists. Peer reviews shall be conducted
3 by panels consisting of no less than 3 members, who shall
4 be disinterested scientific experts selected for such purpose
5 by the Administrator of ATSDR and the Administrator
6 of the Environmental Protection Agency on the basis of
7 their reputation for scientific objectivity and lack of insti-
8 tutional ties with any person involved in the conduct of
9 the study or research under review, or any person involved
10 with the manufacture, processing, marketing, or distribu-
11 tion of the hazardous substance, pollutant, or contaminant
12 under investigation.”.

13 (b) DEFINITION.—Section 101 of the Comprehensive
14 Environmental Response, Compensation, and Liability Act
15 of 1980 is amended by adding the following at the end:

16 “(39) The term ‘children’ means individuals
17 under 18 years of age.”.

18 **TITLE VI—BROWNFIELD REME-**
19 **DIATION AND ENVIRON-**
20 **MENTAL CLEANUP**

21 **Subtitle A—Brownfields**

22 **SEC. 601. BROWNFIELDS TITLE.**

23 The Comprehensive Environmental Response, Com-
24 pensation, and Liability Act of 1980 (42 U.S.C. 9601 and

1 following) is amended by adding the following new title
2 at the end:

3 **“TITLE V—BROWNFIELD REME-**
4 **DIATION AND ENVIRON-**
5 **MENTAL CLEANUP**

6 **“SEC. 501. DEFINITIONS.**

7 “For purposes of this title:

8 “(1) IN GENERAL.—Except as otherwise speci-
9 fied in this title, the terms used in this title shall
10 have the meanings provided by section 101 of this
11 Act.

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

19 “(3) DISPOSAL.—The term ‘disposal’ has the
20 meaning given the term in section 1004 of the Solid
21 Waste Disposal Act (42 U.S.C. 6903).

22 “(4) ENVIRONMENTAL CONTAMINATION.—The
23 term ‘environmental contamination’ means the exist-
24 ence 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 “(5) GRANT.—The term ‘grant’ includes a co-
4 operative agreement.

5 “(6) LOCAL GOVERNMENT.—The term ‘local
6 government’ has the meaning given the term ‘unit of
7 general local government’ in the first sentence of
8 section 102(a)(1) of the Housing and Community
9 Development Act of 1974 (42 U.S.C. 5302(a)(1)),
10 except that the term includes an Indian tribe.

11 “(7) SITE ASSESSMENT.—

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

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

21 “(i) shall include—

22 “(I) an onsite evaluation; and

23 “(II) sufficient testing, sampling,
24 and other field-data-gathering activi-
25 ties to accurately determine whether

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

7 “(ii) may include—

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

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

14 **“SEC. 502. INVENTORY, ASSESSMENT, AND TRAINING**
15 **GRANT PROGRAM.**

16 “(a) IN GENERAL.—The Administrator shall estab-
17 lish a program to award grants to local governments to
18 inventory brownfield sites, to conduct site assessments of
19 brownfield sites, and to provide training in the cleanup
20 of brownfield sites, including associated rivers and
21 streams. Public participation in the program shall be pro-
22 vided for, encouraged, and assisted by the Administrator.
23 The Administrator shall develop and publish minimum
24 guidelines for demonstrating meaningful community in-
25 volvement.

1 “(b) SCOPE OF PROGRAM.—

2 “(1) GRANT AWARDS.—To carry out subsection
3 (a), the Administrator may, on approval of an appli-
4 cation, provide grants to a local government.

5 “(2) GRANT APPLICATION.—An application for
6 a grant under this section shall include, to the ex-
7 tent practicable, each of the following:

8 “(A) An identification of the potential
9 brownfield sites for which assistance is sought
10 and a description of the effect of the brownfield
11 sites on the community, including a description
12 of the nature and extent of any known or sus-
13 pected environmental contamination within the
14 sites.

15 “(B) A description of the need of the ap-
16 plicant for financial assistance to inventory
17 brownfield sites, to conduct site assessments,
18 and to provide training in brownfield site clean-
19 up.

20 “(C) A demonstration of the potential of
21 the grant assistance to stimulate economic de-
22 velopment or creation of recreational areas, in-
23 cluding the extent to which the assistance will
24 stimulate the availability of other funds for site
25 assessment, site identification, or environmental

1 remediation and subsequent redevelopment of
2 the areas in which eligible brownfield sites are
3 situated.

4 “(D) A description of the local commit-
5 ment as of the date of the application, which
6 shall include a community involvement plan
7 that demonstrates meaningful community in-
8 volvement, including the training and participa-
9 tion of local citizens in brownfield site cleanup.

10 “(E) An identification of the brownfield
11 sites that have associated rivers and streams,
12 and, for those sites, a description of the poten-
13 tial for involving local citizens in restoring those
14 rivers and streams, including the training and
15 participation of local citizens to perform the
16 restoration work.

17 “(F) A plan that shows how the site as-
18 sessment, site identification, or environmental
19 remediation and subsequent development will be
20 implemented, including—

21 “(i) an environmental plan that en-
22 sures the use of sound environmental pro-
23 cedures;

24 “(ii) an explanation of the appropriate
25 government authority and support for the

1 project as in existence on the date of the
2 application;

3 “(iii) proposed funding mechanisms
4 for any additional work; and

5 “(iv) a proposed land ownership plan.

6 “(G) A statement on the long-term bene-
7 fits and the sustainability of the proposed
8 project that includes—

9 “(i) the ability of the project to be
10 replicated nationally and measures of suc-
11 cess of the project; and

12 “(ii) to the extent known, the poten-
13 tial of the plan for each area in which an
14 eligible brownfield site is situated to stimu-
15 late economic development of the area or
16 creation of recreational areas on comple-
17 tion of the environmental remediation.

18 “(H) Such other factors as the Adminis-
19 trator considers relevant to carry out this title.

20 “(3) APPROVAL OF APPLICATION.—

21 “(A) IN GENERAL.—In making a decision
22 whether to approve an application under this
23 subsection, the Administrator shall consider
24 each of the following:

1 “(i) The need of the local government
2 for financial assistance to carry out this
3 section.

4 “(ii) The ability of the applicant to
5 carry out an inventory, site assessment,
6 and training under this section.

7 “(iii) The extent to which the appli-
8 cant will involve local citizens in carrying
9 out this section.

10 “(iv) The proximity of, and give prior-
11 ity to, predominantly low-income and
12 under-developed industrial areas.

13 “(B) GRANT CONDITIONS.—As a condition
14 of awarding a grant under this section, the Ad-
15 ministrator—

16 “(i) shall require the recipient of the
17 grant to notify the State in which the re-
18 cipient is located of the receipt of the
19 grant;

20 “(ii) shall require the recipient of the
21 grant to submit a report under subsection
22 (d) on local citizen involvement; and

23 “(iii) may, on the basis of the criteria
24 considered under subparagraph (A), attach

1 such other conditions to the grant as the
2 Administrator determines appropriate.

3 “(4) GRANT AMOUNT.—The amount of a grant
4 awarded to any local government under subsection
5 (a) for inventory, site assessment, and training for
6 cleanup of one or more brownfield sites shall not ex-
7 ceed \$200,000, unless the Administrator determines
8 that a particular applicant warrants a larger
9 amount. An applicant for a grant in excess of
10 \$200,000 shall submit information to the Adminis-
11 trator regarding economic or environmental condi-
12 tions that may warrant funding in excess of
13 \$200,000. The Administrator may award funding in
14 excess of \$200,000 only upon a determination that
15 such an action will achieve particularly significant
16 environmental and economic benefits.

17 “(5) TERMINATION OF GRANTS.—If the Admin-
18 istrator determines that a local government that re-
19 ceives a grant under this subsection is in violation
20 of a condition of a grant referred to in paragraph
21 (3)(B), the Administrator may terminate the grant
22 made to the local government and require full or
23 partial repayment of the grant.

24 “(6) AUTHORITY TO AWARD GRANTS TO
25 STATES.—The Administrator may award a grant to

1 a State under the program established under this
2 section if the Administrator determines that a grant
3 to the State is necessary in order to facilitate the
4 receipt of funds by one or more local governments
5 that otherwise do not have the capabilities, such as
6 personnel and other resources, to manage grants
7 under the program.

8 “(c) STATE INVENTORIES.—Within 2 years after the
9 enactment of this Act, each State shall submit to the Ad-
10 ministrator such information as the Administrator shall,
11 by rule, require regarding brownfield sites within that
12 State. Based on such information, within 3 years after the
13 enactment of this Act, the Administrator shall compile a
14 National Brownfields Registry. If a State fails to comply
15 with the rules promulgated under this subsection, no grant
16 may be made under section 513 for a brownfield site in
17 that State.

18 “(d) REPORT ON LOCAL CITIZEN INVOLVEMENT.—
19 Each recipient of a grant awarded under the program es-
20 tablished under this section shall submit to the Adminis-
21 trator, not later than one year after receipt of the grant,
22 a report on the extent to which local citizens are involved
23 in carrying out the projects funded by the grant, including
24 a statement of the percentage of the grant funds used to
25 involve local citizens in carrying out such projects.

1 **“SEC. 503. GRANTS FOR REVOLVING LOAN PROGRAMS.**

2 “(a) IN GENERAL.—

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

8 “(2) LOANS.—The loans may be provided by
9 the local government to finance cleanups of
10 brownfield sites by the local government, or by an
11 owner or a prospective purchaser (including a local
12 government) of a brownfield site, including associ-
13 ated rivers and streams, at which a cleanup is being
14 conducted or is proposed to be conducted.

15 “(b) SCOPE OF PROGRAM.—

16 “(1) IN GENERAL.—

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

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

1 “(C) GRANT APPLICATION.—An applica-
2 tion for a grant under this section shall be in
3 such form as the Administrator determines ap-
4 propriate. At a minimum, the application shall
5 include the following:

6 “(i) Evidence that the grant applicant
7 has the financial controls and resources to
8 administer a revolving loan fund in accord-
9 ance with this subtitle.

10 “(ii) Provisions that ensure each of
11 the following:

12 “(I) The grant applicant has the
13 ability to monitor the use of funds
14 provided to loan recipients under this
15 subtitle.

16 “(II) Any cleanup conducted by
17 the applicant is protective of human
18 health and the environment.

19 “(III) There will be adequate
20 public participation in the selection of
21 criteria for any cleanup, including an
22 opportunity for public meeting.

23 “(IV) Any cleanup funded under
24 this Act will comply with all laws that
25 apply to the cleanup.

1 “(iii) Identification of the criteria to
2 be used by the local government in provid-
3 ing for loans under the program. The cri-
4 teria shall include the financial standing of
5 the applicants for the loans, the use to
6 which the loans will be put, the provisions
7 to be used to ensure repayment of the loan
8 funds, and the following:

9 “(I) A complete description of
10 the financial standing of the applicant
11 that includes a description of the as-
12 sets, cash flow, and liabilities of the
13 applicant.

14 “(II) A written statement that
15 attests that the cleanup of the site
16 would not occur without access to the
17 revolving loan fund.

18 “(III) The proposed method, and
19 anticipated period of time required, to
20 clean up the environmental contami-
21 nation at the brownfield site.

22 “(IV) An estimate of the pro-
23 posed total cost of the cleanup to be
24 conducted at the brownfield site.

1 “(V) An analysis that dem-
2 onstrates the potential of the
3 brownfield site for stimulating eco-
4 nomic development or creation of rec-
5 reational areas on completion of the
6 cleanup of the brownfield site.

7 “(VI) An analysis that dem-
8 onstrates the potential for involving
9 local citizens in the cleanup of the
10 brownfield site.

11 “(VII) Such other additional fac-
12 tors as the Administrator considers
13 relevant to carry out this section.

14 “(2) GRANT APPROVAL.—In determining
15 whether to award a grant under this section, the Ad-
16 ministrator shall consider—

17 “(A) the need of the local government for
18 financial assistance to clean up brownfield sites
19 that are the subject of the application, taking
20 into consideration the financial resources avail-
21 able to the local government;

22 “(B) the ability of the local government to
23 ensure that the applicants repay the loans in a
24 timely manner;

1 “(C) the extent to which the cleanup of the
2 brownfield site or sites would reduce health and
3 environmental risks caused by the release of
4 hazardous substances, pollutants, or contami-
5 nants at, or from, the brownfield site or sites;

6 “(D) the demonstrable potential of the
7 brownfield site or sites for stimulating economic
8 development or creation of recreational areas on
9 completion of the cleanup;

10 “(E) the demonstrated ability of the local
11 government to administer such a loan program;

12 “(F) the demonstrated experience of the
13 local government regarding brownfield sites and
14 the reuse of contaminated land, including
15 whether the government has received any grant
16 under any other provision of this Act to assess
17 brownfield sites, except that applicants who
18 have not previously received such a grant may
19 be considered for awards under this section;

20 “(G) the experience of administering any
21 loan programs by the entity, including the loan
22 repayment rates;

23 “(H) the demonstrations made regarding
24 the ability of the local government to ensure a
25 fair distribution of grant funds among

1 brownfield sites within the jurisdiction of the
2 local government;

3 “(I) the extent to which the applicant will
4 involve local citizens in the cleanup of
5 brownfield sites; and

6 “(J) such other factors as the Adminis-
7 trator considers relevant to carry out this sec-
8 tion.

9 “(3) GRANT AMOUNT.—The amount of a grant
10 made to an applicant under this section shall not ex-
11 ceed \$500,000, unless the Administrator determines
12 that a particular applicant warrants a larger
13 amount. An applicant for a grant in excess of
14 \$500,000 shall submit information to the Adminis-
15 trator regarding economic or environmental condi-
16 tions that may warrant funding in excess of
17 \$500,000. The Administrator may award funding in
18 excess of \$500,000 only upon a determination that
19 such an action will achieve particularly significant
20 environmental and economic benefits.

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

1 be funded under the loan program of the local gov-
2 ernment shall be conducted under the auspices of,
3 and in compliance with, the State voluntary cleanup
4 program 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 gov-
11 ernment will include in all loan agreements a re-
12 quirement that the loan recipient shall comply with
13 all laws applicable to the cleanup and shall ensure
14 that the cleanup is protective of human health and
15 the environment.

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

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

24 “(4) REPAYMENT OF FUNDS.—The local gov-
25 ernment will require in each loan agreement, and

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

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

10 “(6) LIENS.—

11 “(A) DEFINITIONS.—In this paragraph,
12 the terms ‘security interest’ and ‘purchaser’
13 have 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, as well
18 as on any personal property, accounts, or other
19 assets if identified in the agreement establish-
20 ing the loan.

21 “(C) COVERAGE.—The lien shall cover all
22 real property included in the legal description of
23 the property at the time the loan agreement
24 provided for in this section is signed, and all
25 rights to the property, and shall continue until

1 the terms and conditions of the loan agreement
2 have been fully satisfied.

3 “(D) TIMING.—The lien shall—

4 “(i) arise at the time a security inter-
5 est is appropriately recorded in the real
6 property records of the appropriate office
7 of the State, county, or other governmental
8 subdivision, as designated by State law, in
9 which the real property, personal property,
10 accounts, or other assets subject to the lien
11 are located; and

12 “(ii) be subject to the rights of any
13 purchaser, holder of a security interest, or
14 judgment lien creditor whose interest is or
15 has been perfected under applicable State
16 law before the notice has been filed in the
17 appropriate office of the State, county, or
18 other governmental subdivision, as des-
19 ignated by State law, in which the real
20 property, personal property, accounts, or
21 other assets subject to the lien are located.

22 “(7) NOTICE TO STATE.—The local government
23 will notify the State in which the local government
24 is located of the receipt of the grant and of the iden-

1 tity of recipients of loans made under the revolving
2 loan fund.

3 “(8) REPORT ON LOCAL CITIZEN INVOLVE-
4 MENT.—The local government will submit a report
5 under subsection (f) on local citizen involvement.

6 “(d) AUDITS.—

7 “(1) IN GENERAL.—The Inspector General of
8 the Environmental Protection Agency shall audit a
9 portion of the grants awarded under this section to
10 ensure that all funds are used for the purposes set
11 forth in this section.

12 “(2) FUTURE GRANTS.—The result of the audit
13 shall be taken into account in awarding any future
14 grants to the local government.

15 “(e) AUTHORITY TO AWARD GRANTS TO STATES.—
16 The Administrator may award a grant to a State under
17 the program established under this section at the request
18 of a local government in the State if the Administrator
19 determines that a grant to the State is necessary in order
20 to facilitate the receipt of funds by one or more local gov-
21 ernments that otherwise do not have the capabilities, such
22 as personnel and other resources, to manage grants under
23 the program.

24 “(f) REPORT ON LOCAL CITIZEN INVOLVEMENT.—
25 Each recipient of a grant awarded under the program es-

1 tablished under this section shall submit to the Adminis-
2 trator, not later than one year after receipt of the grant,
3 a report on the extent to which local citizens are involved
4 in projects funded by loans made under the revolving loan
5 fund, including a statement of the percentage of the grant
6 funds used to involve local citizens in carrying out such
7 projects.

8 **“SEC. 504. REPORTS.**

9 “(a) IN GENERAL.—Not later than one year after the
10 date of enactment of this Act, and not later than January
11 31 of each of the 3 calendar years thereafter, the Adminis-
12 trator shall prepare and submit a report describing the
13 results of each program established under this subtitle
14 to—

15 “(1) the Committees on Commerce and on
16 Transportation and Infrastructure of the House of
17 Representatives; and

18 “(2) the Committee on Environment and Public
19 Works of the Senate.

20 “(b) CONTENTS OF REPORT.—Each report shall,
21 with respect to each of the programs established under
22 this subtitle, include a description of—

23 “(1) the number of applications received by the
24 Administrator during the preceding calendar year;

1 “(2) the number of applications approved by
2 the Administrator during the preceding calendar
3 year; and

4 “(3) the allocation of assistance under sections
5 502 and 503 among the local governments.

6 **“SEC. 505. LIMITATIONS ON USE OF FUNDS.**

7 “(a) EXCLUDED FACILITIES.—(1) A grant for site
8 inventory and assessment under section 502 or to capital-
9 ize a revolving loan fund under section 503 may not be
10 used for any activity involving any of the following:

11 “(A) A facility or portion of a facility that is
12 the subject of a response action (including a facility
13 or portion of a facility with respect to which a record
14 of decision, other than a no-action record of deci-
15 sion, has been issued) under title I of this Act, un-
16 less a preliminary assessment, site investigation, or
17 response action has been completed at such facility
18 or portion of a facility and the President has decided
19 not to take further response action at such facility
20 or portion of a facility.

21 “(B) A facility listed, or proposed for listing, on
22 the National Priorities List maintained by the Presi-
23 dent under title I of this Act.

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

1 “(D) A facility that is subject to corrective ac-
2 tion under section 3004(u) or 3008(h) of the Solid
3 Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h))
4 to which a corrective action permit or order has been
5 issued or modified to require the implementation of
6 corrective measures.

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

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

16 “(G) A facility with respect to which an admin-
17 istrative or judicial order or decree requiring cleanup
18 has been issued or entered into by the President
19 under—

20 “(i) the Comprehensive Environmental Re-
21 sponse, Compensation, and Liability Act of
22 1980 (42 U.S.C. 9601 et seq.);

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

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

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

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

7 “(H) The portion of a facility at which assist-
8 ance for response activities may be obtained under
9 subtitle I of the Solid Waste Disposal Act (42
10 U.S.C. 6991 et seq.) from the Leaking Underground
11 Storage Tank Trust Fund established by section
12 9508 of the Internal Revenue Code of 1986.

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

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

24 “(A) has obtained a score under the hazardous
25 ranking system; and

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

3 “(3) Notwithstanding paragraph (1), the President
4 may, on a facility-by-facility basis, allow a grant under
5 section 502 or section 503 to be used for an activity in-
6 volving any facility listed in subparagraph (D), (E), (F),
7 (G)(ii), (G)(iii), (G)(iv), (G)(v), (H), or (I) of paragraph
8 (1). In the case of a facility listed in subparagraph (I),
9 the President may use the authority in the preceding sen-
10 tence only if the facility is not a facility described in sub-
11 paragraph (A), (B), (C), or (G)(i).

12 “(b) COST-SHARING.—A grant made under this sub-
13 title may not be used to pay any fine or penalty owed to
14 a State or the Federal Government, or to meet any Fed-
15 eral cost-sharing requirement.

16 “(c) OTHER LIMITATIONS.—

17 “(1) IN GENERAL.—Funds made available to a
18 local government under the grant programs estab-
19 lished under section 502 shall be used only to inven-
20 tory and assess brownfield sites as authorized by
21 this subtitle. Funds made available to a local govern-
22 ment under the grant programs established under
23 section 503 shall be used only for capitalizing a re-
24 volving loan fund as authorized by this subtitle.

1 “(2) RESPONSIBILITY FOR CLEANUP ACTION.—
2 Funds made available under this subtitle may not be
3 used to relieve a local government of the commit-
4 ment or responsibilities of the local government
5 under State law to assist or carry out cleanup ac-
6 tions at brownfield sites.

7 **“SEC. 506. EFFECT ON OTHER LAWS.**

8 “Nothing in this subtitle changes, modifies, or other-
9 wise affects the liability of any person or the obligations
10 imposed or authorities provided under any other law or
11 regulation.

12 **“SEC. 507. REGULATIONS.**

13 “(a) IN GENERAL.—The Administrator may issue
14 such regulations as are necessary to carry out this subtitle.

15 “(b) PROCEDURES AND STANDARDS.—The regula-
16 tions shall include such procedures and standards as the
17 Administrator considers necessary, including procedures
18 and standards for evaluating an application for a grant
19 or loan submitted under this subtitle.

20 **“SEC. 508. AUTHORIZATIONS OF APPROPRIATIONS.**

21 “(a) EXPENDITURES FROM THE SUPERFUND.—
22 Amounts in the Hazardous Substance Superfund estab-
23 lished by section 9507 of the Internal Revenue Code of
24 1986 shall be made available consistent with, and for the

1 purposes of carrying out, the grant programs established
2 under sections 502 and 503.

3 “(b) SITE ASSESSMENT PROGRAM.—There is author-
4 ized to be appropriated to carry out section 502
5 \$40,000,000 for each of fiscal years 1999 through 2003.

6 “(c) ECONOMIC REDEVELOPMENT ASSISTANCE PRO-
7 GRAM.—There is authorized to be appropriated to carry
8 out section 503 \$80,000,000 for each of fiscal years 1999
9 through 2003.

10 “(d) AVAILABILITY OF FUNDS.—The amounts appro-
11 priated under this section shall remain available until ex-
12 pended.”.

13 **SEC. 602. RESEARCH, DEVELOPMENT, AND DEMONSTRA-**
14 **TION.**

15 Section 311(c) of the Comprehensive Environmental
16 Response, Compensation, and Liability Act of 1980 (42
17 U.S.C. 9660(c)) is amended to read as follows:

18 “(c) HAZARDOUS SUBSTANCE RESEARCH AND RE-
19 SPONSE ACTIVITIES.—

20 “(1) AUTHORITY.—The Administrator is au-
21 thorized to conduct and support, through grants, co-
22 operative agreements, contracts, and research, dem-
23 onstrations surveys and technical assistance, with re-
24 spect to the detection, assessment, remediation, and
25 evaluation of the effects on and risks to human

1 health and the environment from hazardous sub-
2 stances.

3 “(2) GRANTS AND AGREEMENTS.—The Admin-
4 istrator may award grants to, and enter into cooper-
5 ative agreements under this section with, a State,
6 tribe, consortium of tribes, or interstate agency, mu-
7 nicipality, education institution, or other agency or
8 organization for the development and implementa-
9 tion of training, technology transfer, and informa-
10 tion dissemination programs to strengthen environ-
11 mental response activities, including enforcement, at
12 the Federal, State, tribal, and local levels. The Ad-
13 ministrator may establish such requirements for
14 such grants and cooperative agreements as the Ad-
15 ministrator determines to be appropriate. The Ad-
16 ministrator may award such grants and cooperative
17 agreements using funds appropriated under this
18 Act.”.

19 **SEC. 803. ASSISTANCE FOR WORKFORCE TRAINING.**

20 Section 117 of the Comprehensive Environmental Re-
21 sponse, Compensation, and Liability Act of 1980 (42
22 U.S.C. 9660), as amended by this Act, is further amended
23 by adding at the end thereof the following:

24 “(1) ASSISTANCE FOR WORKFORCE TRAINING.—The
25 Administrator shall provide grants and such other forms

1 of assistance as the Administrator deems appropriate for
2 brownfields workforce training programs in communities
3 that contain brownfield sites. Assistance provided under
4 this section may include—

5 “(1) expansion of environmental training and
6 curriculum development at colleges located near
7 brownfields sites;

8 “(2) establishment of environmental education
9 and training centers or other community-based job
10 training organizations; and

11 “(3) such other activities as the Administrator
12 considers appropriate.”.

13 **Subtitle B—Innocent Landowners**
14 **and Prospective Purchaser Li-**
15 **ability**

16 **SEC. 621. INNOCENT LANDOWNERS.**

17 (a) ENVIRONMENTAL SITE ASSESSMENT.—Section
18 107 of the Comprehensive Environmental Response, Com-
19 pensation, and Liability Act of 1980 (42 U.S.C. 9607) is
20 amended by adding at the end the following new sub-
21 section:

22 “(o) INNOCENT LANDOWNERS.—

23 “(1) CONDUCT OF ENVIRONMENTAL ASSESS-
24 MENT.—A person who has acquired real property
25 shall have made all appropriate inquiry within the

1 meaning of subparagraph (B) of section 101(35) if
2 he establishes that, within 180 days prior to the
3 time of acquisition, an environmental site assess-
4 ment of the real property was conducted which
5 meets the requirements of paragraph (2).

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

1 ards, the President shall consider requirements gov-
2 erning each of the following:

3 “(A) Interviews of owners, operators, and
4 occupants of the property to determine informa-
5 tion regarding the potential for contamination.

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

21 “(C) Determination of the existence of re-
22 corded environmental cleanup liens against the
23 real property which have arisen pursuant to
24 Federal, State, or local statutes.

1 “(D) Review of reasonably ascertainable
2 Federal, State, and local government records of
3 sites or facilities that are likely to cause or con-
4 tribute to contamination at the real property,
5 including, as appropriate, investigation reports
6 for such sites or facilities; records of activities
7 likely to cause or contribute to contamination at
8 the real property, including landfill and other
9 disposal location records, underground storage
10 tank records, hazardous waste handler and gen-
11 erator records and spill reporting records; and
12 such other reasonably ascertainable Federal,
13 State, and local government environmental
14 records which could reflect incidents or activi-
15 ties which are likely to cause or contribute to
16 contamination at the real property.

17 “(E) A visual site inspection of the real
18 property and all facilities and improvements on
19 the real property and a visual inspection of im-
20 mediately adjacent properties, including an in-
21 vestigation of any hazardous substance use,
22 storage, treatment, and disposal practices on
23 the property.

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

1 “(G) The relationship of the purchase
2 price to the value of the property if
3 uncontaminated.

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

6 “(I) The obviousness of the presence or
7 likely presence of contamination at the prop-
8 erty, and the ability to detect such contamina-
9 tion by appropriate investigation.

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

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

18 “(A) the person has maintained a compila-
19 tion of the information reviewed and gathered
20 in the course of the environmental site assess-
21 ment;

22 “(B) the person exercised appropriate care
23 with respect to hazardous substances found at
24 the facility by taking reasonable steps to stop
25 on-going releases, prevent threatened future re-

1 leases of hazardous substances, and prevent or
2 limit human or natural resource exposure to
3 hazardous substances previously released into
4 the environment; and

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

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

17 **SEC. 622. LIMITATIONS ON LIABILITY FOR RESPONSE**
18 **COSTS FOR PROSPECTIVE PURCHASERS.**

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

24 “(p) LIMITATIONS ON LIABILITY FOR PROSPECTIVE
25 PURCHASERS.—Notwithstanding paragraphs (1) through

1 (4) of subsection (a), to the extent the liability of a person,
2 with respect to a release or the threat of a release from
3 a facility, is based solely on subsection (a)(1), the person
4 shall not be liable under this Act if the person—

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

7 “(2) does not impede the performance of any
8 response action or natural resource restoration at a
9 facility.”.

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

15 “(q) PROSPECTIVE PURCHASER AND WINDFALL
16 LIEN.—

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

1 “(2) AMOUNT; DURATION.—The lien—

2 “(A) shall be for an amount not to exceed
3 the increase in fair market value of the prop-
4 erty attributable to the response action at the
5 time of a subsequent sale or other disposition of
6 the property;

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

10 “(C) shall be subject to the requirements
11 for notice and validity specified in subsection
12 (1)(3); and

13 “(D) shall continue until the earlier of sat-
14 isfaction of the lien or recovery of all response
15 costs incurred at the facility.

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

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

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

1 (c) DEFINITION OF BONA FIDE PROSPECTIVE PUR-
2 CHASER.—Section 101 of the Comprehensive Environ-
3 mental Response, Compensation, and Liability Act of
4 1980 (42 U.S.C. 9601), as amended by this Act, is further
5 amended by adding at the end the following:

6 “(40) BONA FIDE PROSPECTIVE PURCHASER.—
7 The term ‘bona fide prospective purchaser’ means a
8 person who acquires ownership of a facility after the
9 date of enactment of the Children’s Protection and
10 Community Cleanup Act of 1998, or a tenant of
11 such a person, who can establish each of the follow-
12 ing by a preponderance of the evidence:

13 “(A) DISPOSAL PRIOR TO ACQUISITION.—
14 All active disposal of hazardous substances at
15 the facility occurred before the person acquired
16 the facility.

17 “(B) INQUIRY.—

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

24 “(ii) STANDARDS.—The ASTM stand-
25 ards described in section 107(o)(2) or the

1 alternative standards issued or designated
2 by the President pursuant to that section
3 shall satisfy the requirements of this sub-
4 paragraph.

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

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

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

21 “(i) stop ongoing releases;

22 “(ii) prevent threatened future re-
23 leases of hazardous substances; and

24 “(iii) prevent or limit human or natu-
25 ral resource exposure to hazardous sub-

1 stances previously released into the envi-
2 ronment.

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

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

19 **SEC. 623. CONTIGUOUS OR NEARBY PROPERTIES.**

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

24 “(r) CONTIGUOUS PROPERTIES.—(1) A person who
25 owns or operates real property that is contiguous to or

1 otherwise similarly situated with respect to real property
2 on which there has been a release or threatened release
3 of a hazardous substance and that is or may be contami-
4 nated by such release shall not be considered to be an
5 owner or operator of a facility under subsection (a)(1)
6 solely by reason of such contamination, if such person es-
7 tablishes by a preponderance of the evidence that—

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

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

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

18 “(2) The President may issue an assurance of no en-
19 forcement action under this Act to any such person and
20 may grant any such person protection against cost recov-
21 ery and contribution actions pursuant to section
22 113(f)(2).”.

1 **Subtitle C—Department of Housing**
2 **and Urban Development**
3 **Brownfield Grants**

4 **SEC. 631. ECONOMIC DEVELOPMENT GRANTS IN CONNEC-**
5 **TION WITH COMMUNITY DEVELOPMENT**
6 **LOAN GUARANTEES.**

7 Section 108(q) of the Housing and Community De-
8 velopment Act of 1974 (42 U.S.C. 5308(q)) is amended
9 by adding at the end the following new paragraph:

10 “(5) BROWNFIELDS REDEVELOPMENT.—

11 “(A) IN GENERAL.—The Secretary shall,
12 to the extent amounts are made available pur-
13 suant to subparagraph (F) and applications are
14 approved under this paragraph, make grants
15 under this paragraph to eligible public entities
16 for projects for the cleanup and economic rede-
17 velopment of brownfield sites. The provisions of
18 paragraphs (1) through (4) of this subsection
19 shall apply to grants under this paragraph and
20 the requirements under this paragraph shall be
21 in addition to the requirements under para-
22 graphs (1) through (4).

23 “(B) ELIGIBLE RECIPIENTS.—Grants
24 under this paragraph may be made only to eli-
25 gible public entities requesting guarantees

1 under subsection (a) for notes or other obliga-
2 tions to finance a project involving eligible ac-
3 tivities under subparagraph (C).

4 “(C) ELIGIBLE ACTIVITIES.—Assistance
5 under this paragraph may be used only for the
6 purposes of and in conjunction with projects
7 and activities for the economic redevelopment of
8 brownfield sites.

9 “(D) SELECTION CRITERIA.—

10 “(i) ADDITIONAL CRITERION.—The
11 criteria for awarding assistance under this
12 paragraph shall include the extent to which
13 the applicant has developed an approach or
14 process for the cleanup and redevelopment
15 of brownfield sites and is coordinating such
16 program with appropriate environmental
17 regulatory agencies.

18 “(ii) PRIORITY.—In awarding such
19 assistance, the Secretary shall give priority
20 to eligible entities meeting the selection cri-
21 teria (established pursuant to paragraph
22 (4) and clause (i)) and proposing a plan
23 involving projects and activities for
24 brownfield sites located within any em-
25 powerment zone or enterprise community

1 (as such terms are defined in section
2 1393(b) of the Internal Revenue Code of
3 1986).

4 “(E) COORDINATION WITH EPA.—The Sec-
5 retary shall consult and coordinate with the Ad-
6 ministrator of the Environmental Protection
7 Agency in providing assistance under this para-
8 graph and establishing selection criteria under
9 subparagraph (D) to ensure that activities as-
10 sisted with amounts provided under this para-
11 graph are consistent and coordinated with ef-
12 forts of such Agency and other agencies and or-
13 ganizations to clean up and redevelop
14 brownfield sites.

15 “(F) DEFINITION.—For purposes of this
16 paragraph, the term ‘brownfield site’ has the
17 meaning provided by section 501 of this Act.

18 “(G) AUTHORIZATION OF APPROPRIA-
19 TIONS.—For grants under this paragraph, there
20 is authorized to be appropriated to the Sec-
21 retary \$50,000,000 for each of fiscal years
22 1999 through 2003.”.

1 **TITLE VII—NATURAL RESOURCE**
2 **DAMAGES**

3 **SEC. 701. LIABILITY FOR NATURAL RESOURCES DAMAGES.**

4 Subparagraph (C) of section 107(a) of the Com-
5 prehensive Environmental Response, Compensation, and
6 Liability Act of 1980 (42 U.S.C. 9607(a)) is amended by
7 inserting “and the reasonable costs of recovering such
8 damages” before the semicolon.

9 **SEC. 702. LIMITATIONS ON LIABILITY.**

10 Section 107(c)(2) of the Comprehensive Environ-
11 mental Response, Compensation, and Liability Act of
12 1980 (42 U.S.C. 9607(c)(2)) is amended by inserting “,
13 including damages for injury to, destruction of, or loss of
14 natural resources” after “damages”.

15 **SEC. 703. DAMAGE ASSESSMENT.**

16 (a) IN GENERAL.—Section 107(f)(2)(C) of the Com-
17 prehensive Environmental Response, Compensation, and
18 Liability Act of 1980 (42 U.S.C. 9607(f)(2)(C)) is amend-
19 ed to read as follows:

20 “(C) DAMAGE ASSESSMENT.—A natural re-
21 source damage assessment conducted for the pur-
22 poses of this Act and made by a Federal, State, or
23 tribal trustee shall be performed, to the extent prac-
24 ticable, in accordance with—

1 “(i) the regulation issued under sec-
2 tion 301(c); and

3 “(ii) generally accepted scientific and
4 technical standards and appropriate meth-
5 odologies to ensure the validity and reli-
6 ability of assessment results.”.

7 (b) REGULATIONS.—Section 301(c) of the Com-
8 prehensive Environmental Response, Compensation, and
9 Liability Act of 1980 (42 U.S.C. 9651) is amended to read
10 as follows:

11 “(c) REGULATIONS FOR DAMAGE ASSESSMENTS.—

12 “(1) IN GENERAL.—The President, acting
13 through Federal officials designated by the National
14 Contingency Plan under section 107(f)(2), shall
15 issue a regulation for the assessment of damages
16 and costs for injury to, destruction of, or loss of nat-
17 ural resources resulting from a release of a hazard-
18 ous substance for the purposes of this Act.

19 “(2) CONTENTS.—The regulation under para-
20 graph (1) shall—

21 “(A) specify protocols for conducting as-
22 sessments in individual cases to determine the
23 injury, destruction, or loss of natural resources;

1 “(B) identify the best available procedures
2 to determine damages for the cost of restora-
3 tion and assessment;

4 “(C) take into consideration the ability of
5 a natural resource to recover naturally and the
6 availability of replacement or alternative re-
7 sources; and

8 “(D) identify criteria for the distribution
9 of funds for assessments.

10 “(3) BIENNIAL REVIEW.—The regulation under
11 paragraph (1) shall be reviewed and revised as ap-
12 propriate every 2 years.”.

13 **SEC. 704. STANDARD OF REVIEW.**

14 (a) Section 107(f) of the Comprehensive Environ-
15 mental Response, Compensation, and Liability Act of
16 1980 (42 U.S.C. 9607(f)) is amended by adding at the
17 end the following:

18 “(3) TRUSTEE RESTORATION PLANS.—

19 “(A) ADMINISTRATIVE RECORD.—A trust-
20 ee for a natural resource designated under this
21 subsection may establish an administrative
22 record on which the trustee will base the selec-
23 tion of a plan for restoration of the resource.
24 The plan shall include a determination of the
25 nature and extent of the injury to, destruction

1 of, or loss of the resource. The administrative
2 record shall be made available to the public at
3 or near the facility at issue.

4 “(B) PUBLIC PARTICIPATION.—The Presi-
5 dent shall issue regulations to establish proce-
6 dures for the participation of interested persons
7 in the development of an administrative record
8 described in subparagraph (A). The procedures
9 shall include, at a minimum, each of the re-
10 quirements set forth in section 113(k)(2)(B).

11 “(C) PARTICIPATION BY TRUSTEES.—All
12 trustees designated for a natural resource under
13 this subsection may participate in the selection
14 of a restoration plan under this paragraph. The
15 restoration plan may include actions to restore
16 natural resources under the trusteeship of any
17 participating trustee. The President shall issue
18 regulations to govern the implementation of this
19 subparagraph.

20 “(D) JUDICIAL REVIEW.—Judicial review
21 of any restoration plan developed under this
22 paragraph with participation by all affected
23 trustees (other than trustees who elect not to
24 participate) shall be limited to the administra-
25 tive record. Otherwise applicable principles of

1 administrative law shall govern whether any
2 supplemental materials may be considered by
3 the court. In considering objections to the res-
4 toration plan, the court shall uphold the deci-
5 sion of a participating trustee in selecting the
6 plan unless the objecting party can demonstrate
7 on the administrative record that the decision
8 was arbitrary and capricious or otherwise not
9 in accordance with law.”.

10 **SEC. 705. CONTAMINATED SEDIMENTS.**

11 Section 107(f) of the Comprehensive Environmental
12 Response, Compensation, and Liability Act of 1980 (42
13 U.S.C. 9607(f)) is further amended by adding at the end
14 the following:

15 “(4) CONTAMINATED SEDIMENTS.—

16 “(A) IN GENERAL.—With respect to haz-
17 ardous substances in sediments of the waters of
18 the United States, the presence of hazardous
19 substances at levels above background or ref-
20 erence levels shall be sufficient to establish in-
21 jury to natural resources under subparagraph
22 (C) of subsection (a).

23 “(B) REPORT TO CONGRESS.—Not later
24 than December 31, 2000, the Administrator
25 and the appropriate trustees shall jointly trans-

1 mit to Congress a report regarding how re-
2 sponse, remedial, and restoration actions are re-
3 storing and protecting natural resources and all
4 associated values, including natural heritage
5 values, affected by each of the following facili-
6 ties or group of facilities:

7 “(i) Hudson River, New York.

8 “(ii) Newark and New York Bays,
9 New York and New Jersey.

10 “(iii) Housatonic River, Connecticut
11 and Massachusetts.

12 “(iv) New Bedford Harbor, Massachu-
13 setts.

14 “(v) Clark Fork River, Montana.

15 “(vi) Lavaca Bay, Texas.

16 “(vii) Palos Verdes, California.

17 “(viii) Fox River, Wisconsin.

18 “(ix) Coeur D’Alene, Idaho.

19 “(x) Hanford, Washington.

20 The President may designate other facilities as
21 additions to the list set forth in this subpara-
22 graph and, for such additional facilities, the re-
23 port shall be submitted within 3 years after
24 designation.”.

1 **SEC. 706. RECRUITMENT AND TRAINING PROGRAM.**

2 Section 107(f) of the Comprehensive Environmental
3 Response, Compensation, and Liability Act of 1980 (42
4 U.S.C. 9607(f)) is further amended by adding at the end
5 the following:

6 “(5) RECRUITMENT AND TRAINING PRO-
7 GRAM.—

8 “(A) IN GENERAL.—The trustees des-
9 igned under this subsection shall conduct a
10 program to assist in the recruitment and train-
11 ing of individuals in an affected community for
12 employment in restoration activities.

13 “(B) RECRUITMENT, TRAINING, AND EM-
14 PLOYMENT.—The trustees shall encourage a
15 person conducting a restoration action under
16 this Act to train and employ persons from the
17 affected community in restoration skills.”.

18 **SEC. 707. STATUTE OF LIMITATIONS.**

19 (a) PERIOD IN WHICH ACTION MAY BE BROUGHT.—
20 Section 113(g)(1) of the Comprehensive Environmental
21 Response, Compensation, and Liability Act of 1980 (42
22 U.S.C. 9613(g)(1)) is amended—

23 (1) by striking “Except as” and all that follows
24 through subparagraph (B) and inserting the follow-
25 ing:

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B) and paragraphs (3) and (4),
3 no action may be commenced for damages (as
4 defined in section 101(6)) under this Act unless
5 that action is commenced within 3 years after—

6 “(i) the date of completion by an au-
7 thorized trustee of a damage assessment in
8 accordance with the regulations promul-
9 gated under section 301(c); or

10 “(ii) the date of a plan for restoration
11 of natural resources adopted after ade-
12 quate public notice, opportunity for com-
13 ment, and consideration of all public com-
14 ments.”; and

15 (2) by striking “With respect to” and inserting
16 the following:

17 “(B) SPECIAL RULES.—With respect to”;

18 and

19 (3) in subparagraph (B), as so designated—

20 (A) by moving the remainder of the text of
21 the subparagraph 4 ems to the right; and

22 (B) by striking “in lieu of the dates re-
23 ferred to in subparagraph (A) or (B)”.

24 (b) CLAIMS FOR RECOVERY OF DAMAGES.—Section
25 112(d)(2) of such Act (42 U.S.C. 9612(d)(2)) is amended

1 by striking “within” and all that follows through the pe-
2 riod at the end and inserting “the period for commencing
3 an action for natural resource damages under section
4 113(g)(1).”.

5 **SEC. 708. ARCHAEOLOGICAL RESOURCES.**

6 Section 101(16) of the Comprehensive Environmental
7 Response, Compensation, and Liability Act of 1980 (42
8 U.S.C. 9601(16)) is amended by inserting “archaeological
9 resources,” before “and other such resources”.

10 **SEC. 709. CITIZEN SUITS.**

11 (a) **ACTIONS TO RECOVER NATURAL RESOURCES**
12 **DAMAGES.**—Section 310(a)(1) of the Comprehensive En-
13 vironmental Response, Compensation, and Liability Act of
14 1980 (42 U.S.C. 9659(a)(1)) is amended by inserting be-
15 fore the semicolon the following: “or against any such per-
16 son to recover damages for injury to, destruction of, or
17 loss of natural resources subject to the limitations on the
18 use of sums contained in section 107(f)”.

19 (b) **NOTICE.**—Section 310(d)(1) of such Act (42
20 U.S.C. 9659(d)(1)) is amended by adding at the end the
21 following:

22 “(D) In the case of an action to recover
23 damages for injury to, destruction of, or loss of
24 natural resources, the trustees for the natural
25 resources designated under section 107(f).”.

1 (c) DILIGENT PROSECUTION.—Section 310(d)(2) of
2 such Act (42 U.S.C. 9659(d)(2)) is amended—

3 (1) by inserting “(A)” before “the President”;

4 and

5 (2) by inserting before the period at the end the
6 following: “; or (B) in the case of an action to re-
7 cover damages for injury to, destruction of, or loss
8 of natural resources, the trustees for the natural re-
9 sources designated under section 107(f) have com-
10 menced and are diligently performing a natural re-
11 source damage assessment or have commenced and
12 are diligently prosecuting an action under this Act
13 for recovery of such damages”.

14 **SEC. 710. TRANSITION RULES.**

15 (a) IN GENERAL.—Except as provided in subsection
16 (b), the amendments made by this title shall apply only
17 to a claim for damages under section 107(a)(2)(C) of the
18 Comprehensive Environmental Response, Compensation,
19 and Liability Act of 1980 filed on or after the date of
20 the enactment of this Act.

21 (b) EXCEPTIONS.—The amendments made by section
22 707 of this Act shall apply to all claims for damages,
23 whenever filed.

1 **TITLE VIII—FEDERAL**
2 **FACILITIES**

3 **SEC. 801. FEDERAL ENTITIES AND FACILITIES.**

4 Section 120 of the Comprehensive Environmental Re-
5 sponse, Compensation, and Liability Act of 1980 (42
6 U.S.C. 9620) is amended as follows:

7 (1) By amending the heading to read as follows:

8 **“SEC. 120. FEDERAL ENTITIES AND FACILITIES.”.**

9 (2) By amending paragraph (1) of subsection
10 (a) to read as follows:

11 “(1)(A) Each department, agency, and instru-
12 mentality of the executive, legislative, and judicial
13 branches of the United States shall be subject to,
14 and comply with, all Federal, State, interstate and
15 local requirements, both substantive and procedural
16 (including any requirements for permits, reporting,
17 or any provisions for injunctive relief and such sanc-
18 tions as may be imposed by a court to enforce such
19 relief), regarding response actions and damages re-
20 lated to, or management of, hazardous substances,
21 pollutants, or contaminants in the same manner,
22 and to the same extent, as any nongovernmental en-
23 tity is subject to such requirements, including reim-
24 bursement of response costs and attorneys’ fees,
25 payment of natural resource damages, and enforce-

1 ment and liability under sections 106 and 107 of
2 this title and the payment of reasonable service
3 charges.

4 “(B) The Federal, State, interstate, and local
5 substantive and procedural requirements referred to
6 in subparagraph (A) include, but are not limited to,
7 all administrative orders and all civil and adminis-
8 trative penalties and fines, regardless of whether
9 such penalties and fines are punitive or coercive in
10 nature or are imposed for isolated, intermittent, or
11 continuing violations. The United States hereby ex-
12 pressly waives any immunity otherwise applicable to
13 the United States with respect to any such sub-
14 stantive or procedural requirement (including, but
15 not limited to, any injunctive relief, administrative
16 order or civil or administrative penalty or fine re-
17 ferred to in the preceding sentence, or reasonable
18 service charge).

19 “(C) The reasonable service charges referred to
20 in this paragraph include, but are not limited to,
21 fees or charges assessed in connection with the proc-
22 essing and issuance of permits, renewal of permits,
23 amendments to permits, review of plans, studies,
24 and other documents, and inspection and monitoring
25 of facilities, as well as any other nondiscriminatory

1 charges that are assessed in connection with a State,
2 interstate, or local response program.

3 “(D) Neither the United States, nor any agent,
4 employee, or officer thereof, shall be immune or ex-
5 empt from any process or sanction of any State or
6 Federal court with respect to the enforcement of any
7 injunctive relief.

8 “(E) No agent, employee, or officer of the
9 United States shall be personally liable for any civil
10 penalty under any Federal or State law relating to
11 response actions with respect to any act or omission
12 within the scope of their official duties. An agent,
13 employee, or officer of the United States shall be
14 subject to any criminal sanction (including, but not
15 limited to, any fine or imprisonment) under any
16 Federal or State response law, but no department,
17 agency, or instrumentality of the executive, legisla-
18 tive, or judicial branch of the United States shall be
19 subject to any such sanctions.

20 “(F) The waiver of sovereign immunity pro-
21 vided in this paragraph shall not apply to the extent
22 a State law would apply any standard or require-
23 ment to such Federal department, agency, or instru-
24 mentality in a manner which is more stringent than

1 such standard or requirement would be applied to
2 any other person.

3 “(G)(i) The Administrator may issue an order
4 under section 106 of this Act to any department,
5 agency, or instrumentality of the executive, legisla-
6 tive, or judicial branch of the United States. The
7 Administrator shall initiate an administrative en-
8 forcement action against such a department, agency,
9 or instrumentality in the same manner and under
10 the same circumstances as action would be initiated
11 against any other person.

12 “(ii) No administrative order issued to such de-
13 partment, agency, or instrumentality shall become
14 final until such department, agency, or instrumentality
15 has had the opportunity to confer with the Ad-
16 ministrator.

17 “(iii) Unless a State law in effect on the date
18 of enactment of the Children’s Protection and Com-
19 munity Cleanup Act of 1998, or a State Constitu-
20 tion, requires the funds to be used in a different
21 manner, all funds collected by a State from the Fed-
22 eral Government from penalties and fines imposed
23 for violation of any substantive or procedural re-
24 quirement referred to in subsection (a) of this sec-
25 tion shall be used by the State only for projects de-

1 signed to improve or protect the environment or to
2 defray the costs of environmental protection or en-
3 forcement.

4 “(I) Each such department, agency, and instru-
5 mentality shall have the right to contribution protec-
6 tion set forth in section 113, when such department,
7 agency, or instrumentality resolves its liability under
8 this Act.”.

9 (3) By striking paragraph (4) of subsection (a).

10 (4) By inserting “(other than the indemnifica-
11 tion requirements of section 119)” after “respon-
12 sibility” in subsection (a)(3).

13 (5) By inserting after subsection (e) the follow-
14 ing new paragraph:

15 “(7) NOTIFICATION OF AND CONCURRENCE
16 FROM THE ADMINISTRATOR OR STATE.—(A) Before
17 the commencement of any nonemergency removal ac-
18 tion by a department, agency, or instrumentality of
19 the United States, such department, agency, or in-
20 strumentality shall—

21 “(i) notify the Administrator and the State
22 of the planned removal action; and

23 “(ii) in the case of facilities which are list-
24 ed or proposed for listing on the National Pri-
25 orities List, obtain concurrence in the planned

1 removal action from the Administrator, and in
2 the case of facilities which are not listed or pro-
3 posed for listing on the National Priorities List,
4 obtain concurrence in the planned removal ac-
5 tion from the State.

6 The lack of concurrence under this subparagraph
7 shall not delay the commencement of the remedial
8 investigation and feasibility study in accordance with
9 the time requirements of this section.

10 “(B) As soon as possible after any emergency
11 removal action is initiated by a department, agency,
12 or instrumentality of the United States, but in no
13 case more than 24 hours after such action is initi-
14 ated, the department, agency, or instrumentality
15 shall notify the Administrator and the State of the
16 removal action.

17 “(C) The requirements of this paragraph shall
18 not affect, alter, or supplant, directly or indirectly,
19 the applicability of any State law to the removal ac-
20 tion concerned.”.

21 (6) In subsection (h)(3)(C)(i)—

22 (A) by redesignating subclauses (III) and
23 (IV) as subclauses (IV) and (V), respectively;
24 and

1 (B) by inserting after subclause (II) the
2 following:

3 “(III) the Federal agency re-
4 questing deferral has entered into,
5 with the appropriate regulatory agen-
6 cy, an enforceable agreement that
7 contains—

8 “(aa) an enforceable cleanup
9 plan which may be modified for
10 good cause as provided in the
11 agreement and which can be a
12 record of decision, a State- or
13 EPA-approved closure plan or
14 corrective action decision, or any
15 other similar document contain-
16 ing remedial alternative analyses,
17 projections for long-term oper-
18 ations and maintenance, cost es-
19 timates, and enforceable sched-
20 ules with milestones for inter-
21 mediate and final completion of
22 cleanup; and

23 “(bb) identification of any
24 institutional controls to be relied
25 upon during and after the period

1 of deferral/response actions, des-
2 ignation of the party bearing re-
3 sponsibility to monitor effective-
4 ness of controls, and descriptions
5 of the enforcement mechanisms
6 and remedies for any breach of
7 such controls;”.

8 (7) By adding at the end of subsection
9 (h)(3)(C) the following new clause:

10 “(v) If either the provision requiring
11 concurrence of the Governor for Federal
12 facilities listed on the National Priorities
13 List in clause (i), or the provision requir-
14 ing a finding of suitability for transfer by
15 the Governor for Federal facilities not list-
16 ed on the National Priorities List in clause
17 (i), is found by a court of competent juris-
18 diction to be unconstitutional, the remain-
19 ing provisions of this subparagraph shall
20 be deemed invalid.”.

21 (8) In subsection (h)(3)(C)(ii)—

22 (A) by redesignating subclause (III) as
23 subclause (IX) and in that subclause by strik-
24 ing “and” at the end;

1 (B) by redesignating subclause (IV) as
2 subclause (X) and in that subclause—

3 (i) by striking “adequately addresses”
4 and inserts “, if approved, would result in
5 sufficient funding to comply fully with all”;
6 and

7 (ii) by striking “action, subject to con-
8 gressional authorizations and appropria-
9 tions.” and inserting “action; and”;

10 (C) by inserting after subclause (II) the
11 following:

12 “(III) provide that all restrictions
13 on the use of the property shall apply
14 to, and be binding upon, any trans-
15 feree or assignee of the contract, shall
16 run with the land, that both parties
17 intend that such restrictions shall run
18 with the land and be enforceable
19 against future transferees, successors,
20 and assigns, and that the United
21 States and the State in which the
22 property is located are third-party
23 beneficiaries for the purposes of en-
24 forcing the land use restrictions until
25 such time as the restrictions are de-

1 terminated by the appropriate regu-
2 latory agency to no longer be nec-
3 essary to protect human health and
4 the environment;

5 “(IV) provide for access by the
6 United States and the State in which
7 the property is located, to perform
8 oversight or any cleanup activities re-
9 quired by the transfer agreement or
10 by this subsection;

11 “(V) provide a clear statement of
12 the scope of the parties’ respective du-
13 ties to indemnify each other, if any;

14 “(VI) provide a clear delineation
15 of cleanup responsibilities, and finan-
16 cial commitments regarding cleanup
17 obligations, of the transferring agency
18 and the transferee, including oper-
19 ations and maintenance;

20 “(VII) provide a clear delineation
21 of the parties’ respective cleanup re-
22 sponsibilities in the event new infor-
23 mation is discovered subsequent to
24 transfer, such as previously unknown
25 contamination or risk information;

1 “(VIII) provide a clear statement
2 of the responsibilities of the respective
3 parties to perform additional cleanup
4 should actual land use change from
5 the use reasonably anticipated at the
6 time the remedy is selected, or should
7 actual exposures be greater than rep-
8 resented in the risk assessment;” and
9 (D) by adding at the end the following:

10 “(XI) provide that if the trans-
11 feree is to perform the cleanup, the
12 following additional safeguards will be
13 required:

14 “(aa) The transferee shall
15 provide adequate financial assur-
16 ances to cover the costs of the
17 proposed response action.

18 “(bb) The transferee shall
19 provide proof of technical and
20 managerial capability to imple-
21 ment the selected remedy.”.

22 (9) By amending clause (iv) of subsection
23 (h)(3)(C) to read as follows:

24 “(iv) FEDERAL RESPONSIBILITY.—A
25 deferral under this subparagraph shall not

1 diminish the obligations and liability of a
2 Federal agency under any State or Federal
3 law, including obligations and liabilities
4 under section 106, section 107, and this
5 section.”.

6 **SEC. 802. ADJOINING STATES.**

7 Section 121(f) of the Comprehensive Environmental
8 Response, Compensation, and Liability Act of 1980 (42
9 U.S.C. 9621(f)) is amended by adding at the end the fol-
10 lowing new paragraph:

11 “(4) The President shall provide to any State within
12 a 50-mile radius of a remedial action at a Federal facility
13 a reasonable opportunity to review and comment on each
14 of the following:

15 “(A) The remedial investigation and feasibility
16 study and all data and technical documents leading
17 to its issuance.

18 “(B) The planned remedial action identified in
19 the remedial investigation and feasibility study.

20 “(C) The engineering design following selection
21 of the final remedial action.

22 “(D) Other technical data and reports relating
23 to implementation of the remedy.

1 “(E) Any proposed finding or decision by the
2 President to exercise the authority of subsection
3 (d)(4).”.

4 **SEC. 803. ENFORCEABILITY OF FEDERAL COMPLIANCE**
5 **AGREEMENTS.**

6 Section 120(e) of the Comprehensive Environmental
7 Response, Compensation, and Liability Act of 1980 (42
8 U.S.C. 9620), as amended by this Act, is further amended
9 by adding the following at the end:

10 “(8) STATE REQUIREMENTS.—Notwithstanding
11 any other provision of this Act, an interagency
12 agreement under this section shall not impair or di-
13 minish the authority of a State or any other person
14 to enforce compliance with requirements of State or
15 Federal law, unless those requirements have been—
16 “(A) specifically addressed in the agree-
17 ment; or
18 “(B) waived;
19 (without objection) after notice to the State on or
20 before the date on which the response action is se-
21 lected.”.

22 **TITLE IX—LIABILITY**

23 **SEC. 901. LIABILITY EXEMPTIONS.**

24 (a) LIABILITY EXEMPTIONS.—Section 107 of the
25 Comprehensive Environmental Response, Compensation,

1 and Liability Act of 1980 (42 U.S.C. 9607), as amended
2 by title VI, is further amended by adding at the end the
3 following:

4 “(s) LIABILITY EXEMPTIONS.—

5 “(1) DE MICROMIS EXEMPTION.—(A) Notwith-
6 standing paragraphs (1) through (4) of subsection
7 (a), a person shall not be liable to the United States
8 or any other person (including liability for contribu-
9 tion) under this Act for any response costs incurred
10 with respect to a facility if—

11 “(i) liability is based solely on paragraph
12 (3) or (4) of subsection (a);

13 “(ii) the person can demonstrate that the
14 total of materials containing a hazardous sub-
15 stance that the person arranged for disposal or
16 treatment of, arranged with a transporter for
17 transport for disposal or treatment, of, or ac-
18 cepted for transport for disposal or treatment,
19 at the facility, was less than 55 gallons of liquid
20 materials or less than 100 pounds of solid ma-
21 terials; and

22 “(iii) the acts upon which liability is based
23 took place wholly before July 1, 1997.

24 “(B) Subparagraph (A) shall not apply in a
25 case in which the President, in the President’s sole

1 discretion, determines that the material containing
2 hazardous substances referred to in subparagraph
3 (A) contributed significantly or could contribute sig-
4 nificantly, either individually or in the aggregate, to
5 the cost of the response action with respect to the
6 facility.

7 “(2) SMALL PARTY EXEMPTION.—(A) Notwith-
8 standing paragraphs (1) through (4) of subsection
9 (a), a person who does not impede the performance
10 of a response action or natural resource restoration
11 at a facility shall not be liable to the extent liability
12 at such facility is based solely on paragraph (3) or
13 (4) of this subsection, and the person arranged for
14 disposal, treatment, or transport for disposal or
15 treatment, or accepted for transport for disposal or
16 treatment, of only municipal solid waste or sewage
17 sludge owned or possessed by such person, and the
18 person is—

19 “(i) the owner, operator, or lessee of resi-
20 dential property from which all of the municipal
21 solid waste attributable to such person was gen-
22 erated;

23 “(ii) a small business; or

24 “(iii) a small non-profit organization.

1 “(B) This paragraph shall have no effect on the
2 liability of any other person.”.

3 (b) REMOVAL OF PETROLEUM EXEMPTION.—Section
4 101(14) of such Act (42 U.S.C. 9601(14)) is amended by
5 striking the sentence starting with “The term does not
6 include petroleum”.

7 (c) INCREASED LIABILITY FOR WILLFUL AND IN-
8 TENTIONAL RELEASES.—Section 107(c) of such Act (42
9 U.S.C. 9607(c)) is amended by adding at the end the fol-
10 lowing new paragraph:

11 “(4) In the case of a person who is liable for a release
12 or threat of release of a hazardous substance, if the release
13 or threat of release was willful and intentional, the person
14 may be liable to the United States for punitive damages
15 in an amount at least equal to, and not more than two
16 times, the amount of any costs incurred by the Fund as
17 a result of such release or threat of release.”.

18 (d) SMALL BUSINESS DEFINED.—Section 101 of
19 such Act (42 U.S.C. 9601), as amended by this Act, is
20 further amended by adding at the end the following new
21 paragraphs:

22 “(41) SMALL BUSINESS.—(A) The term ‘small
23 business’ refers to any business entity that—

24 “(i) including its parents, subsidiaries, and
25 other affiliates, during the tax year of the entity

1 preceding the date of transmittal of notification
2 that the entity is a potentially responsible party
3 under this Act, employs no more than 100 indi-
4 viduals; and

5 “(ii) is a ‘small business concern’ as de-
6 fined under the Small Business Act (15 U.S.C.
7 631 et seq.).

8 “(B) For purposes of subparagraph (A), the
9 term ‘affiliate’ has the meaning of that term pro-
10 vided in the definition of ‘small business concern’ in
11 regulations promulgated by the Small Business Ad-
12 ministration in accordance with the Small Business
13 Act (15 U.S.C. 631 et seq.).

14 “(42) SMALL NONPROFIT ORGANIZATION.—The
15 term ‘small nonprofit organization’ refers to any
16 chapter, office, or department of a nonprofit organi-
17 zation employing fewer than 100 individuals at the
18 location from which all of the municipal solid waste
19 attributable to such organization with respect to the
20 facility was generated.”.

21 **TITLE X—FUNDING**

22 **SEC. 1001. AUTHORIZATION OF APPROPRIATIONS.**

23 Section 111(a) of the Comprehensive Environmental
24 Response, Compensation, and Liability Act of 1980 (42
25 U.S.C. 9611(a)) is amended by striking “\$8,500,000,000

1 for the 5-year period beginning on the date of enactment
2 of the Superfund Amendments and Reauthorization Act
3 of 1986, and not more than \$5,100,000,000 for the period
4 commencing October 1, 1991, and ending September 30,
5 1994” and inserting “\$9,600,000,000 for the period com-
6 mencing October 1, 1998, and ending September 30,
7 2003”.

8 **SEC. 1002. AGENCY FOR TOXIC SUBSTANCES AND DISEASE**
9 **REGISTRY.**

10 Section 111(m) (relating to ATSDR) is amended to
11 read as follows:

12 “(m) AGENCY FOR TOXIC SUBSTANCES AND DIS-
13 EASE REGISTRY.—There shall be directly available to the
14 Agency for Toxic Substances and Disease Registry to be
15 used for the purpose of carrying out activities described
16 in subsection (c)(4) of this section and section 104(i) of
17 this Act not less than \$150,000,000 per fiscal year for
18 each of fiscal years 1999, 2000, 2001, 2002, and 2003,
19 of which \$50,000,000 per fiscal year shall be available for
20 the purposes of section 104(i)(15)(C). Any funds so made
21 available which are not obligated by the end of the fiscal
22 year in which made available shall be turned back to the
23 Fund.”.

1 **SEC. 1003. LIMITATIONS ON RESEARCH, DEVELOPMENT,**
2 **AND DEMONSTRATION PROGRAMS.**

3 Section 111(n) is amended to read as follows:

4 “(n) LIMITATIONS ON RESEARCH, DEVELOPMENT,
5 AND DEMONSTRATION PROGRAM.—

6 “(1) SECTION 311(a).—From the amounts
7 available in the Fund, not more than the following
8 amounts may be used for the purposes of section
9 311(a) of this title (relating to hazardous substance
10 research, demonstration, and training activities):

11 “(A) For fiscal year 1999, \$40,000,000.

12 “(B) For fiscal year 2000, \$50,000,000.

13 “(C) For fiscal year 2001, \$55,000,000.

14 “(D) For fiscal year 2002, \$55,000,000.

15 “(E) For fiscal year 2003, \$55,000,000.

16 No more than 10 percent of such amounts shall be
17 used for training under section 311(a) of this title
18 for any fiscal year.

19 “(2) SECTION 311(d).—For each of the fiscal
20 years 1999, 2000, 2001, 2002, and 2003, not more
21 than \$5,000,000 of the amounts available in the
22 Fund may be used for the purposes of section
23 311(d) of this title (relating to university hazardous
24 substance research centers).”.

1 **SEC. 1004. AUTHORIZATION OF APPROPRIATIONS FROM**
2 **GENERAL REVENUES.**

3 (a) AUTHORIZATION.—Section 111(p)(1) is amended
4 to read as follows:

5 “(1) IN GENERAL.—The following sums are au-
6 thORIZED to be appropriated, out of any money in the
7 Treasury not otherwise appropriated, to the Hazard-
8 ous Substance Superfund:

9 “(A) For fiscal year 1999, \$250,000,000.

10 “(B) For fiscal year 2000, \$250,000,000.

11 “(C) For fiscal year 2001, \$250,000,000.

12 “(D) For fiscal year 2002, \$250,000,000.

13 “(E) For fiscal year 2003, \$250,000,000.

14 In addition, there is authorized to be appropriated to
15 the Hazardous Substance Superfund for each fiscal
16 year an amount equal to so much of the aggregate
17 amount authorized to be appropriated under this
18 subsection as has not been appropriated before the
19 beginning of the fiscal year involved.”.

20 (b) REPEAL OF DUPLICATIVE AUTHORIZATION.—(1)
21 Subsection (b) of section 517 of the Superfund Amend-
22 ments and Reauthorization Act (26 U.S.C. 9507 note) is
23 hereby repealed.

24 (2) Section 9507(a)(2) of the Internal Revenue Code
25 of 1986 is amended by striking out “section 517(b) of the
26 Superfund Revenue Act of 1986” and inserting in lieu

1 thereof “section 111(p) of the Comprehensive Environ-
2 mental Response, Compensation, and Liability Act of
3 1980 (42 U.S.C. 9611(p))”.

4 **SEC. 1005. ADDITIONAL LIMITATIONS.**

5 Section 111 is amended by adding after subsection
6 (p) the following new subsections:

7 “(q) INFORMATION OFFICES.—For each of the fiscal
8 years 1999, 2000, 2001, 2002, and 2003, not more than
9 \$50,000,000 of the amounts available in the Fund may
10 be used for the purposes of section 117(c) of this Act (re-
11 lating to Community Information and Access Offices).”.

12 **SEC. 1006. WORKER TRAINING AND EDUCATION GRANTS.**

13 Section 111(c)(12) (42 U.S.C. 9611(c)(12)) is
14 amended—

15 (1) by inserting “and section 117(l) of this
16 Act” after “of 1986”;

17 (2) by striking “\$10,000,000” and inserting
18 “\$15,000,000”; and

19 (3) by striking “and 1994” and inserting “,
20 1994, 1998, 1999, 2000, 2001, 2002, and 2003”.

21 **SEC. 1007. EXTENSION OF HAZARDOUS SUBSTANCE SUPER-
22 FUND.**

23 (a) EXTENSION OF TAXES.—

1 (1) Paragraph (1) of section 59A(e) of the In-
2 ternal Revenue Code of 1986 is amended to read as
3 follows:

4 “(1) IN GENERAL.—The tax imposed by this
5 section shall apply to taxable years beginning after
6 December 31, 1998, and before January 1, 2004.”

7 (2) Paragraph (1) of section 4611(e) of such
8 Code is amended to read as follows:

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), the Hazardous Substance Superfund fi-
11 nancing rate under this section shall apply after De-
12 cember 31, 1998, and before January 1, 2004.”

13 (3) Paragraph (2) of section 4611(e) of such
14 Code is amended—

15 (A) by striking “1993” and inserting
16 “2001”,

17 (B) by striking “1994” each place it ap-
18 pears and inserting “2002”, and

19 (C) by striking “1995” each place it ap-
20 pears and inserting “2003”.

21 (4)(A) Subsection (e) of section 4611 of such
22 Code is amended by striking paragraph (3).

23 (B) Paragraph (2) of section 59(e) of such
24 Code is amended to read as follows:

1 “(2) EARLIER TERMINATION.—The tax imposed
2 by this section shall not apply to taxable years be-
3 ginning during a calendar year during which no tax
4 is imposed under section 4611(a) by reason of para-
5 graph (2) of section 4611(e).”

6 (b) EXTENSION OF REPAYMENT DEADLINE FOR
7 SUPERFUND BORROWING.—Subparagraph (B) of section
8 9507(d)(3) of such Code is amended by striking “Decem-
9 ber 31, 1995” and inserting “December 31, 2003”.

10 (c) TRUST FUND PURPOSES.—Paragraph (1) of sec-
11 tion 9507(c) of such Code is amended by striking subpara-
12 graphs (A) and (B) and inserting the following new sub-
13 paragraphs:

14 “(A) to carry out the purposes of sub-
15 sections (b), (c), and (d) of section 111 of
16 CERCLA; or

17 “(B) hereafter authorized by a law which
18 does not authorize the expenditure out of the
19 Superfund for a general purpose not covered by
20 subparagraph (A).”

21 (d) INCLUSION OF CERTAIN PUNITIVE DAMAGES IN
22 SUPERFUND.—Section 9507(b)(5) of such Code is amend-
23 ed by inserting “and section 107(c)(4)” after “107(c)(3)”.

24 (e) COORDINATION WITH OTHER PROVISIONS.—
25 Paragraph (2) of section 9507(e) of such Code is amended

1 by striking “CERCLA” and all that follows through
2 “Acts)” and inserting “CERCLA, the Superfund Amend-
3 ments and Reauthorization Act of 1986, and the Chil-
4 dren’s Protection and Community Cleanup Act of 1998
5 (or in any amendment made by any of such Acts)”.

6 **TITLE XI—MISCELLANEOUS**

7 **SEC. 1101. PENALTIES.**

8 (a) DOUBLING OF PENALTIES AND INFLATION AD-
9 JUSTMENT.—Section 109 of the Comprehensive Environ-
10 mental Response, Compensation, and Liability Act of
11 1980 (42 U.S.C. 9609) is amended—

12 (1) in subsections (a), (b), and (c), by striking
13 “\$25,000” and inserting “\$50,000 (based on fiscal
14 year 1998 constant dollars)”; and

15 (2) in subsections (b) and (c), by striking
16 “\$75,000” and inserting “\$150,000 (based on fiscal
17 year 1998 constant dollars)”.

18 (b) PENALTIES FOR CERTAIN ADDITIONAL VIOLA-
19 TIONS.—Section 109 is amended—

20 (1) in subsection (a)(1), by adding at the end
21 the following new subparagraphs:

22 “(F) A violation of the requirements of
23 section 110 (relating to employee protection).

1 “(G) A violation of any restriction, limita-
2 tion, or control imposed under an institutional
3 control instrument in use at a facility.”; and

4 (2) in subsections (b) and (c), by inserting after
5 paragraph (5) the following new paragraphs:

6 “(6) A violation of the requirements of section
7 110 (relating to employee protection).

8 “(7) A violation of any restriction, limitation, or
9 control imposed under an institutional control in-
10 strument in use at a facility.”.

11 **SEC. 1102. EMPLOYEE PROTECTION.**

12 Section 110(b) of the Comprehensive Environmental
13 Response, Compensation, and Liability Act of 1980 (42
14 U.S.C. 9610(b)) is amended—

15 (1) in the first sentence, by striking “thirty
16 days” and inserting “6 months”;

17 (2) in the third sentence, by striking “such in-
18 vestigation to be made as he deems appropriate.”
19 and inserting “an investigation to be made.”; and

20 (3) in the sentence beginning with “If he finds
21 that such violation did occur”—

22 (A) by inserting “(1)” before “to take such
23 affirmative”; and

24 (B) by inserting before the period at the
25 end the following: “, and (2) to pay such civil

1 penalty under section 109 as the Secretary
2 deems appropriate”.

3 **SEC. 1103. RADIOACTIVELY CONTAMINATED SITES.**

4 (a) PROTECTIVENESS OF CLEANUP STANDARDS.—
5 Section 121(b) of the Comprehensive Environmental Re-
6 sponse, Compensation, and Liability Act of 1980 (42
7 U.S.C. 9621(b)), as amended by this Act, is further
8 amended by adding at the end the following:

9 “(4) A remedial action that attains applicable or rel-
10 evant and appropriate requirements shall be considered to
11 be protective of human health and the environment unless
12 the President determines that attainment of the require-
13 ments is not sufficiently protective, in which case the
14 President shall establish additional requirements that will
15 ensure that the remedial action will be protective of human
16 health and the environment. For purposes of this para-
17 graph, the President shall consider the decontamination
18 regulations for site termination issued by the Nuclear Reg-
19 ulatory Commission on July 21, 1997, to not be suffi-
20 ciently protective.”.

21 (b) REVISION TO DEFINITION OF FEDERALLY PER-
22 MITTED RELEASE.—Section 101(10)(K) of such Act (42
23 U.S.C. 9601(10)(K)) is amended by inserting before the
24 period at the end the following: “, if such license, permit,
25 regulation, or order adequately protects ground water”.

1 (c) COVERAGE OF NRC LICENSEES.—Section
 2 120(a)(2) of such Act (42 U.S.C. 9620(a)(2)) is amend-
 3 ed—

4 (1) in the heading, by striking out “FACILI-
 5 TIES.—” and inserting “FACILITIES AND NRC LI-
 6 CENSEES.—”; and

7 (2) by adding at the end the following: “The re-
 8 quirements of this paragraph that apply to Federal
 9 facilities are also applicable to facilities subject to li-
 10 censes or decontamination regulations for license
 11 termination issued by the Nuclear Regulatory Com-
 12 mission under the Atomic Energy Act of 1954.”.

13 (d) TAXATION OF URANIUM YELLOWCAKE AND URA-
 14 NIUM DIOXIDE.—

15 (1) IMPOSITION OF TAX.—Section 4661(b) of
 16 the Internal Revenue Code of 1986 is amended by
 17 adding at the end of the table the following:

“Uranium yellowcake	233.33
“Uranium dioxide	2222.22”.

18 (2) SPECIAL RULE.—Section 4662(b) of such
 19 Code is amended by adding at the end the following
 20 new paragraph:

21 “(11) URANIUM DIOXIDE.—Under regulations
 22 prescribed by the Secretary, uranium dioxide shall
 23 be treated as a taxable chemical only if it is used as
 24 a fuel in a nuclear reactor (and, for purposes of sec-

1 tion 4661(a), the person so using it shall be treated
2 as the manufacturer thereof).”.

○