

106TH CONGRESS
1ST SESSION

H. R. 1300

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote brownfields redevelopment, to reauthorize and reform the Superfund program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 1999

Mr. BOEHLERT (for himself, Mr. RAHALL, Mr. BARCIA, Mr. DOOLEY of California, Mr. CLYBURN, Mr. HORN, Mr. GILCHREST, Mr. DEFazio, Mr. QUINN, Mr. TRAFICANT, Mr. EHLERS, Mr. TAYLOR of Mississippi, Mr. BASS, Mrs. TAUSCHER, Mr. GILMAN, Mr. BERRY, Mr. PORTER, Mr. MORAN of Virginia, Mr. WALSH, Mrs. THURMAN, Mr. LEACH, Mr. MATSUI, Mr. SENSENBRENNER, Mr. CLEMENT, Mr. CASTLE, Mr. GOSS, Mrs. JOHNSON of Connecticut, Mr. KING, Mr. CRAMER, Mrs. BIGGERT, Mr. THUNE, Ms. DANNER, Mr. COOK, and Mr. MCHUGH) 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

JUNE 15, 1999

Additional sponsors: Mr. GREENWOOD, Mr. SHOWS, Mr. MARTINEZ, Mr. BLUMENAUER, Mr. FORD, Mr. ENGLISH, Mr. PASTOR, Mr. JEFFERSON, Mr. HOLDEN, Mr. LATOURETTE, Mr. LAHOOD, Mr. RANGEL, Mr. DIXON, Mrs. FOWLER, Mr. SMITH of Washington, Mr. HASTINGS of Florida, Mr. ROEMER, Mr. CHAMBLISS, Mr. CLAY, Mr. FRELINGHUYSEN, Mr. BACHUS, Mr. DICKS, Mrs. JONES of Ohio, Ms. PRYCE of Ohio, Mr. FOLEY, Mrs. EMERSON, Mr. SHERMAN, Mr. PITTS, Mr. WISE, Mr. GOODLING, Mr. BURTON of Indiana, Ms. SLAUGHTER, Mr. SWEENEY, Mr. GORDON, Mr. COSTELLO, Mrs. MORELLA, Mr. LATHAM, Mr. PETERSON of Minnesota, Mr. WEINER, Mr. HILLIARD, Mr. PETRI, Mr. NEY, Mr. CUMMINGS, Mr. BATEMAN, and Mr. DUNCAN

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote brownfields redevelopment, to reauthorize and reform the Superfund program, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Recycle America’s Land Act of 1999”.

6 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to Comprehensive Environmental Response, Compensation, and Liability Act of 1980.
- Sec. 3. Effective date.

TITLE I—BROWNFIELDS REVITALIZATION

- Sec. 101. Savings provision.
- Sec. 102. Brownfields.
- Sec. 103. Assistance for voluntary cleanup programs.
- Sec. 104. Enforcement in cases of a release subject to a State response action.
- Sec. 105. Additions to National Priorities List.

TITLE II—COMMUNITY PARTICIPATION AND HUMAN HEALTH

Subtitle A—Community Participation

- Sec. 201. Improving citizen and community participation in decisionmaking.
- Sec. 202. Additional public involvement requirements.
- Sec. 203. Technical assistance grants.
- Sec. 204. Understandable presentation of materials.
- Sec. 205. Public participation in removal actions.
- Sec. 206. Community study.
- Sec. 207. Definitions.

Subtitle B—Human Health

- Sec. 221. Public health authorities.
- Sec. 222. Indian health provisions.
- Sec. 223. Hazard ranking system.
- Sec. 224. Facility scoring.

TITLE III—LIABILITY REFORM

- Sec. 301. Amendments to section 106.
- Sec. 302. Amendments to section 107(a).
- Sec. 303. Innocent parties.
- Sec. 304. Statutory construction.
- Sec. 305. Livestock treatment.
- Sec. 306. Liability relief for small businesses, municipal solid waste, sewage sludge, and municipal owners and operators.
- Sec. 307. Amendments to section 113.
- Sec. 308. Liability of response action contractors.
- Sec. 309. Amendments to section 122.
- Sec. 310. Clarification of liability for recycling transactions.
- Sec. 311. Allocation.

TITLE IV—REMEDY SELECTION

- Sec. 401. Remedy selection.
- Sec. 402. Hazardous substance property use.
- Sec. 403. Risk assessment standards.

TITLE V—GENERAL PROVISIONS

- Sec. 501. Trust Fund defined.
- Sec. 502. Indian tribes.
- Sec. 503. Grants for training and education of workers.
- Sec. 504. State cost share.
- Sec. 505. State and local reimbursement for response actions.
- Sec. 506. State role at Federal facilities.
- Sec. 507. Federal cost study.
- Sec. 508. Oil Pollution Act.

TITLE VI—FUNDING

Subtitle A—Expenditures From the Hazardous Substance Superfund

- Sec. 601. Expenditures from the Hazardous Substance Superfund.
- Sec. 602. Authorization of appropriations from general revenues.

Subtitle B—Extension of Hazardous Substance Superfund

- Sec. 611. Extension of Hazardous Substance Superfund.

1 **SEC. 2. AMENDMENTS TO COMPREHENSIVE ENVIRON-**
 2 **MENTAL RESPONSE, COMPENSATION, AND LI-**
 3 **ABILITY ACT OF 1980.**

4 Except as otherwise specifically provided, whenever in
 5 this Act an amendment or repeal is expressed in terms
 6 of an amendment to, or repeal of, a section or other provi-
 7 sion of law, the reference shall be considered to be made
 8 to a section or other provision of the Comprehensive Envi-

1 ronmental Response, Compensation, and Liability Act of
2 1980 (42 U.S.C. 9601 et seq.).

3 **SEC. 3. EFFECTIVE DATE.**

4 Except as otherwise specifically provided, this Act,
5 and the amendments made by this Act, shall become effec-
6 tive on the date of the enactment of this Act.

7 **TITLE I—BROWNFIELDS**
8 **REVITALIZATION**

9 **SEC. 101. SAVINGS PROVISION.**

10 Nothing in this title (including the amendments made
11 by this title) may be construed to affect the President’s
12 authority to respond to a release or threatened release of
13 a hazardous substance, pollutant, or contaminant under
14 section 104 of the Comprehensive Environmental Re-
15 sponse, Compensation, and Liability Act of 1980.

16 **SEC. 102. BROWNFIELDS.**

17 (a) IN GENERAL.—Title I (42 U.S.C. 9601 et seq.)
18 is amended by adding at the end the following:

19 **“SEC. 127. BROWNFIELDS.**

20 “(a) DEFINITIONS.—In this section, the following
21 definitions apply:

22 “(1) ADMINISTRATIVE COST.—The term ‘ad-
23 ministrative cost’ does not include the cost of—

24 “(A) site inventories;

1 “(B) investigation and identification of the
2 extent of contamination;

3 “(C) design and performance of a response
4 action; or

5 “(D) monitoring of natural resources.

6 “(2) BROWNFIELD FACILITY.—

7 “(A) IN GENERAL.—The term ‘brownfield
8 facility’ means real property with respect to
9 which expansion, development, or redevelopment
10 is complicated by the presence or potential pres-
11 ence of a hazardous substance.

12 “(B) EXCLUDED FACILITIES.—The term
13 ‘brownfield facility’ does not include—

14 “(i) any portion of real property that
15 is the subject of an ongoing removal or
16 planned removal under section 104;

17 “(ii) any portion of real property that
18 is listed or has been proposed for listing on
19 the National Priorities List;

20 “(iii) any portion of real property with
21 respect to which a cleanup is proceeding
22 under a permit, an administrative order, or
23 a judicial consent decree entered into by
24 the United States or an authorized State
25 under this Act, the Solid Waste Disposal

1 Act (42 U.S.C. 6901 et seq.), the Federal
2 Water Pollution Control Act (33 U.S.C.
3 1251 et seq.), the Toxic Substances Con-
4 trol Act (15 U.S.C. 2601 et seq.), or the
5 Safe Drinking Water Act (42 U.S.C. 300f
6 et seq.);

7 “(iv) a facility that is owned or oper-
8 ated by a department, agency, or instru-
9 mentality of the United States, except a
10 facility located on lands held in trust for
11 an Indian tribe; or

12 “(v) a portion of a facility for which
13 assistance for response activity has been
14 obtained under subtitle I of the Solid
15 Waste Disposal Act (42 U.S.C. 6991 et
16 seq.) from the Leaking Underground Stor-
17 age Tank Trust Fund established under
18 section 9508 of the Internal Revenue Code
19 of 1986.

20 “(3) ELIGIBLE ENTITY.—

21 “(A) IN GENERAL.—The term ‘eligible en-
22 tity’ means—

23 “(i) a State or a political subdivision
24 of a State, including—

1 “(I) a general purpose unit of
2 local government; and

3 “(II) a regional council or group
4 of general purpose units of local gov-
5 ernment;

6 “(ii) a redevelopment agency that is
7 chartered or otherwise sanctioned by a
8 State or other unit of government; and

9 “(iii) an Indian tribe.

10 “(B) EXCLUDED ENTITIES.—The term ‘el-
11 igible entity’ does not include any entity that is
12 not in full compliance with the requirements of
13 an administrative order, judicial consent decree,
14 or closure plan under a permit which has been
15 issued or entered into by the United States or
16 an authorized State under this Act, the Solid
17 Waste Disposal Act (42 U.S.C. 6901 et seq.),
18 the Federal Water Pollution Control Act (33
19 U.S.C. 1251 et seq.), the Toxic Substances
20 Control Act (15 U.S.C. 2601 et seq.), or the
21 Safe Drinking Water Act (42 U.S.C. 300f et
22 seq.) with respect to the real property or por-
23 tion thereof which is the subject of the order,
24 judicial consent decree, or closure plan.

1 “(b) BROWNFIELD ASSESSMENT GRANT PRO-
2 GRAM.—

3 “(1) ESTABLISHMENT OF PROGRAM.—The
4 President shall establish a program to provide
5 grants to eligible entities for inventory and assess-
6 ment of brownfield facilities.

7 “(2) ASSISTANCE FOR SITE ASSESSMENT.—On
8 approval of an application made by an eligible entity,
9 the President may make grants to the eligible entity
10 to be used for developing an inventory and con-
11 ducting an assessment of 1 or more brownfield fa-
12 cilities.

13 “(3) APPLICATIONS.—

14 “(A) IN GENERAL.—Any eligible entity
15 may submit an application to the President, in
16 such form as the President may require, for a
17 grant under this subsection for 1 or more
18 brownfield facilities.

19 “(B) APPLICATION REQUIREMENTS.—An
20 application for a grant under this subsection
21 shall include information relevant to the rank-
22 ing criteria established under paragraph (4) for
23 the facility or facilities for which the grant is
24 requested.

1 “(4) RANKING CRITERIA.—The President shall
2 establish a system for ranking grant applications
3 submitted under this subsection that includes the
4 following criteria:

5 “(A) The demonstrated need for Federal
6 assistance.

7 “(B) The extent to which a grant will
8 stimulate the availability of other funds for en-
9 vironmental remediation and subsequent rede-
10 velopment of the area in which the brownfield
11 facilities are located.

12 “(C) The estimated extent to which a
13 grant would facilitate the identification of or fa-
14 cilitate a reduction in health and environmental
15 risks.

16 “(D) The potential to stimulate economic
17 development of the area, such as the following:

18 “(i) The relative increase in the esti-
19 mated fair market value of the area as a
20 result of any necessary response action.

21 “(ii) The potential of a grant to cre-
22 ate new or expand existing business and
23 employment opportunities on completion of
24 any necessary response action.

1 “(iii) The estimated additional tax
2 revenues expected to be generated by eco-
3 nomic redevelopment in the area in which
4 a brownfield facility is located.

5 “(E) The financial involvement of the
6 State and local government in any response ac-
7 tion planned for a brownfield facility and the
8 extent to which the response action and the
9 proposed redevelopment is consistent with any
10 applicable State or local community economic
11 development plan.

12 “(F) The extent to which the site assess-
13 ment and subsequent development involves the
14 active participation and support of the local
15 community.

16 “(5) MAXIMUM GRANT AMOUNT PER FACIL-
17 ITY.—A grant made to an eligible entity under this
18 subsection shall not exceed \$200,000 with respect to
19 any brownfield facility covered by the grant.

20 “(c) BROWNFIELD REMEDIATION GRANT PRO-
21 GRAM.—

22 “(1) ESTABLISHMENT OF PROGRAM.—The
23 President shall establish a program to provide
24 grants to eligible entities to be used for capitaliza-

1 tion of revolving loan funds for remedial actions at
2 brownfield facilities.

3 “(2) ASSISTANCE FOR SITE REMEDIATION.—
4 Upon approval of an application made by an eligible
5 entity, the President may make grants to the eligible
6 entity to be used for establishing a revolving loan
7 fund. Any fund established using such grants shall
8 be used to make loans to a State, a site owner, or
9 a site developer for the purpose of carrying out re-
10 medial actions at 1 or more brownfield facilities.

11 “(3) APPLICATIONS.—

12 “(A) IN GENERAL.—Any eligible entity
13 may submit an application to the President, in
14 such form as the President may require, for a
15 grant under this subsection.

16 “(B) APPLICATION REQUIREMENTS.—An
17 application under this section shall include in-
18 formation relevant to the ranking criteria estab-
19 lished under paragraph (4).

20 “(4) RANKING CRITERIA.—The President shall
21 establish a system for ranking grant applications
22 submitted under this subsection that includes the
23 following criteria:

24 “(A) The adequacy of the financial con-
25 trols and resources of the eligible entity to ad-

1 minister a revolving loan fund in accordance
2 with this title.

3 “(B) The ability of the eligible entity to
4 monitor the use of funds provided to loan re-
5 cipients under this title.

6 “(C) The ability of the eligible entity to en-
7 sure that a remedial action funded by the grant
8 will be conducted under the authority of a State
9 cleanup program that ensures that the remedial
10 action is protective of human health and the en-
11 vironment.

12 “(D) The ability of the eligible entity to
13 ensure that any cleanup funded under this Act
14 will comply with all laws that apply to the
15 cleanup.

16 “(E) The need of the eligible entity for fi-
17 nancial assistance to clean up brownfield sites
18 that are the subject of the application, taking
19 into consideration the financial resources avail-
20 able to the eligible entity.

21 “(F) The ability of the eligible entity to
22 ensure that the applicants repay the loans in a
23 timely manner.

24 “(G) The plans of the eligible entity for
25 using the grant to stimulate economic develop-

1 ment or creation of recreational areas on com-
2 pletion of the cleanup.

3 “(H) The plans of the eligible entity for
4 using the grant to stimulate the availability of
5 other funds for environmental remediation and
6 subsequent redevelopment of the area in which
7 the brownfield facilities are located.

8 “(I) The plans of the eligible entity for
9 using the grant to facilitate a reduction of
10 health and environmental risks.

11 “(J) The plans of the eligible entity for
12 using the grant for remediation and subsequent
13 development that involve the active participa-
14 tion and support of the local community.

15 “(5) MAXIMUM GRANT AMOUNT.—A grant
16 made to an eligible entity under this subsection may
17 not exceed \$1,000,000.

18 “(d) GENERAL PROVISIONS.—

19 “(1) PROHIBITION.—No part of a grant under
20 this section may be used for the payment of pen-
21 alties, fines, or administrative costs.

22 “(2) AUDITS.—The President shall audit an ap-
23 propriate number of grants made under subsections
24 (b) and (c) to ensure that funds are used for the
25 purposes described in this section.

1 “(3) AGREEMENTS.—

2 “(A) TERMS AND CONDITIONS.—Each
3 grant made under this section shall be subject
4 to an agreement that—

5 “(i) requires the eligible entity to
6 comply with all applicable Federal and
7 State laws;

8 “(ii) requires the eligible entity to use
9 the grant exclusively for the purposes spec-
10 ified in subsection (b)(2) or (c)(2);

11 “(iii) in the case of an application by
12 a State under subsection (c)(2), requires
13 payment by the State of a matching share,
14 of at least 50 percent of the amount of the
15 grant, from other sources of funding;

16 “(iv) requires that grants under this
17 section will not supplant State or local
18 funds normally provided for the purposes
19 specified in subsection (b)(2) or (c)(2); and

20 “(v) contains such other terms and
21 conditions as the President determines to
22 be necessary to ensure proper administra-
23 tion of the grants.

24 “(B) LIMITATION.—The President shall
25 not place terms or conditions on grants made

1 under this section other than the terms and
2 conditions specified in subparagraph (A).

3 “(4) LEVERAGING.—An eligible entity that re-
4 ceives a grant under this section may use the funds
5 for part of a project at a brownfield facility for
6 which funding is received from other sources, includ-
7 ing other Federal sources, but the grant shall be
8 used only for the purposes described in subsection
9 (b)(2) or (c)(2).

10 “(e) APPROVAL.—

11 “(1) INITIAL GRANT.—Before the expiration of
12 the fourth quarter of the first fiscal year following
13 the date of the enactment of this section, the Presi-
14 dent shall make grants under this section to eligible
15 entities and States that submit applications, before
16 the expiration of the second quarter of such year,
17 that the President determines have the highest
18 rankings under the ranking criteria established
19 under subsection (b)(4) or (c)(4).

20 “(2) SUBSEQUENT GRANTS.—Beginning with
21 the second fiscal year following the date of enact-
22 ment of this section, the President shall make an an-
23 nual evaluation of each application received during
24 the prior fiscal year and make grants under this sec-
25 tion to eligible entities and States that submit appli-

1 cations during the prior year that the President de-
2 termines have the highest rankings under the rank-
3 ing criteria established under subsection (b)(4) or
4 (c)(4).

5 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
6 is authorized to be appropriated to carry out this section
7 such sums as may be necessary. Such funds shall remain
8 available until expended.”

9 **SEC. 103. ASSISTANCE FOR VOLUNTARY CLEANUP PRO-**
10 **GRAMS.**

11 (a) STATE RESPONSE PROGRAMS.—Title I (42
12 U.S.C. 9601 et seq.) is further amended by adding at the
13 end the following:

14 **“SEC. 128. STATE VOLUNTARY CLEANUP PROGRAMS.**

15 “(a) ASSISTANCE TO STATES.—The Administrator
16 may provide technical and other assistance to States to
17 establish and expand State voluntary cleanup programs.

18 “(b) ELIGIBLE PURPOSES.—The purposes for which
19 assistance may be provided under subsection (a) include
20 the following:

21 “(1) Providing technical assistance for response
22 actions.

23 “(2) Providing adequate opportunities for pub-
24 lic participation, including prior notice and oppor-

1 tunity for comment in appropriate circumstances, in
2 selecting response actions.

3 “(3) Developing streamlined procedures to en-
4 sure expeditious response actions.

5 “(4) Providing oversight and enforcement of re-
6 sponse actions.

7 “(c) PROHIBITION ON CONDITIONS.—A State may
8 request assistance under this section for 1 or more eligible
9 purposes. The President may require that such assistance
10 be used to carry out the eligible purposes for which the
11 assistance is provided, but may not require as a condition
12 of such assistance that the State take actions unrelated
13 to such purposes.”.

14 (b) FUNDING.—Section 111 (42 U.S.C. 9611) is
15 amended by adding at the end the following:

16 “(q) STATE VOLUNTARY CLEANUP PROGRAM.—For
17 each of fiscal years 2000 through 2004, not more than
18 \$25,000,000 of the amounts available in the Fund may
19 be used for assistance to States under section 130 during
20 the first 5 full fiscal years following the date of enactment
21 of this subsection. The amount of such assistance shall
22 be distributed among each of the States that notifies the
23 Administrator of the State’s intent to establish a State
24 voluntary cleanup program and each of the States with
25 a State voluntary cleanup program. Subject to appropria-

1 tions from the Fund, the Administrator shall make for
2 each fiscal year to each State voluntary cleanup program
3 a grant in the amount of at least \$250,000.”.

4 **SEC. 104. ENFORCEMENT IN CASES OF A RELEASE SUBJECT**
5 **TO A STATE RESPONSE ACTION.**

6 Title I (42 U.S.C. 9601 et seq.) is further amended
7 by adding at the end the following:

8 **“SEC. 129. ENFORCEMENT IN CASES OF A RELEASE SUB-**
9 **JECT TO A STATE RESPONSE ACTION.**

10 “(a) ENFORCEMENT.—Except as provided in sub-
11 section (b), in the case of a facility that is not listed or
12 proposed for listing on the National Priorities List and
13 at which there is a release or threatened release of a haz-
14 ardous substance, neither the President nor any other per-
15 son (other than a State) may use authority under this Act
16 against any person who is conducting or has completed
17 a response action in compliance with a State law that spe-
18 cifically governs response actions for the protection of pub-
19 lic health and the environment—

20 “(1) to take an administrative enforcement ac-
21 tion under section 106;

22 “(2) to take a judicial enforcement action under
23 section 107 of 113; or

24 “(3) to bring a private civil action under section
25 107 or 113;

1 regarding any release or threatened release that is ad-
2 dressed by such response action.

3 “(b) EXCEPTIONS.—The President may bring an ad-
4 ministrative enforcement action or a judicial enforcement
5 action under this Act with respect to a facility described
6 in subsection (a) if—

7 “(1) the State requests the President to take
8 such action;

9 “(2) the President determines that—

10 “(A) response actions are immediately re-
11 quired to prevent, limit, or mitigate an emer-
12 gency;

13 “(B) there is an immediate risk to public
14 health or welfare or the environment; and

15 “(C) the State will not take the necessary
16 response actions in a timely manner;

17 “(3) the Agency for Toxic Substances and Dis-
18 ease Registry issues a public health advisory with re-
19 spect to the facility; or

20 “(4) the President determines that contamina-
21 tion has migrated across a State line, resulting in
22 the need for further response action to protect
23 human health or the environment.”.

1 **SEC. 105. ADDITIONS TO NATIONAL PRIORITIES LIST.**

2 (a) NPL DEFERRALS.—Section 105 (42 U.S.C.
3 9605) is amended by adding at the end the following:

4 “(h) NPL DEFERRALS.—

5 “(1) DEFERRALS TO OTHER FEDERAL AUTHOR-
6 ITY.—The President generally shall defer listing a
7 facility on the National Priorities List if long-term
8 remedial action will be conducted under other Fed-
9 eral authorities, including the Solid Waste Disposal
10 Act (42 U.S.C. 6901 et seq.), the Surface Mining
11 Control and Reclamation Act of 1977 (30 U.S.C.
12 1201 et seq.), the Federal Insecticide, Fungicide,
13 and Rodenticide Act (7 U.S.C. 136 et seq.), and the
14 Atomic Energy Act of 1954 (42 U.S.C. 2011 et
15 seq.).

16 “(2) DEFERRAL TO STATE RESPONSE AC-
17 TION.—The President generally shall defer listing a
18 facility on the National Priorities List if remedial
19 action that will provide long-term protection of
20 human health and the environment is underway at
21 that facility under a State response program.

22 “(3) ENCOURAGING STATE VOLUNTARY CLEAN-
23 UPS.—At the request of a State, the President shall
24 defer final listing of a facility on the National Prior-
25 ities List if the State is attempting to obtain an
26 agreement from a person or persons to perform a re-

1 medial action that will provide long-term protection
2 of human health and the environment at such facil-
3 ity under a State response program. If, after the last
4 day of the 1-year period beginning on the date that
5 the President proposes to list the facility on the Na-
6 tional Priorities List, the President finds that the
7 State is not making reasonable progress toward ob-
8 taining such an agreement, the President may place
9 such facility on the National Priorities List.”.

10 (b) CROSS REFERENCE.—Section 105(a)(8)(B) (42
11 U.S.C. 9605(a)(8)(B)) is amended by inserting after
12 “shall revise the list” the following: “, subject to sub-
13 section (h),”.

14 **TITLE II—COMMUNITY PARTICI-**
15 **PATION AND HUMAN HEALTH**

16 **Subtitle A—Community**
17 **Participation**

18 **SEC. 201. IMPROVING CITIZEN AND COMMUNITY PARTICI-**
19 **PATION IN DECISIONMAKING.**

20 (a) TECHNICAL AMENDMENTS.—Section 117 (42
21 U.S.C. 9617) is amended—

22 (1) in subsection (a)—

23 (A) by striking “PROPOSED PLAN” and in-
24 serting “PROPOSED PLAN”;

1 (B) by redesignating paragraphs (1) and
2 (2) as subparagraphs (A) and (B), respectively;
3 and

4 (C) by striking “under paragraph (1)” and
5 inserting “under subparagraph (A)”;

6 (2) by redesignating subsection (a) as para-
7 graph (4) and moving the text of such paragraph 2
8 ems to the right;

9 (3) in subsection (b) by striking “FINAL PLAN”
10 and inserting “FINAL PLAN”;

11 (4) in subsection (c)—

12 (A) by striking “EXPLANATION OF DIF-
13 FERENCES” and inserting “EXPLANATION OF
14 DIFFERENCES”; and

15 (B) by redesignating paragraphs (1), (2),
16 and (3) as subparagraphs (A), (B), and (C), re-
17 spectively; and

18 (5) by redesignating subsections (b) and (c) as
19 paragraphs (6) and (7) and moving the text of such
20 paragraphs 2 ems to the right.

21 (b) PARTICIPATION IN DECISIONMAKING.—

22 (1) IMPROVING CITIZEN AND COMMUNITY PAR-
23 TICIPATION IN DECISIONMAKING.—Section 117 (42
24 U.S.C. 9617) is further amended by inserting after
25 the section heading the following:

1 “(a) IMPROVING CITIZEN AND COMMUNITY PARTICI-
2 PATION IN DECISIONMAKING.—

3 “(1) IN GENERAL.—In order to provide an op-
4 portunity for meaningful public participation at
5 every significant phase of a response action at a cov-
6 ered facility, the President shall take the actions
7 specified in this subsection. Public meetings required
8 under this subsection shall be designed to obtain in-
9 formation from the community and to disseminate
10 information to the community concerning the Presi-
11 dent’s activities at a covered facility.

12 “(2) PRELIMINARY ASSESSMENT AND SITE IN-
13 SPECTION.—

14 “(A) EVALUATION OF CONCERNS.—To the
15 extent practicable, before or during site inspec-
16 tion, the President shall solicit and evaluate
17 concerns, interests, and information from af-
18 fected Indian Tribes, the affected community,
19 local government officials, and State and local
20 health officials.

21 “(B) REQUIREMENTS FOR EVALUATION.—
22 An evaluation under subparagraph (A) shall in-
23 clude, as appropriate, face-to-face community
24 surveys to identify the location of private drink-
25 ing water wells, potential exposure pathways,

1 including historic and current or potential use
2 of water, and other environmental resources in
3 the community; a public meeting; written re-
4 sponses to significant concerns; and other ap-
5 propriate participatory activities.

6 “(3) REMEDIAL INVESTIGATION AND FEASI-
7 BILITY STUDY.—

8 “(A) PUBLIC MEETINGS.—The President
9 shall provide, as appropriate, an opportunity for
10 public meetings and publish a notice of such
11 meetings before or during the remedial inves-
12 tigation and feasibility study.

13 “(B) SOLICITATION OF VIEWS.—During
14 the remedial investigation and feasibility study,
15 the President shall solicit the views and pref-
16 erences of affected Indian tribes, the affected
17 community, local government officials, and
18 State and local health officials on the remedi-
19 ation and disposition of hazardous substances,
20 pollutants, or contaminants at the facility. Such
21 views and preferences shall be described in the
22 remedial investigation and feasibility study and
23 considered in the screening of remedial alter-
24 natives for the facility.”

1 (2) COMPLETION OF WORK PLAN.—Section
2 117(a) (42 U.S.C. 9617(a)) is amended by inserting
3 after paragraph (4) of such section, as redesignated
4 by subsection (a)(2) of this section, the following:

5 “(5) COMPLETION OF WORK PLAN.—The Presi-
6 dent shall provide, as appropriate, an opportunity
7 for public meetings and publish a notice of such
8 meetings before or during the completion of the
9 work plan for the remedial design and remedial ac-
10 tion.”.

11 (c) ALTERNATIVES; SELECTING APPROPRIATE AC-
12 TIVITIES; PROVIDING INFORMATION.—Section 117(a) (42
13 U.S.C. 9617(a)) is amended by inserting after paragraph
14 (7) of such section, as redesignated by subsection (a)(5)
15 of this section, the following:

16 “(8) ALTERNATIVES.—Pursuant to paragraph
17 (4), affected Indian tribes, the affected community,
18 local government officials, and State and local health
19 officials may propose remedial alternatives to the
20 President. The President shall consider such alter-
21 natives in the same manner as the President con-
22 siders alternatives proposed by other parties.

23 “(9) SELECTING APPROPRIATE ACTIVITIES.—In
24 determining which of the activities set forth in para-
25 graph (2) may be appropriate, the President may

1 consult with affected Indian tribes, the affected com-
2 munity, local government officials, and State and
3 local health officials.

4 “(10) PROVIDING INFORMATION.—

5 “(A) IN GENERAL.—The President shall
6 provide information to affected Indian tribes,
7 the affected community, local government offi-
8 cials, and State and local health officials at
9 every significant phase of the response action at
10 the covered facility.

11 “(B) NOTICE.—The President, on a reg-
12 ular basis, shall inform the entities specified in
13 subparagraph (A) of the progress and sub-
14 stance of technical meetings between the lead
15 agency and potentially responsible parties re-
16 garding a covered facility and shall provide no-
17 tice to such entities concerning—

18 “(i) the schedule for commencement
19 of construction activities at the covered fa-
20 cility and the location and availability of
21 construction plans;

22 “(ii) the results of any review under
23 section 121(c) and any modifications to the
24 covered facility made as a result of the re-
25 view; and

1 “(iii) the execution of and any revi-
2 sions to institutional controls being used as
3 part of a remedial action.”.

4 **SEC. 202. ADDITIONAL PUBLIC INVOLVEMENT REQUIRE-**
5 **MENTS.**

6 Section 117 (42 U.S.C. 9617) is amended by insert-
7 ing after subsection (a), as amended by section 201 of this
8 Act, the following:

9 “(b) **ADDITIONAL PUBLIC INVOLVEMENT REQUIRE-**
10 **MENTS.—**

11 “(1) **AVAILABILITY OF RECORDS.—**The Presi-
12 dent shall make records relating to a response action
13 at a covered facility available to the public through-
14 out all phases of the response action. Such informa-
15 tion shall be made available to the public for inspec-
16 tion and copying without the need to file a formal
17 request, subject to reasonable service charges as ap-
18 propriate. This paragraph shall not apply to a
19 record that is exempt from disclosure under section
20 552 of title 5, United States Code.

21 “(2) **REQUIREMENTS FOR PUBLIC INFORMA-**
22 **TION.—**

23 “(A) **PRESENTATION.—**The President, in
24 carrying out responsibilities under this Act,
25 shall ensure that the presentation of informa-

1 tion on risk is unbiased and informative and
2 clearly discloses any uncertainties and data
3 gaps. To the extent feasible, documents made
4 available to the general public which purport to
5 describe the degree of risk to human health
6 shall state, at a minimum—

7 “(i) the population or populations ad-
8 dressed by any risk estimates;

9 “(ii) the expected risk or central esti-
10 mate of risk for the specific population;

11 “(iii) any appropriate upperbound and
12 lowerbound estimates; and

13 “(iv) the reasonable range or other
14 description of uncertainties in the assess-
15 ment process.

16 “(B) COMPARISONS OF RISK.—To the ex-
17 tent practicable and appropriate, the Adminis-
18 trator shall provide comparisons of the level of
19 risk from hazardous substances found at facili-
20 ties to the levels of risk from hazardous sub-
21 stances ordinarily encountered by the general
22 public through other routes of exposure.”.

23 **SEC. 203. TECHNICAL ASSISTANCE GRANTS.**

24 Section 117 (42 U.S.C. 9617) is further amended—

1 (1) by redesignating subsections (d) and (e) as
2 subsections (c) and (d), respectively; and

3 (2) by striking subsection (d) as so redesign-
4 dated and inserting the following:

5 “(d) TECHNICAL ASSISTANCE GRANTS.—

6 “(1) AUTHORITY.—In accordance with rules to
7 be promulgated by the Administrator, the Adminis-
8 trator may make grants for technical assistance
9 available to any affected community with respect
10 to—

11 “(A) a covered facility;

12 “(B) a facility at which the Administrator
13 is undertaking a response action anticipated to
14 exceed 1 year; or

15 “(C) a facility at which the funding limit
16 under section 104 is anticipated to be reached.

17 “(2) SPECIAL RULES.—

18 “(A) FEDERAL SHARE.—No matching con-
19 tribution shall be required for a grant under
20 this subsection.

21 “(B) ADVANCE PAYMENTS.—The Adminis-
22 trator may make available to a recipient of a
23 grant under this subsection in advance of the
24 expenditures to be covered by the grant the

1 lesser of \$5,000 or 10 percent of the total
2 amount of the grant.

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

7 “(4) NUMBER OF GRANTS PER FACILITY.—

8 “(A) IN GENERAL.—Except as otherwise
9 provided in this paragraph, the Administrator
10 may not make more than 1 grant under this
11 subsection with respect to a single facility.

12 “(B) RENEWAL OF GRANTS.—A grant
13 made under this subsection with respect to a fa-
14 cility may be renewed to facilitate public par-
15 ticipation at all stages of a response action.

16 “(C) SPECIAL RULE.—In exceptional cir-
17 cumstances, the Administrator may provide
18 more than 1 grant under this subsection with
19 respect to a single facility, considering such fac-
20 tors as the area affected by the facility and the
21 distances between affected communities.

22 “(5) FUNDING AMOUNT.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), the amount of a grant under

1 this subsection may not exceed \$50,000 for a
2 single grant recipient.

3 “(B) ADDITIONAL FUNDS.—The Adminis-
4 trator may increase the amount of a grant
5 under this subsection if—

6 “(i) the grant recipient demonstrates
7 that the characteristics of a facility indi-
8 cate that additional funds are necessary
9 due to the complexity of the response ac-
10 tion, including the size and complexity of
11 the facility, or the nature or volume of
12 site-related information; and

13 “(ii) the Administrator finds that the
14 grant recipient’s management of a previous
15 grant under this subsection, if any, was
16 satisfactory, and the costs incurred under
17 the grant were allowable and reasonable.

18 “(6) SIMPLIFICATION.—To ensure that the ap-
19 plication process is accessible to all affected citizens,
20 the Administrator shall review the existing guide-
21 lines and application procedures for grants under
22 this subsection and, not later than 180 days after
23 the date of the enactment of this paragraph, revise,
24 as appropriate, such guidelines and procedures to
25 simplify the process of obtaining such grants.

1 “(7) AUTHORIZED GRANT ACTIVITIES.—

2 “(A) INFORMATION AND PARTICIPATION.—

3 To facilitate full participation by a grant recipi-
4 ent in response activities at a facility, a grant
5 made under this subsection may be used to ob-
6 tain technical assistance, including the hiring of
7 health and safety experts, in interpreting infor-
8 mation for, and disseminating information to,
9 members of the community, and in providing
10 information and recommendations to the Presi-
11 dent, with regard to—

12 “(i) the nature of the hazard at a fa-
13 cility, including information used to rank
14 facilities according to the Hazard Ranking
15 System;

16 “(ii) sampling and monitoring plans;

17 “(iii) the remedial investigation and
18 feasibility study;

19 “(iv) the record of decision;

20 “(v) the selection, design, and con-
21 struction of the remedial action;

22 “(vi) operation and maintenance;

23 “(vii) institutional controls;

24 “(viii) removal activities at the facil-
25 ity; and

1 “(ix) health assessment or health
2 studies.

3 “(B) ADDITIONAL ACTIVITIES.—In addi-
4 tion to the activities specified in subparagraph
5 (A), not more than 10 percent of the amount
6 of a grant under this subsection may be used
7 for educational training, hiring neutral profes-
8 sionals to facilitate deliberations and consensus
9 efforts, and hiring community liaisons to poten-
10 tially responsible parties and government agen-
11 cies to facilitate public participation at the facil-
12 ity.

13 “(C) AVAILABILITY OF INFORMATION.—In-
14 formation generated by the recipients of grants
15 under this subsection shall be made publicly
16 available.

17 “(D) LIMITATION.—Grants made under
18 this subsection may not be used for the pur-
19 poses of collecting field sampling data.

20 “(8) NON-SITE-SPECIFIC GRANTS.—In accord-
21 ance with rules to be promulgated by the Adminis-
22 trator, the Administrator may make grants under
23 this subsection to Indian tribes, nonprofit organiza-
24 tions, and citizens groups to enhance their participa-
25 tion, prior to final agency action, in rulemaking

1 processes carried out in accordance with this Act.
2 Total funding for all such grants shall not exceed
3 \$100,000.

4 “(9) REPRESENTATIVE OF THE COMMUNITY.—
5 The Administrator shall publish guidance for deter-
6 mining whether a recipient of a grant under this
7 subsection is a legitimate representative of the com-
8 munity affected by a facility.”.

9 **SEC. 204. UNDERSTANDABLE PRESENTATION OF MATE-**
10 **RIALS.**

11 Section 117 (42 U.S.C. 9617) is further amended by
12 adding at the end the following:

13 “(e) UNDERSTANDABLE PRESENTATION OF MATE-
14 RIALS.—The President shall ensure that information pre-
15 pared for distribution to the public under this section shall
16 be provided or summarized in a manner that may be easily
17 understood by the community, considering any unique cul-
18 tural needs of the community, including presentation of
19 information orally and distribution of information in lan-
20 guages other than English, as appropriate.”.

21 **SEC. 205. PUBLIC PARTICIPATION IN REMOVAL ACTIONS.**

22 Section 117 (42 U.S.C. 9617) is further amended by
23 adding at the end the following:

24 “(f) PUBLIC PARTICIPATION IN REMOVAL AC-
25 TIONS.—In the case of a removal action taken in accord-

1 ance with section 104, the President shall provide opportu-
2 nities for meaningful public participation as follows:

3 “(1) REMOVAL ACTIONS WHERE ON-SITE AC-
4 TIVITIES MUST BEGIN IN LESS THAN 6 MONTHS.—

5 In the case of a removal action where on-site activi-
6 ties must begin in less than 6 months, the President
7 shall—

8 “(A) publish a notice of availability of the
9 administrative record established under section
10 113(k) in a local newspaper of general circula-
11 tion within 60 days of any on-site removal ac-
12 tivity;

13 “(B) provide a public comment period, as
14 appropriate, of not less than 30 days from the
15 date on which the administrative record is made
16 available for public inspection; and

17 “(C) prepare a written response to com-
18 ments.

19 “(2) REMOVAL ACTIONS WHERE ON-SITE AC-
20 TIVITIES WILL EXTEND BEYOND 120 DAYS.—In the

21 case of a removal action where on-site activities are
22 expected to extend beyond 120 days, the President
23 shall—

24 “(A) conduct interviews with the Commu-
25 nity Advisory Group, if any, affected Indian

1 tribes, the affected community, local govern-
2 ment officials, and State and local health offi-
3 cials, as appropriate, to solicit their concerns,
4 information needs, and how or when the af-
5 fected community would like to become involved
6 in the response action;

7 “(B) prepare a formal community relations
8 plan based on the community interviews and
9 other relevant information, specifying the com-
10 munity relations activities that the President
11 expects to undertake during the response; and

12 “(C) establish at least 1 local information
13 repository at or near the location of the re-
14 sponse action.

15 The information repository shall contain items made
16 available for public information and the administra-
17 tive record. The President shall inform the affected
18 community of the establishment of the information
19 repository and provide a notice of availability of the
20 administrative record for public review. All items in
21 the repository shall be available for public inspection
22 and copying.

23 “(3) REMOVAL ACTIONS WHERE PLANNING PE-
24 RIOD WILL EXTEND BEYOND 6 MONTHS.—In the
25 case of a removal action where the planning period

1 is expected to extend beyond 6 months, the Presi-
2 dent shall—

3 “(A) comply with the requirements of
4 paragraph (2);

5 “(B) provide a notice of availability of and
6 a brief description of the removal engineering
7 evaluation and cost analysis in a local news-
8 paper of general circulation;

9 “(C) provide a reasonable opportunity, not
10 less than 30 days, for submission of written and
11 oral comments after completion of the engineer-
12 ing evaluation and cost analysis; and

13 “(D) prepare a written response to signifi-
14 cant comments.”.

15 **SEC. 206. COMMUNITY STUDY.**

16 Section 117 (42 U.S.C. 9617) is further amended by
17 adding at the end the following:

18 “(g) COMMUNITY STUDY.—

19 “(1) REPORT BY THE ADMINISTRATOR.—Not
20 later than 2 years after the date of the enactment
21 of this Act, the Administrator shall prepare and sub-
22 mit to Congress a community study. The Adminis-
23 trator shall periodically update the study. The Ad-
24 ministrator shall ensure that copies of such studies
25 are made available to the public.

1 “(2) CONTENTS OF THE REPORT.—The Admin-
2 istrator’s report shall include an analysis of—

3 “(A) the duration of time between the dis-
4 covery and listing of a facility;

5 “(B) the timing and nature of response ac-
6 tions;

7 “(C) the degree to which public views are
8 reflected in response actions;

9 “(D) future land use determinations and
10 use of institutional controls;

11 “(E) the population, race, ethnicity, and
12 income characteristics of each community af-
13 fected by each facility listed or proposed for
14 listing on the National Priorities List; and

15 “(F) the risk presented by each such facil-
16 ity.

17 “(3) EVALUATION.—The Administrator shall
18 evaluate the information in the study to determine
19 whether priority setting, response actions, and public
20 participation requirements were conducted in a fair
21 and equitable manner and identify program areas
22 that require improvements or modification.

23 “(4) ACTIONS BASED ON EVALUATION.—The
24 Administrator shall institute necessary improve-

1 ments or modifications to address any deficiencies
2 identified by the study prepared under this section.”.

3 **SEC. 207. DEFINITIONS.**

4 Section 117 (42 U.S.C. 9617) is further amended by
5 adding at the end the following:

6 “(h) **DEFINITIONS.**—In this section, the following
7 definitions apply:

8 “(1) **COVERED FACILITY.**—The term ‘covered
9 facility’ means a facility that has been listed or pro-
10 posed for listing on the National Priorities List.

11 “(2) **AFFECTED COMMUNITY.**—The term ‘af-
12 fected community’ means any group of 2 or more in-
13 dividuals (including representatives of Indian tribes)
14 which may be affected by a release or threatened re-
15 lease of a hazardous substance, pollutant, or con-
16 taminant at a covered facility.”.

17 **Subtitle B—Human Health**

18 **SEC. 221. PUBLIC HEALTH AUTHORITIES.**

19 (a) **DISEASE REGISTRY AND MEDICAL CARE PRO-**
20 **VIDERS.**—Section 104(i)(1) (42 U.S.C. 9604(i)(1)) is
21 amended—

22 (1) by striking subparagraph (A) and inserting
23 the following:

24 “(A) in cooperation with the States, for sci-
25 entific purposes and public health purposes, estab-

1 lish and maintain a national registry of persons ex-
2 posed to toxic substances;” and

3 (2) in subparagraph (E) by striking “admission
4 to hospitals and other facilities and services operated
5 or provided by the Public Health Service” and in-
6 serting “referral to licensed or accredited health care
7 providers”.

8 (b) SUBSTANCE PROFILES.—Paragraph (3) of sec-
9 tion 104(i) (42 U.S.C. 9604(i)(3)) is amended—

10 (1) by inserting “(A)” after “(3)”;

11 (2) by redesignating subparagraphs (A), (B),
12 and (C) as clauses (i), (ii), and (iii), respectively;
13 and

14 (3) by striking “Any toxicological profile or re-
15 vision thereof” and all that follows through the pe-
16 riod at the end of such paragraph and inserting the
17 following:

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

1 been a response action under this Act and which have been
2 determined by ATSDR to be of health concern. Profiles
3 required under this paragraph shall be revised and repub-
4 lished, as appropriate, based on scientific development.
5 Such profiles shall be provided to the States, including
6 State health departments, tribal health officials, and local
7 health departments, and made available to other inter-
8 ested parties.”.

9 (c) DETERMINING HEALTH EFFECTS.—Section
10 104(i)(5)(A) (42 U.S.C. 9604(i)(5)(A)) is amended—

11 (1) by striking “designed to determine the
12 health effects (and techniques for development of
13 methods to determine such health effects) of such
14 substance.” and inserting “conducted directly or by
15 means such as cooperative agreements and grants
16 with appropriate public and nonprofit institutions.
17 The research shall be designed to determine the
18 health effects of the substance and techniques for
19 development of methods to determine such health ef-
20 fects.”;

21 (2) by redesignating clause (iv) as clause (v);

22 (3) by striking “and” at the end of clause (iii);

23 and

24 (4) by inserting after clause (iii) the following:

1 “(iv) laboratory and other studies which can
2 lead to the development of innovative techniques for
3 predicting organ-specific, site-specific, and system-
4 specific acute and chronic toxicity; and”.

5 (d) PUBLIC HEALTH AT NPL FACILITIES.—

6 (1) PRELIMINARY PUBLIC HEALTH ASSESS-
7 MENTS.—Section 104(i)(6) (42 U.S.C. 9604(i)(6)) is
8 amended by striking “(6)(A)” and all that follows
9 through the period at the end of subparagraph (A)
10 and inserting the following:

11 “(6)(A)(i) The Administrator of ATSDR shall per-
12 form a preliminary public health assessment for each facil-
13 ity, including those facilities owned by any department,
14 agency, or instrumentality of the United States, on the
15 National Priorities List and those sites that are the sub-
16 ject of a petition under subparagraph (B). The prelimi-
17 nary public health assessment shall be commenced as soon
18 as practicable after each facility is proposed for inclusion
19 on the National Priorities List or ATSDR accepts a peti-
20 tion for a health assessment. Where ATSDR, in consulta-
21 tion with local public health officials, determines it is indi-
22 cated by the preliminary public health assessment,
23 ATSDR shall conduct a public health assessment of those
24 sites posing a health hazard, which should be considered
25 in selecting the remedial action.

1 “(ii) The Administrator of ATSDR shall design pub-
2 lie health assessments that take into account the needs
3 and conditions of the affected community, in cooperation
4 with States.

5 “(iii) The Administrator of the Environmental Pro-
6 tection Agency shall place highest priority on facilities
7 with releases of hazardous substances which result in ac-
8 tual ongoing human exposures at levels of public health
9 concern or adverse health effects as identified in a public
10 health assessment conducted by the ATSDR or are rea-
11 sonably anticipated based on currently known facts.”.

12 (2) STRATEGIES FOR OBTAINING DATA; COMMU-
13 NITY INVOLVEMENT.—Section 104(i)(6)(D) (42
14 U.S.C. 9604(i)(6)(D)) is amended—

15 (A) by inserting “(i)” after “(D)”; and

16 (B) by adding at the end the following:

17 “The President and the Administrator of ATSDR shall
18 develop strategies to obtain relevant on-site and off-site
19 characterization data for use in the health assessment.
20 The President shall, to the maximum extent practicable,
21 provide the Administrator of ATSDR with the data and
22 information necessary to make public health assessments
23 sufficiently prior to the choice of remedial actions to allow
24 ATSDR to complete these assessments. Where deemed ap-
25 propriate, the Administrator of ATSDR shall provide to

1 the President as soon as practicable after site discovery,
2 recommendations for sampling environmental media for
3 hazardous substances of public health concern. To the ex-
4 tent feasible, the President shall incorporate such rec-
5 ommendations into the President’s site investigation ac-
6 tivities.

7 “(ii) In order to improve community involvement in
8 health assessments, the Administrator of ATSDR shall
9 carry out each of the following duties:

10 “(I) The Administrator of ATSDR shall collect
11 from Community Assistance Groups, from State and
12 local public health authorities, and from other
13 sources in communities affected or potentially af-
14 fected by releases of hazardous substances data re-
15 garding exposure, relevant human activities, and
16 other factors.

17 “(II) The Administrator of ATSDR shall design
18 health assessments that take into account the needs
19 and conditions of the affected community. Commu-
20 nity-based research models, building links to local
21 expertise, and local health resources should be used.
22 In preparing such designs, emphasis shall be placed
23 on collection of actual exposure data, and sources of
24 multiple exposure shall be considered.”.

1 (3) RESULTS OF PUBLIC HEALTH ASSESS-
2 MENTS.—Section 104(i)(6)(H) (42 U.S.C.
3 9604(i)(6)(H)) is amended by striking “health as-
4 sessment” each place it appears and inserting “pub-
5 lic health assessment”.

6 (e) HEALTH STUDIES.—Section 104(i)(7) (42 U.S.C.
7 9604(i)(7)) is amended by striking “(7)(A)” and all that
8 follows through the period at the end of subparagraph (A)
9 and inserting the following:

10 “(7)(A) Whenever in the judgment of the Adminis-
11 trator of ATSDR it is appropriate on the basis of the re-
12 sults of a public health assessment or on the basis of other
13 appropriate information, the Administrator of ATSDR
14 shall conduct a human health study of exposure or other
15 health effects for selected groups or individuals in order
16 to determine the desirability of conducting full scale epi-
17 demiologic or other health studies of the entire exposed
18 population.”.

19 (f) DISTRIBUTION OF MATERIALS TO HEALTH PRO-
20 FESSIONALS AND MEDICAL CENTERS.—Section
21 104(i)(14) (42 U.S.C. 9604(i)(14)) is amended to read as
22 follows:

23 “(14) In implementing this subsection and other
24 health-related provisions of this Act in cooperation with
25 the States, the Administrator of ATSDR shall—

1 “(A) assemble, develop as necessary, and dis-
2 tribute to the State and local health officials, tribes,
3 medical colleges, physicians, nursing institutions,
4 nurses, and other health professionals and medical
5 centers, appropriate educational materials (including
6 short courses) on the medical surveillance, screening,
7 and methods of prevention, diagnosis, and treatment
8 of injury or disease related to exposure to hazardous
9 substances (giving priority to those listed in para-
10 graph (2)), through means the Administrator of
11 ATSDR considers appropriate; and

12 “(B) assemble, develop as necessary, and dis-
13 tribute to the general public and to at-risk popu-
14 lations appropriate educational materials and other
15 information on human health effects of hazardous
16 substances.”.

17 (g) GRANTS, CONTRACTS, AND COMMUNITY ASSIST-
18 ANCE ACTIVITIES.—Section 104(i)(15) (42 U.S.C.
19 6904(i)(15)) is amended—

20 (1) by inserting “(A)” before “The activities”;

21 (2) in the first sentence by striking “coopera-
22 tive agreements with States (or political subdivisions
23 thereof)” and inserting “grants, cooperative agree-
24 ments, or contracts with States (or political subdivi-
25 sions thereof), other appropriate public authorities,

1 public or private institutions, colleges, universities,
2 and professional associations”;

3 (3) in the second sentence by inserting “public”
4 before “health assessments”; and

5 (4) by adding at the end the following:

6 “(B) When a public health assessment is conducted
7 at a facility on the National Priorities List, or a facility
8 is being evaluated for inclusion on the National Priorities
9 List, the Administrator of ATSDR may provide the assist-
10 ance specified in this paragraph to public or private non-
11 profit entities, individuals, and community-based groups
12 that may be affected by the release or threatened release
13 of 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, diagnostic services, health data reg-
18 istries and preventative public health education to commu-
19 nities affected by the release of hazardous substances.”.

20 (h) PEER REVIEW COMMITTEE.—Section 104(i) (42
21 U.S.C. 6904(i)) is amended by adding at the end the fol-
22 lowing:

23 “(19) The Administrator of ATSDR shall establish
24 an external peer review committee of qualified health sci-

1 entists who serve for fixed periods and meet periodically
2 to—

3 “(A) provide guidance on initiation of studies;

4 “(B) assess the quality of study reports funded
5 by the agency; and

6 “(C) provide guidance on effective and objective
7 risk characterization and communication.

8 The peer review committee may include additional specific
9 experts representing a balanced group of stakeholders on
10 an ad hoc basis for specific issues. Meetings of the com-
11 mittee should be open to the public.”.

12 **SEC. 222. INDIAN HEALTH PROVISIONS.**

13 Section 104(i) (42 U.S.C. 9406(i)) is amended—

14 (1) in paragraph (1) by inserting “the Indian
15 Health Service,” after “the Secretary of Transpor-
16 tation,”;

17 (2) in paragraph (5)(A) by inserting “and the
18 Indian Health Service” after “Public Health Serv-
19 ice”;

20 (3) in paragraph (6)(C) by inserting “where low
21 population density is not used as an excluding risk
22 factor” after “health appears highest”;

23 (4) by adding at the end of paragraph (6)(E)
24 the following: “If the Administrator of ATSDR or
25 the Administrator of EPA does not act on the rec-

1 ommendations of the State, the Administrators must
2 respond in writing to the State or tribe as to why
3 they have not acted on the recommendations.”;

4 (5) in paragraph (6)(F)—

5 (A) by striking “and” after “emissions,”;

6 and

7 (B) by inserting “, and any other pathways
8 resulting from subsistence activities” after
9 “food chain contamination”; and

10 (6) by striking the period at the end of para-
11 graph (6)(G) and inserting the following: “, and may
12 give special consideration, where appropriate, to any
13 practices of the affected community that may result
14 in increased exposure to hazardous substances, pol-
15 lutants, or contaminants, such as subsistence hunt-
16 ing, fishing, and gathering.”.

17 **SEC. 223. HAZARD RANKING SYSTEM.**

18 Section 105(c) (42 U.S.C. 9605(c)) is amended by
19 adding at the end the following:

20 “(5) RISK PRIORITIZATION.—In setting prior-
21 ities under subsection (a)(8), the President shall
22 place highest priority on facilities with releases of
23 hazardous substances which result in actual ongoing
24 human exposures at levels of public health concern
25 or demonstrated adverse health effects as identified

1 in a health assessment conducted by the Agency for
2 Toxic Substances and Disease Registry or are rea-
3 sonably anticipated based on currently known facts.

4 “(6) PRIOR RESPONSE ACTION.—Any evalua-
5 tion under this section shall take into account all
6 prior response actions taken at a facility.”.

7 **SEC. 224. FACILITY SCORING.**

8 Section 105 (42 U.S.C. 9605) is amended by adding
9 at the end the following:

10 “(h) FACILITY SCORING.—The Administrator shall
11 evaluate areas, such as Indian reservations or poor rural
12 communities that warrant special attention and identify
13 up to 5 facilities in each region of the Environmental Pro-
14 tection Agency that are likely to warrant inclusion on the
15 National Priorities List. These facilities shall be accorded
16 a priority in evaluation for National Priorities List listing
17 and scoring, and shall be evaluated for listing within 2
18 years after the date of enactment of this subsection.”.

19 **TITLE III—LIABILITY REFORM**

20 **SEC. 301. AMENDMENTS TO SECTION 106.**

21 (a) ADMINISTRATIVE ORDERS.—Section 106(a) (42
22 U.S.C. 9606(a)) is amended by adding at the end the fol-
23 lowing: “No order may be issued under this section
24 against any person who would not be liable for costs or
25 damages referred to in section 107(a). In any case in

1 which the President issues an order to a person under this
2 subsection, the President shall provide information con-
3 cerning the evidence that indicates that each element of
4 liability contained in section 107(a) is present.”.

5 (b) SUFFICIENT CAUSE.—Section 106(b)(1) (42
6 U.S.C. 9606(b)(1)) is amended—

7 (1) by inserting “(A)” after “(b)(1)”;

8 (2) by striking “to enforce such order”;

9 (3) by inserting before the period “, or be re-
10 quired to comply with such order, or both, even if
11 another person has complied, or is complying, with
12 the terms of the same order or another order per-
13 taining to the same facility and release or threatened
14 release”; and

15 (4) by inserting at the end the following:

16 “(B) For purposes of this subsection and section
17 107(c)(3), a ‘sufficient cause’ includes an objectively rea-
18 sonable belief by the person to whom the order is issued
19 that—

20 “(i) the person is not liable for any response
21 costs under section 107; or

22 “(ii) that the action to be performed pursuant
23 to the order is inconsistent with the national contin-
24 gency plan.”.

1 (c) LIMITATION ON LIABLE PARTIES.—Section 106
2 is further amended by adding at the end the following:

3 “(d) LIMITATION ON LIABLE PARTIES.—No Federal
4 agency or department with authority to use the imminent
5 hazard, enforcement, and emergency response authorities
6 under this section may use such authorities with respect
7 to a release or threatened release for which such agency
8 or department is a potentially responsible party under sec-
9 tion 107.”

10 **SEC. 302. AMENDMENTS TO SECTION 107(a).**

11 (a) IN GENERAL.—Section 107 (42 U.S.C. 9607) is
12 amended by striking the section heading, the section des-
13 ignation, and subsection (a) and inserting the following:

14 **“SEC. 107. LIABILITY.**

15 “(a) GENERAL RULE.—

16 “(1) PERSONS LIABLE.—Notwithstanding any
17 other provision or rule of law and subject only to the
18 defenses set forth in subsection (b) of this section
19 and the exemptions set forth in subsections (n) and
20 (o), in the case of a facility or vessel from which
21 there is a release, or a threatened release, of a haz-
22 ardous substance that causes the incurrence of re-
23 sponse costs the following persons shall be liable for
24 the costs and damages described in paragraph (2):

1 “(A) the owner or operator of the vessel or
2 the facility;

3 “(B) any person who at the time of dis-
4 posal of any hazardous substance owned or op-
5 erated any facility at which such hazardous
6 substances were disposed of;

7 “(C) any person who by contract, agree-
8 ment, or otherwise arranged for disposal or
9 treatment, or arranged with a transporter for
10 transport for disposal or treatment, of haz-
11 ardous substances owned or possessed by such
12 person, by any other party or entity, at any fa-
13 cility or incineration vessel owned or operated
14 by another party or entity and containing such
15 hazardous substances; and

16 “(D) any person who accepts or accepted
17 any hazardous substances for transport to dis-
18 posal or treatment facilities, incineration vessels
19 or sites selected by such person.

20 “(2) COSTS AND DAMAGES.—The liability of a
21 person under paragraph (1) shall be for—

22 “(A) any costs of response incurred by the
23 United States Government or a State or an In-
24 dian tribe not unnecessary and not inconsistent
25 with the national contingency plan;

1 “(B) any necessary costs of response in-
2 curred by any person (other than the United
3 States, a State, or an Indian tribe) consistent
4 with the national contingency plan;

5 “(C) damages for injury to, destruction of,
6 or loss of natural resources, including the rea-
7 sonable costs of assessing such injury, destruc-
8 tion, or loss resulting from the release; and

9 “(D) the costs of any health assessment or
10 health effects study carried out under section
11 104(i).

12 “(3) INTEREST.—The amounts recoverable in
13 an action under this section shall include interest on
14 the amounts recoverable under paragraph (2). Such
15 interest shall accrue from the later of (A) the date
16 payment of a specified amount is demanded in writ-
17 ing, or (B) the date of the expenditure concerned.
18 The rate of interest on the outstanding unpaid bal-
19 ance of the amounts recoverable under this section
20 shall be the same rate as is specified for interest on
21 investments of the Hazardous Substance Superfund
22 established under subchapter A of chapter 98 of the
23 Internal Revenue Code of 1986. For purposes of ap-
24 plying such amendments to interest under this sub-
25 section, the term ‘comparable maturity’ shall be de-

1 terminated with reference to the date on which inter-
2 est accruing under this subsection commences.”.

3 (b) CONFORMING AMENDMENTS.—The Act is further
4 amended—

5 (1) in section 101(20) (42 U.S.C. 9601) by
6 striking “section 107(a)(3) or (4)” each place it ap-
7 pears and inserting “section 107(a)(1)(C) or
8 107(a)(2)(D)”;

9 (2) in section 107 (42 U.S.C. 9607)—

10 (A) in subsection (d)(3) by striking “the
11 provisions of paragraph (1), (2), (3), or (4) of
12 subsection (a) of this section” and inserting
13 “subsection (a)”;

14 (B) in subsection (f)(1) by striking “sub-
15 paragraph (C) of subsection (a)” each place it
16 appears and inserting “subsection (a)(2)(C)”;

17 (C) in subsection (l)(1) by striking “para-
18 graph (1)” and inserting “paragraph (1)(A)”;
19 and

20 (D) in subsection (m) by striking “sub-
21 section (a)(1)” and inserting “subsection
22 (a)(1)(A)”;

23 (3) in section 108(a)(1) (42 U.S.C. 9608(a)(1))
24 by striking “paragraph (1)” and inserting “para-
25 graph (1)(A)”;

1 (4) in section 114(c)(1) (42 U.S.C.
2 9614(c)(1))—

3 (A) by striking “(a)(3) or (a)(4)” and in-
4 sserting “(a)(1)(C) or (a)(1)(D)”;

5 (B) by striking “(a)(1) or (a)(2)” and in-
6 sserting “(a)(1)(A) or (a)(1)(B)”;

7 (5) in section 119(d) (42 U.S.C. 9619(d)) by
8 striking “(1), (2), (3) or (4)” and inserting “(1)(A),
9 (1)(B), (1)(C), or (1)(D)”;

10 (6) in section 122(j)(2) (42 U.S.C. 9622(j)(2))
11 by striking “107(a)(4)(C)” and inserting
12 “107(a)(2)(C)”;

13 (7) in section 124(b)(2) (42 U.S.C. 9624(b)(2))
14 by striking “(1), (2), (3), or (4)” and inserting
15 “(1)(A), (1)(B), (1)(C), or (1)(D)”.

16 **SEC. 303. INNOCENT PARTIES.**

17 (a) **LIABILITY RELIEF FOR INNOCENT PARTIES.**—

18 Section 107(b) (42 U.S.C. 9607(b)) is amended to read
19 as follows:

20 “(b) **DEFENSES TO LIABILITY.**—

21 “(1) **IN GENERAL.**—There shall be no liability
22 under subsection (a) for a person otherwise liable
23 who can establish by a preponderance of the evi-
24 dence that the release or threat of release of a haz-

1 ardous substance and the damages resulting there-
2 from were caused solely by—

3 “(A) an act of God;

4 “(B) an act of war;

5 “(C) an act or omission of a third party

6 other than an employee or agent of the defend-

7 ant, or other than one whose act or omission

8 occurs in connection with a contractual relation-

9 ship, existing directly or indirectly, with the de-

10 fendant (except where the sole contractual ar-

11 rangement arises exclusively from a contract for

12 carriage by a common carrier by rail), if the de-

13 fendant establishes by a preponderance of the

14 evidence that (i) the defendant exercised due

15 care with respect to the hazardous substance

16 concerned, taking into consideration the charac-

17 teristics of such hazardous substance, in light

18 of all relevant facts, circumstances, and gen-

19 erally accepted good commercial and customary

20 standards and practices at the time of the de-

21 fendant’s acts or omissions, and (ii) the defend-

22 ant took precautions against foreseeable acts or

23 omissions of any such third party and the con-

24 sequences that could foreseeably result from

25 such acts or omissions; or

1 “(D) any combination of acts or omissions
2 described in subparagraphs (A), (B), and (C).

3 “(2) LIABILITY RELIEF FOR INNOCENT PAR-
4 TIES.—

5 “(A) INNOCENT OWNERS OR OPERA-
6 TORS.—There shall be no liability under sub-
7 section (a) for a person whose liability is based
8 solely on the person’s status as an owner or op-
9 erator of the facility or vessel and who can es-
10 tablish by a preponderance of the evidence
11 that—

12 “(i) the person acquired the facility or
13 vessel after the disposal or placement of
14 the hazardous substances for which liabil-
15 ity is alleged under subsection (a);

16 “(ii) the person did not, by any act or
17 omission, cause or contribute to the release
18 or threatened release of such hazardous
19 substances;

20 “(iii) the person exercised appropriate
21 care with respect to such hazardous sub-
22 stances taking into consideration the char-
23 acteristics of such hazardous substances, in
24 light of all relevant facts, circumstances,
25 and generally accepted good commercial

1 and customary standards and practices at
2 the time of the defendant's acts or omis-
3 sions; and

4 “(iv) in any case in which the person
5 acquired ownership of the facility or vessel
6 after December 11, 1980, the person, prior
7 to such acquisition, made all appropriate
8 inquiry into the previous ownership and
9 uses of the facility or vessel and any real
10 property in accordance with the generally
11 accepted commercial and customary stand-
12 ards and practices of the time of acquisi-
13 tion.

14 “(B) INNOCENT RECIPIENTS OF PROPERTY
15 BY INHERITANCE OR BEQUEST.—There shall be
16 no liability under subsection (a) for a person
17 whose liability is based solely on the person's
18 status as an owner or operator of the facility or
19 vessel and who can establish by a preponder-
20 ance of the evidence that the person meets the
21 requirements of clauses (i), (ii), and (iii) of sub-
22 paragraph (A) and that the person acquired the
23 property by inheritance or bequest.

24 “(C) INNOCENT RECIPIENTS OF PROPERTY
25 BY CHARITABLE DONATION.—Liability under

1 subsection (a) shall be limited to the lesser of
2 the fair market value of the facility or vessel
3 and the actual proceeds of the sale of the facil-
4 ity for a person whose liability is based solely
5 on the person's status as an owner or operator
6 of the facility or vessel and who can establish
7 by a preponderance of the evidence that the
8 person meets the requirements of clauses (i),
9 (ii), and (iii) of subparagraph (A) and the per-
10 son holding title, either outright or in trust, to
11 the vessel or facility is an organization de-
12 scribed in section 501(c)(3) of the Internal Rev-
13 enue Code of 1986 and exempt from tax under
14 section 501(a) of such Code and holds such title
15 as a result of a charitable donation that quali-
16 fies under section 170, 2055, or 2522 of such
17 Code.

18 “(D) INNOCENT GOVERNMENTAL ENTI-
19 TIES.—There shall be no liability under sub-
20 section (a) for a person who is a governmental
21 entity and whose liability is based solely on—

22 “(i) the person's status as an owner
23 or operator of the facility or vessel if the
24 person meets the requirements of clauses
25 (i), (ii), and (iii) of subparagraph (A) and

1 acquired the facility by escheat or through
2 any other involuntary transfer or by acqui-
3 sition through the exercise of eminent do-
4 main authority; or

5 “(ii) the granting of a license or per-
6 mit to conduct business.

7 “(E) INNOCENT OWNERS OR OPERATORS
8 OF RIGHTS-OF-WAY.—There shall be no liability
9 under subsection (a) for a person whose liability
10 is based solely on ownership or operation of a
11 road, street, or other right-of-way or public
12 transportation route (other than railroad rights-
13 of-way and railroad property) over which haz-
14 ardous substances are transported if such per-
15 son can establish by a preponderance of the evi-
16 dence that the person did not, by any act or
17 omission, cause or contribute to the release or
18 threatened release.

19 “(F) INNOCENT RAILROAD OWNERS OR OP-
20 ERATORS OF SPUR TRACK.—There shall be no
21 liability under subsection (a) for a person whose
22 liability is based solely on the status of the per-
23 son as a railroad owner or operator of a spur
24 track, including a spur track over land subject
25 to an easement, to a facility that is owned or

1 operated by a person that is not affiliated with
2 the railroad owner or operator if such person
3 can establish by a preponderance of the evi-
4 dence that—

5 “(i) the spur track provides access to
6 a main line or branch line track that is
7 owned or operated by the railroad;

8 “(ii) the spur track is 10 miles long or
9 less; and

10 “(iii) the railroad owner or operator
11 did not cause or contribute to a release or
12 threatened release of the hazardous sub-
13 stances for which liability is alleged under
14 subsection (a).

15 “(G) INNOCENT CONSTRUCTION CONTRAC-
16 TORS.—There shall be no liability under sub-
17 section (a) for a person who is a construction
18 contractor (other than a response action con-
19 tractor covered by section 119) if such person
20 can establish by a preponderance of the evi-
21 dence that—

22 “(i) the person’s liability is based sole-
23 ly on construction activities that were spe-
24 cifically directed by and carried out in ac-

1 cordance with a contract with an owner or
2 operator of the facility;

3 “(ii) the person did not know or have
4 reason to know of the presence of haz-
5 ardous substances at the facility concerned
6 before beginning construction activities;
7 and

8 “(iii) the person exercised appropriate
9 care with respect to the hazardous sub-
10 stances discovered in the course of per-
11 forming the construction activity, including
12 precautions against foreseeable acts of
13 third parties, taking into consideration the
14 characteristics of such hazardous sub-
15 stance, in light of all relevant facts, cir-
16 cumstances, and generally accepted good
17 commercial and customary standards and
18 practices at the time of the defendant’s
19 acts or omissions.

20 “(3) APPROPRIATE CARE.—

21 “(A) SITE-SPECIFIC BASIS.—The deter-
22 mination whether or not a person has exercised
23 appropriate care with respect to hazardous sub-
24 stances within the meaning of paragraph
25 (2)(A)(iii) shall be made on a site-specific basis

1 taking into consideration the characteristics of
2 the hazardous substances, in light of all rel-
3 evant facts, circumstances, and generally ac-
4 cepted good commercial and customary stand-
5 ards and practices at the time of the defend-
6 ant's acts or omissions.

7 “(B) SAFE HARBOR.—A person shall be
8 deemed to have exercised appropriate care with-
9 in the meaning of paragraph (2)(A)(iii) if—

10 “(i) the person took reasonable steps
11 to stop any continuing release, prevent any
12 threatened future release, and prevent or
13 limit human or natural resource exposure
14 to any previously released hazardous sub-
15 stance, or

16 “(ii) where the release or threatened
17 release of hazardous substances is the sub-
18 ject of a response action by persons au-
19 thorized to conduct the response action at
20 the facility or vessel, the person provides
21 access for and reasonable cooperation with
22 the response action.

23 “(4) ALL APPROPRIATE INQUIRY.—

24 “(A) SITE-SPECIFIC BASIS.—The deter-
25 mination whether or not a person has made all

1 appropriate inquiry into the previous ownership
2 and uses of a facility or vessel within the mean-
3 ing of paragraph (2)(A)(iv) shall be made on a
4 site-specific basis.

5 “(B) ASTM SAFE HARBOR.—A person
6 who has acquired real property shall be deemed
7 to have made all appropriate inquiry within the
8 meaning of paragraph (2)(A)(iv) if the
9 person—

10 “(i) establishes that an environmental
11 assessment has been conducted in accord-
12 ance with the standards set forth in the
13 American Society for Testing and Mate-
14 rials Standards E1527–94, entitled ‘Stand-
15 ard Practice for Environmental Site As-
16 sessments: Phase I Environmental Site As-
17 sessment Process’ or with alternative
18 standards issued by rule by the Adminis-
19 trator or promulgated or developed by oth-
20 ers and designated by rule by the Adminis-
21 trator; and

22 “(ii) maintains a compilation of the
23 information reviewed and gathered in the
24 course of the environmental site assess-
25 ment.

1 “(C) GOVERNMENTAL REVIEW SAFE HAR-
2 BOR.—A person who has acquired real property
3 shall be deemed to have made all appropriate
4 inquiry within the meaning of paragraph
5 (2)(A)(iv) if, prior to such acquisition, the per-
6 son reviewed a determination by a State or
7 Federal environmental or health agency with ju-
8 risdiction over response actions at the facility
9 that no further response action was planned at
10 the facility or if such facility has been placed in
11 the Comprehensive Environmental Response,
12 Compensation, and Liability Information Sys-
13 tem Archive.

14 “(5) LIMITATIONS.—No defense shall be avail-
15 able under this subsection to—

16 “(A) a person who obtained actual knowl-
17 edge of a release or threat of release of a haz-
18 ardous substance at a facility when such person
19 owned the real property and subsequently
20 transferred ownership of the property to an-
21 other person without disclosing such knowledge;

22 “(B) a person who knowingly and willfully
23 impedes the performance of a response action
24 or natural resource restoration at the facility;

1 “(C) a person who did not provide all le-
2 gally required notices with respect to the dis-
3 covery or release of any hazardous substances
4 at the facility; and

5 “(D) a person (other than a person de-
6 scribed in paragraph (2)(B)) who is affiliated
7 with any other person liable for response costs
8 at the facility, through any direct or indirect fa-
9 miliary relationship, or any contractual, cor-
10 porate, or financial relationship other than that
11 created by the instruments by which title to the
12 facility is conveyed or financed or by a contract
13 for the sale of goods or services.

14 “(6) WINDFALL LIENS.—

15 “(A) IN GENERAL.—In any case in which
16 there are unrecovered response costs incurred
17 by the United States at a facility for which an
18 owner of the facility is not liable by reason of
19 paragraph (2), and the conditions described in
20 subparagraph (C) are met, the United States
21 shall have a lien upon such facility for such un-
22 recovered costs.

23 “(B) SPECIAL RULES.—A lien under this
24 paragraph—

1 “(i) shall not exceed the increase in
2 fair market value of the property attrib-
3 utable to the response action at the time of
4 a subsequent sale or other disposition of
5 the property;

6 “(ii) shall arise at the time costs are
7 first incurred by the United States with re-
8 spect to a response action at the facility;

9 “(iii) shall be subject to the require-
10 ments for notice and validity established in
11 paragraph (3) of subsection (l);

12 “(iv) shall continue until the earlier of
13 satisfaction of the lien or recovery of all re-
14 sponse costs incurred at the facility; and

15 “(v) shall not arise against a recipient
16 of a grant under section 127(b) or 127(c)
17 with respect to such grants.

18 “(C) CONDITIONS.—The conditions re-
19 ferred to in subparagraph (A) are the following:

20 “(i) A response action for which there
21 are unrecovered costs is carried out at the
22 facility.

23 “(ii) The United States has made rea-
24 sonable efforts to recover such unrecovered

1 response costs from parties liable under
2 this section.

3 “(iii) Such response action increases
4 the fair market value of the facility above
5 the fair market value of the facility that
6 existed in the 6-month period preceding
7 the date that response action began.

8 “(D) LIMITATIONS.—No lien under this
9 paragraph shall arise (i) with respect to prop-
10 erty for which the property owner preceding the
11 current owner is not a liable party or has re-
12 solved its liability under this Act, or (ii) in any
13 case in which an environmental assessment gave
14 the owner or operator no reason to know of the
15 release of hazardous substances.”.

16 (b) RENDERING CARE OR ADVICE.—

17 (1) STATE, TRIBAL, AND LOCAL GOVERN-
18 MENTS.—Section 107(d)(2) (42 U.S.C. 9607(d)(2))
19 is amended to read as follows:

20 “(2) STATE, TRIBAL, AND LOCAL GOVERN-
21 MENTS.—

22 “(A) IN GENERAL.—No State, tribal, or
23 local government, including a municipality or
24 other political subdivision of a State, shall be

1 liable under this title for costs or damages as
2 a result of—

3 “(i) actions taken in response to an
4 emergency created by the release or threat-
5 ened release of a hazardous substance gen-
6 erated by or from a facility owned by an-
7 other person; or

8 “(ii) actions to improve water quality
9 protection at an abandoned mine site and
10 adjacent lands that are owned by a person
11 other than the State, tribal, or local gov-
12 ernment, if such actions are taken in ac-
13 cordance with a response action approved
14 under applicable State or Federal law.

15 “(B) LIMITATION ON STATUTORY CON-
16 STRUCTION.—This paragraph shall not be con-
17 strued to preclude liability for costs or damages
18 as a result of gross negligence or intentional
19 misconduct by a governmental entity referred to
20 in subparagraph (A). For the purpose of the
21 preceding sentence, reckless, willful, or wanton
22 misconduct shall constitute gross negligence.”.

23 (2) SAVINGS PROVISION.—Section 107(d)(3)
24 (42 U.S.C. 9607(d)(3)) is amended by striking
25 “‘This’” and inserting “‘Except with respect to costs

1 and damages referred to in paragraphs (1) and
2 (2)(A), this”.

3 (c) CLARIFICATION OF LIABILITY FOR CONTIGUOUS
4 PROPERTY OWNERS.—Section 101(20) (42 U.S.C.
5 9601(20)) is amended by adding at the end the following:

6 “(E) The term ‘owner or operator’ does not in-
7 clude a person who owns or operates real property
8 that is contiguous to, or onto which a release has
9 migrated from, a facility that is under separate own-
10 ership or operation and from which there is a release
11 or threatened release of a hazardous substance if—

12 “(i) the person did not, by any act or omis-
13 sion, cause or contribute to the release or
14 threatened release of a hazardous substance;
15 and

16 “(ii) the person is not affiliated with any
17 other person that is potentially liable for any
18 response costs at the facility at which there has
19 been a release or threatened release of a haz-
20 ardous substance.”.

21 (d) CONFORMING AMENDMENTS.—Title I is further
22 amended—

23 (1) in section 101 (42 U.S.C. 9601) by striking
24 paragraph (35); and

1 (2) in section 119(b)(1) (42 U.S.C. 9619(b)(1))
2 by striking “107(b)(3)” and inserting
3 “107(b)(1)(C)”.

4 **SEC. 304. STATUTORY CONSTRUCTION.**

5 Section 107(f) (42 U.S.C. 9607(f)) is amended by
6 adding at the end the following:

7 “(3) UNITARY EXECUTIVE.—In any judicial ac-
8 tion brought under this Act by the United States
9 seeking recovery for damages to natural resources,
10 any brief or motion filed by the United States in any
11 other judicial action seeking recovery from the
12 United States for damages to natural resources
13 under this Act, shall be, for purposes of the action
14 brought by the United States, admissible and
15 deemed the position of the United States with re-
16 spect to the interpretation and construction of this
17 subsection.”.

18 **SEC. 305. LIVESTOCK TREATMENT.**

19 Section 107(i) (42 U.S.C. 9607(i)) is amended—

20 (1) by striking “No person” and inserting “(1)
21 IN GENERAL.—No person and”;

22 (2) by adding at the end the following:

23 “(2) APPLICATION IN COMPLIANCE WITH
24 LAW.—For the purposes of paragraph (1), the term
25 ‘application of a pesticide product registered under

1 the Federal Insecticide, Fungicide, and Rodenticide
2 Act' includes a release of a hazardous substance re-
3 sulting from the application, before the date of en-
4 actment of this paragraph, of any pesticide, insecti-
5 cide, or similar product in compliance with a Federal
6 or State law (including a regulation) requiring the
7 treatment of livestock to prevent, suppress, control,
8 or eradicate any dangerous, contagious, or infectious
9 disease or any vector organism for such disease.”;
10 and

11 (3) by indenting and aligning paragraph (1) (as
12 designated by paragraph (1) of this section) with
13 paragraph (2) (as added by paragraph (2) of this
14 section).

15 **SEC. 306. LIABILITY RELIEF FOR SMALL BUSINESSES, MU-**
16 **NICIPAL SOLID WASTE, SEWAGE SLUDGE,**
17 **AND MUNICIPAL OWNERS AND OPERATORS.**

18 (a) LIMITATION ON LIABILITY FOR SMALL BUSI-
19 NESSES.—Section 107 (42 U.S.C. 9607) is amended by
20 adding at the end the following new subsection:

21 “(o) LIMITATION ON LIABILITY FOR SMALL BUSI-
22 NESSES.—

23 “(1) IN GENERAL.—With respect to actions
24 taken before March 25, 1999, no small business con-
25 cern shall be liable under subsection (a)(1)(C) or

1 (a)(1)(D) for response costs or damages at a facility
2 or vessel on the National Priorities List.

3 “(2) LIMITATION.—Paragraph (1) shall not
4 preclude liability for costs or damages as a result of
5 gross negligence or intentional misconduct by the
6 small business concern. For the purpose of the pre-
7 ceding sentence, reckless, willful, or wanton mis-
8 conduct shall constitute gross negligence.

9 “(3) SMALL BUSINESS CONCERN DEFINED.—In
10 this subsection, the term ‘small business concern’
11 means a business entity that—

12 “(A) on average over the previous 3 years,
13 has no more than 75 full-time employees or the
14 equivalent thereof; and

15 “(B) in its taxable year preceding the date
16 of notification by the President that the busi-
17 ness entity is a potentially responsible party,
18 has \$3,000,000 or less in gross revenues.”.

19 (b) LIABILITY RELIEF FOR MUNICIPAL SOLID
20 WASTE AND SEWAGE SLUDGE.—

21 (1) Section 107 is further amended by adding
22 at the end the following new subsections:

23 “(p) LIABILITY EXEMPTION FOR MUNICIPAL SOLID
24 WASTE AND SEWAGE SLUDGE.—

1 “(1) IN GENERAL.—Except as provided under
2 paragraph (2), no person shall be liable under sub-
3 section (a)(1)(C) or (a)(1)(D) for response costs or
4 damages at a facility or vessel on the National Pri-
5 orities List to the extent that the materials that the
6 person arranged or transported for disposal at the
7 facility or vessel consist of municipal solid waste or
8 municipal sewage sludge.

9 “(2) POST-ENACTMENT ACTIVITIES.—With re-
10 spect to actions taken on or after the date that is
11 36 months after the date of the enactment of this
12 paragraph, no municipality shall be liable under sub-
13 section (a)(1)(C) or (a)(1)(D) for response costs or
14 damages at a facility or vessel on the National Pri-
15 orities List to the extent that the materials that the
16 municipality arranged or transported for disposal at
17 the facility or vessel consist of municipal solid waste
18 or municipal sewage sludge and the municipality in-
19 stitutes or participates in a qualified household haz-
20 ardous waste collection program.

21 “(3) DEFINITIONS.—In this section, the fol-
22 lowing definitions apply:

23 “(A) MUNICIPAL SOLID WASTE.—The term
24 ‘municipal solid waste’ means all waste mate-
25 rials generated by households, including single

1 and multifamily residences, and hotels and mo-
2 tels, and waste materials generated by commer-
3 cial, institutional, and industrial sources, to the
4 extent that such materials (i) are substantially
5 similar to waste materials normally generated
6 by households, notwithstanding differences in
7 volume, or (ii) waste that is collected and dis-
8 posed of with other municipal solid waste and,
9 regardless of when generated, would be consid-
10 ered conditionally exempt small quantity gener-
11 ator waste under regulations issued pursuant to
12 section 3001(d) of the Solid Waste Disposal Act
13 (42 U.S.C. 6921(d)). The term includes food
14 and yard waste, paper, clothing, appliances,
15 consumer product packaging, disposal diapers,
16 office supplies, cosmetics, glass and metal food
17 containers, wooden pallets, cardboard, elemen-
18 tary or secondary school science laboratory
19 waste, and household hazardous waste, and
20 wastes that are substantially similar. The term
21 does not include combustion ash generated by
22 resource recovery facilities or municipal inciner-
23 ators; solid waste from the extraction,
24 beneficiation, and processing of ores and min-
25 erals; or waste from manufacturing or proc-

1 essing operations (including pollution control)
2 that is not described in clause (i) or (ii), or
3 both. Volumes of municipal solid waste de-
4 scribed in clause (i) shall not be considered
5 when making a determination whether waste is
6 considered conditionally exempt small quantity
7 generator waste under clause (ii), regardless of
8 whether such waste streams are mixed together.

9 “(B) MUNICIPAL SEWAGE SLUDGE.—The
10 term ‘municipal sewage sludge’ means solid,
11 semisolid, or liquid residue removed during the
12 treatment of municipal waste water, domestic
13 sewage, or other waste water at or by (i) a pub-
14 licly owned treatment works, (ii) a federally
15 owned treatment works, or (iii) a treatment
16 works that, without regard to ownership, would
17 be considered to be a publicly owned treatment
18 works and is principally treating municipal
19 waste water or domestic sewage.

20 “(C) QUALIFIED HOUSEHOLD HAZARDOUS
21 WASTE COLLECTION PROGRAM.—The term
22 ‘qualified household hazardous waste collection
23 program’ means a program established by an
24 entity of the Federal Government, a State, a
25 municipality, or an Indian tribe that provides,

1 at a minimum, for semiannual collection of
2 household hazardous waste at accessible, well-
3 publicized collection points within the relevant
4 jurisdiction.

5 “(q) LIMITATION ON LIABILITY FOR MUNICIPAL
6 OWNERS AND OPERATORS.—

7 “(1) AGGREGATE LIABILITY OF SMALL MUNICI-
8 PALITIES.—With respect to a facility that received
9 municipal solid waste, that was proposed for listing
10 on the National Priorities List before March 25,
11 1999, that is or was owned or operated by munici-
12 palities with a population of less than 100,000 ac-
13 cording to the 1990 census, and that is not subject
14 to the criteria for solid waste landfills published
15 under subtitle D of the Solid Waste Disposal Act
16 (42 U.S.C. 6941 et seq.) at part 258 of title 40,
17 Code of Federal Regulations (or a successor regula-
18 tion), the aggregate liability of such municipalities
19 for response costs incurred on or after March 25,
20 1999, shall be the lesser of—

21 “(A) 10 percent of the total amount of re-
22 sponse costs at the facility; or

23 “(B) the costs of compliance with the re-
24 quirements of such subtitle for the facility (as

1 if the facility had continued to accept municipal
2 solid waste through January 1, 1997).

3 “(2) AGGREGATE LIABILITY OF LARGE MUNICI-
4 PALITIES.—With respect to a facility that received
5 municipal solid waste, that was proposed for listing
6 on the National Priorities List before March 25,
7 1999, that is or was owned or operated by munici-
8 palities with a population of 100,000 or more ac-
9 cording to the 1990 census, and that is not subject
10 to the criteria for solid waste landfills published
11 under subtitle D of the Solid Waste Disposal Act
12 (42 U.S.C. 6941 et seq.) at part 258 of title 40,
13 Code of Federal Regulations (or a successor regula-
14 tion), the aggregate liability of such municipalities
15 for response costs incurred on or after March 25,
16 1999, shall be the lesser of—

17 “(A) 20 percent of the total amount of re-
18 sponse costs at the facility; or

19 “(B) the costs of compliance with the re-
20 quirements of such subtitle for the facility (as
21 if the facility had continued to accept municipal
22 solid waste through January 1, 1997).”.

23 (c) INELIGIBILITY FOR EXEMPTIONS OR LIMITA-
24 TIONS.—Section 107 is further amended by adding at the
25 end the following:

1 “(r) INELIGIBILITY FOR EXEMPTIONS OR LIMITA-
2 TIONS.—

3 “(1) IMPEDING RESPONSE OR RESTORATION.—

4 The exemptions and limitations set forth in sub-
5 sections (o), (p), and (q) and sections 114(e) and
6 130 shall not apply to any person with respect to a
7 facility if such person impedes the performance of a
8 response action or natural resource restoration at
9 the facility.

10 “(2) FAILURE TO RESPOND TO INFORMATION
11 REQUEST.—The exemptions and limitations set forth
12 in subsections (o), (p), and (q) and sections 114(e)
13 and 130 shall not apply to any person who—

14 “(A) willfully fails to submit a complete
15 and timely response to an information request
16 under section 104(e); or

17 “(B) knowingly makes any false or mis-
18 leading material statement or representation in
19 any such response.

20 “(3) FAILURE TO PROVIDE COOPERATION AND
21 FACILITY ACCESS.—The limitation set forth in sub-
22 section (q) shall not apply to any owner or operator
23 of a facility who does not provide reasonable co-
24 operation and facility access to persons authorized to
25 conduct response actions at the facility.”.

1 (d) EXEMPT PARTY FUNDING.—Section 107 is fur-
2 ther amended by adding at the end the following:

3 “(s) EXEMPT PARTY FUNDING.—

4 “(1) EXEMPT PARTY FUNDING.—Except as
5 provided in paragraph (2), the equitable share of li-
6 ability under section 107(a) for any release or
7 threatened release of a hazardous substance from a
8 facility or vessel on the National Priorities List that
9 is extinguished—

10 “(A) through an exemption under sub-
11 section (o) or (p) of this section, section 114(c),
12 or section 130, or

13 “(B) through a limitation on liability
14 under subsection (q) of this section,
15 shall be transferred to and assumed by the Trust
16 Fund.

17 “(2) CERTAIN MSW GENERATORS.—Paragraph
18 (1) shall not apply to the equitable share of liability
19 of any person who would have been liable under
20 under subsection (a)(1)(C) but for the exemption
21 from liability under subsection (p) and who is—

22 “(A) an owner, operator, or lessee of resi-
23 dential property;

24 “(B) a business entity that employs no
25 more than 100 individuals and is a small busi-

1 ness concern as defined under the Small Busi-
2 ness Act (15 U.S.C. 631 et seq.); or

3 “(C) an organization described in section
4 501(c)(3) of the Internal Revenue Code of 1986
5 and exempt from tax under section 501(a) of
6 such Code if such organization employs no more
7 than 100 paid individuals at the involved chap-
8 ter, office, or department.

9 “(3) SOURCE OF FUNDS.—Payments made by
10 the Trust Fund or work performed on behalf of the
11 Trust Fund to meet the obligations under paragraph
12 (1) shall be funded from amounts made available by
13 section 111(a)(1).

14 “(t) EFFECT ON CONCLUDED ACTIONS.—The ex-
15 emptions from and limitations on liability provided under
16 subsection (o), (p), and (q) and sections 114(c) and 130
17 shall not affect any concluded judicial or administrative
18 action against a person otherwise covered by such exemp-
19 tion or limitation.”.

20 (e) SMALL BUSINESS OMBUDSMAN.—The Adminis-
21 trator shall establish a small business Superfund assist-
22 ance section within the small business ombudsman office
23 at the Environmental Protection Agency. Such section
24 shall carry out the following functions:

1 (1) Act as a clearinghouse of information for
2 small businesses regarding the Comprehensive Envi-
3 ronmental Response, Compensation, and Liability
4 Act of 1980. Such information shall be comprehen-
5 sible to a lay person and shall include information
6 regarding the exemptions to liability under section
7 107 of such Act, the allocation process under section
8 131 of such Act, requirements and procedures for
9 expedited settlements pursuant to section 122(g) of
10 such Act, and de minimis status and ability-to-pay
11 procedures.

12 (2) Provide general advice and assistance to
13 small businesses as to their questions and problems
14 concerning liability and the exemptions to liability
15 under such Act and the allocation and settlement
16 processes, except that such advice and assistance
17 shall not include any legal advice as to liability or
18 any other legal representation. The ombudsman
19 shall not participate in the allocation process.

20 **SEC. 307. AMENDMENTS TO SECTION 113.**

21 Section 113(f) (42 U.S.C. 9613(f)) is amended—

22 (1) by adding at the end the following new
23 paragraph:

24 “(4) LIMITATIONS ON CONTRIBUTION AC-
25 TIONS.—

1 “(A) IN GENERAL.—There shall be no
2 right of contribution under this subsection in
3 any of the following circumstances:

4 “(i) The person asserting the right of
5 contribution has waived the right in a set-
6 tlement pursuant to this Act.

7 “(ii) The person from whom contribu-
8 tion is sought is not liable under this Act.

9 “(iii) The person from whom con-
10 tribution is sought has entered into a set-
11 tlement with the United States pursuant to
12 section 122(g), with respect to matters ad-
13 dressed in that settlement.

14 “(B) ATTORNEYS’ FEES.—Any person who
15 commences an action for contribution shall be
16 liable to the person against whom the claim of
17 contribution is brought for all reasonable costs
18 of defending against the claim, including all
19 reasonable attorneys’ and expert witness fees,
20 if—

21 “(i) the action is barred by subpara-
22 graph (A);

23 “(ii) the action is brought against a
24 person who is protected from such suits

1 pursuant to section 113(f)(2) by reason of
2 a settlement with the United States; or

3 “(iii) the action is brought during the
4 moratorium pursuant to section 131 (relat-
5 ing to allocation).”.

6 **SEC. 308. LIABILITY OF RESPONSE ACTION CONTRACTORS.**

7 (a) **EXTENSION OF NEGLIGENCE STANDARD.**—Sub-
8 section (a) of section 119 (42 U.S.C. 9619(a)) is amended
9 as follows:

10 (1) In paragraph (1) by striking “title or under
11 any other Federal law” and inserting “title, under
12 any other Federal law or under the law of any State
13 or political subdivision of a State”.

14 (2) By adding at the end of paragraph (1) the
15 following: “Notwithstanding the preceding sentence,
16 this section shall not apply in determining the liabil-
17 ity of a response action contractor under the law of
18 any State or political subdivision thereof if the State
19 has enacted a law determining the liability of a re-
20 sponse action contractor.”.

21 (3) By adding at the end of paragraph (2) the
22 following: “Such conduct shall be evaluated based on
23 the generally accepted standards and practices in ef-
24 fect at the time and place that the conduct oc-
25 curred.”.

1 (b) CLARIFICATION OF LIABILITY.—Section 119(a)
2 (42 U.S.C. 9219(a)) is amended by inserting after para-
3 graph (4) the following:

4 “(5) LIABILITY.—Notwithstanding any other
5 provision of this Act, any liability of a response ac-
6 tion contractor under this Act shall be determined
7 solely in accordance with this section.”.

8 (c) EXTENSION OF INDEMNIFICATION AUTHORITY.—
9 Section 119(c) is amended by adding at the end of para-
10 graph (1) the following: “Any such agreement may apply
11 to claims for negligence arising under Federal law or
12 under the law of any State or political subdivision of a
13 State.”.

14 (d) INDEMNIFICATION FOR THREATENED RE-
15 LEASES.—Section 119(c)(5) is amended in subparagraph
16 (A) by inserting “or threatened release” after “release”
17 each place it appears.

18 (e) EXTENSION OF COVERAGE TO ALL RESPONSE
19 ACTIONS.—Section 119(e)(1) is amended as follows:

20 (1) By striking “carrying out an agreement
21 under section 106 or 122”.

22 (2) By striking “any remedial action under this
23 Act at a facility listed on the National Priorities
24 List, or any removal action under this Act,” and in-

1 serting “any response as defined by section
2 101(25),”.

3 (f) LIMITATION ON ACTIONS.—Section 119 is amend-
4 ed by adding at the end the following:

5 “(h) LIMITATION ON ACTIONS AGAINST RESPONSE
6 ACTION CONTRACTORS.—No action to recover for any in-
7 jury to property, real or personal, or for bodily injury or
8 wrongful death, or any other expenses or costs arising out
9 of the performance of services under a response action
10 contract, nor any action for contribution or indemnity for
11 damages sustained as a result of such injury, shall be
12 brought against any response action contractor more than
13 6 years after the completion of work at any site under
14 such contract. Notwithstanding the preceding sentence,
15 this section shall not—

16 “(1) bar recovery for a claim caused by the con-
17 duct of the response action contractor that is grossly
18 negligent or that constitutes intentional misconduct;

19 “(2) affect any right of indemnification that
20 such response action contractor may have under this
21 section or may acquire by written agreement with
22 any party; or

23 “(3) apply in any State or political subdivision
24 thereof if the State has enacted a statute of repose

1 determining the liability of a response action con-
2 tractor.”.

3 **SEC. 309. AMENDMENTS TO SECTION 122.**

4 (a) ADMINISTRATIVE SETTLEMENTS.—Section 122
5 (42 U.S.C. 9622) is amended by adding at the end the
6 following:

7 “(n) CHALLENGE TO COST RECOVERY COMPONENT
8 OF SETTLEMENT.—Notwithstanding the limitations on re-
9 view in section 113(h), and except as provided in sub-
10 section (g) of this section, a person whose potential claim
11 for response costs or contribution is limited as a result
12 of contribution protection afforded by an administrative
13 settlement under this section may challenge the cost recov-
14 ery component of such settlement. Such a challenge may
15 be made only by filing a complaint against the Adminis-
16 trator in the United States District Court within 60 days
17 after such settlement becomes final. Venue shall lie in the
18 district in which the principal office of the appropriate re-
19 gion of the Environmental Protection Agency is located.
20 Any review of an administrative settlement shall be limited
21 to the administrative record, and the settlement shall be
22 upheld unless the objecting party can demonstrate on that
23 record that the decision of the President to enter into the
24 administrative settlement was arbitrary, capricious, or
25 otherwise not in accordance with law.”.

1 (b) FINAL COVENANTS.—Section 122(f) is amended
2 as follows:

3 (1) By striking paragraph (1) and inserting the
4 following:

5 “(1) FINAL COVENANTS.—The President shall
6 offer potentially responsible parties who enter into
7 settlement agreements that are in the public interest
8 a final covenant not to sue concerning any liability
9 to the United States under this Act, including a cov-
10 enant with respect to future liability, for response
11 actions or response costs addressed in the settle-
12 ment, if all of the following conditions are met:

13 “(A) The settling party agrees to perform,
14 or there are other adequate assurances of the
15 performance of, a final remedial action author-
16 ized by the Administrator for the release or
17 threat of release that is the subject of the set-
18 tlement.

19 “(B) The settlement agreement has been
20 reached prior to the commencement of litigation
21 against the settling party under section 106 or
22 107 of this Act with respect to this facility.

23 “(C) The settling party waives all contribu-
24 tion rights against other potentially responsible
25 parties at the facility.

1 “(D) The settling party (other than a
2 small business) pays a premium that com-
3 pensates for the risks of remedy failure; future
4 liability resulting from unknown conditions; and
5 unanticipated increases in the cost of any
6 uncompleted response action, unless the settling
7 party is performing the response action. The
8 President shall have sole discretion to deter-
9 mine the appropriate amount of any such pre-
10 mium, and such determinations are committed
11 to the President’s discretion. The President has
12 discretion to waive or reduce the premium pay-
13 ment for persons who demonstrate an inability
14 to pay such a premium.

15 “(E) The remedial action does not rely on
16 institutional controls to ensure continued pro-
17 tection of human health and the environment.

18 “(F) The settlement is otherwise accept-
19 able to the United States.”.

20 (2) In paragraph (2) by striking “remedial”
21 each place it appears and inserting “response”.

22 (3) By striking paragraph (3) and inserting the
23 following:

24 “(3) DISCRETIONARY COVENANTS.—For settle-
25 ments under this Act for which covenants under

1 paragraph (1) are not available, the President may,
2 in his discretion, provide any person with a covenant
3 not to sue concerning any liability to the United
4 States under this Act, if the covenant not to sue is
5 in the public interest. Such covenants shall be sub-
6 ject to the requirements of paragraph (5). The
7 President may include any conditions in such cov-
8 enant not to sue, including the additional condition
9 referred to in paragraph (5). In determining whether
10 such conditions or covenants are in the public inter-
11 est, the President shall consider the nature and
12 scope of the commitment by the settling party under
13 the settlement, the effectiveness and reliability of the
14 response action, the nature of the risks remaining at
15 the facility, the strength of evidence, the likelihood
16 of cost recovery, the reliability of any response ac-
17 tion or actions to restore, replace, or acquire the
18 equivalent of injured natural resources, the extent to
19 which performance standards are included in the
20 order or decree, the extent to which the technology
21 used in the response action is demonstrated to be ef-
22 fective, and any other factors relevant to the protec-
23 tion of human health and the environment.”.

1 (4) By striking paragraph (4) and redesignig-
2 nating paragraphs (5) and (6) as paragraphs (4)
3 and (5), respectively.

4 (5) In subparagraph (A) of paragraph (5) (as
5 so redesignated)—

6 (A) by striking “remedial” and inserting
7 “response”;

8 (B) by striking “paragraph (2)” in the
9 first sentence and inserting “paragraph (1) or
10 (2)”;

11 (C) by striking “de minimis settlements”
12 and inserting “de minimis and other expedited
13 settlements pursuant to subsection (g) of this
14 section”; and

15 (D) by striking “the President certifies
16 under paragraph (3) that remedial action has
17 been completed at the facility concerned”, and
18 inserting “that the response action that is the
19 subject of the settlement agreement is se-
20 lected”.

21 (6) In subparagraph (B) of paragraph (5) (as
22 so redesignated)—

23 (A) by striking “In extraordinary cir-
24 cumstances, the” and inserting “The”;

1 (B) by striking “those referred to in para-
2 graph (4) and”;

3 (C) by striking “if other terms,” and in-
4 serting “, if the agreement containing the cov-
5 enant not to sue provides for payment of a pre-
6 mium to address possible remedy failure or any
7 releases that may result from unknown condi-
8 tions, and if other terms,”; and

9 (D) by adding at the end the following:
10 “The President may waive or reduce the pre-
11 mium payment for persons who demonstrate an
12 inability to pay such a premium.”.

13 (c) EXPEDITED FINAL SETTLEMENTS.—Section 122
14 is further amended as follows:

15 (1) In subsection (g) by striking “(g)” and all
16 that follows through the period at the end of para-
17 graph (1) and inserting the following:

18 “(g) EXPEDITED FINAL SETTLEMENT.—

19 “(1) PARTIES ELIGIBLE FOR EXPEDITED SET-
20 TLEMENT.—The President shall, as promptly as pos-
21 sible, offer to reach a final administrative or judicial
22 settlement with potentially responsible parties who,
23 in the judgment of the President, meet the following
24 conditions for eligibility for an expedited settlement
25 in subparagraph (A) or (B):

1 “(A) The potentially responsible party’s in-
2 dividual contribution to the release of haz-
3 ardous substances at the facility as an owner or
4 operator, arranger for disposal, or transporter
5 for disposal is de minimis. The contribution of
6 hazardous substance to a facility by a poten-
7 tially responsible party is de minimis if both of
8 the following conditions are met:

9 “(i) The contribution of materials
10 containing hazardous substances that the
11 potentially responsible party arranged or
12 transported for treatment or disposal, or
13 that were treated or disposed during the
14 potentially responsible party’s period of
15 ownership or operation of the facility, is
16 minimal in comparison to the total volume
17 of materials containing hazardous sub-
18 stances at the facility. Such individual con-
19 tribution is presumed to be minimal if it is
20 not more than 1 percent of the total vol-
21 ume of such materials, unless the Adminis-
22 trator identifies a different threshold based
23 on site-specific factors.

24 “(ii) Such hazardous substances do
25 not present toxic or other hazardous ef-

1 fects that are significantly greater than
2 those of other hazardous substances at the
3 facility.

4 “(B)(i) The potentially responsible party is
5 a natural person, a small business, or a munici-
6 pality and can demonstrate to the United
7 States an inability or limited ability to pay re-
8 sponse costs. A party who enters into a settle-
9 ment pursuant to this subparagraph shall be
10 deemed to have resolved its liability under this
11 Act to the United States for all matters ad-
12 dressed in the settlement.

13 “(ii) For purposes of this subparagraph,
14 the following provisions apply:

15 “(I) In the case of a small business,
16 the President shall take into consideration
17 the ability to pay of the business, if re-
18 quested by the business. The term ‘ability
19 to pay’ means the President’s reasonable
20 expectation of the ability of the small busi-
21 ness to pay its total settlement amount
22 and still maintain its basic business oper-
23 ations. Such consideration shall include the
24 business’s overall financial condition and

1 demonstrable constraints on its ability to
2 raise revenues.

3 “(II) Any business requesting such
4 consideration shall promptly provide the
5 President with all relevant information
6 needed to determine the business’s ability
7 to pay.

8 “(III) If the President determines
9 that a small business is unable to pay its
10 total settlement amount immediately, the
11 President shall consider alternative pay-
12 ment methods as may be necessary or ap-
13 propriate. The methods to be considered
14 may include installment payments to be
15 paid during a period of not to exceed 10
16 years and the provision of in-kind services.

17 “(iii) Any municipality which is a poten-
18 tially responsible party may submit for consid-
19 eration by the President an evaluation of the
20 potential impact of the settlement on essential
21 services that the municipality must provide, and
22 the feasibility of making delayed payments or
23 payments over time. If a municipality asserts
24 that it has additional environmental obligations
25 besides its potential liability under this Act,

1 then the municipality may create a list of the
2 obligations, including an estimate of the costs
3 of complying with such obligations.

4 “(iv) Any municipality which is a poten-
5 tially responsible party may establish an inabil-
6 ity to pay through an affirmative showing that
7 such payment of its liability under this Act
8 would either—

9 “(I) create a substantial demonstrable
10 risk that the municipality would default on
11 existing debt obligations, be forced into
12 bankruptcy, be forced to dissolve, or be
13 forced to make budgetary cutbacks that
14 would substantially reduce current levels of
15 protection of public health and safety; or

16 “(II) necessitate a violation of legal
17 requirements or limitations of general ap-
18 plicability concerning the assumption and
19 maintenance of fiscal municipal obliga-
20 tions.

21 “(v) This subparagraph does not limit or
22 affect the President’s authority to evaluate any
23 person’s ability to pay or to enter into settle-
24 ments with any person based on that person’s
25 inability to pay.”.

1 (3) By striking paragraphs (2) and (3) of sub-
2 section (g) and inserting the following:

3 “(2) BASIS OF DETERMINATION.—Any person
4 who enters into a settlement pursuant to this sub-
5 section shall provide any information requested by
6 the President or by an allocator in accordance with
7 section 128(l)(1) or section 104(e). The determina-
8 tion of whether a person is eligible for an expedited
9 settlement shall be made on the basis of all informa-
10 tion available to the President at the time the deter-
11 mination is made. The President’s determination as
12 to the eligibility of a party that is not a department,
13 agency, or instrumentality of the United States for
14 settlement pursuant to this section shall not be sub-
15 ject to judicial review. If the President determines
16 that a party is not eligible for a settlement pursuant
17 to this section, the President shall explain the basis
18 for that determination in writing to any person who
19 requests such a settlement.

20 “(3) ADDITIONAL FACTORS RELEVANT TO SET-
21 TLEMENTS WITH MUNICIPALITIES.—In any settle-
22 ment with a municipality pursuant to this Act, the
23 President may take additional equitable factors into
24 account in determining an appropriate settlement
25 amount, including the limited resources available to

1 that party, and any in-kind services that the party
2 may provide to support the response action at the
3 facility. In considering the value of in-kind services,
4 the President shall consider the fair market value of
5 those services.”.

6 (4) In subsection (g)(4) by striking “\$500,000”
7 and inserting “\$2,000,000”.

8 (5) By striking paragraph (5) of subsection (g)
9 and inserting the following:

10 “(5) SMALL BUSINESS DEFINED.—In this sec-
11 tion, the term ‘small business’ refers to any business
12 entity that employs no more than 100 individuals
13 and is a ‘small business concern’ as defined under
14 the Small Business Act (15 U.S.C. 631 et seq.).”.

15 (6) By adding at the end of subsection (g) the
16 following:

17 “(7) DEADLINE.—If the President does not
18 make a settlement offer to a person on or before the
19 180th day following the date of the President’s de-
20 termination that such person is eligible for an expe-
21 dited settlement under this subsection, or on or be-
22 fore the 180th day following the date of the enact-
23 ment of this paragraph, whichever is later, such per-
24 son shall have no further liability under this Act.

1 “(8) PREMIUMS.—In any settlement under this
2 Act with a small business, the President shall not re-
3 quire the small business to pay any premium over
4 and above the small business’s share of liability.”.

5 (7) In subsection (h)—

6 (A) by striking the subsection heading and
7 inserting the following: “AUTHORITY TO SET-
8 TLE CLAIMS FOR FINES, CIVIL PENALTIES,
9 PUNITIVE DAMAGES, AND COST RECOVERY.—
10 ”;

11 (B) by striking “costs incurred” in the
12 first sentence of paragraph (1) and inserting
13 “past and future costs incurred or that may be
14 incurred”;

15 (C) by inserting after “if the claim has not
16 been referred to the Department of Justice for
17 further action.” in the first sentence of para-
18 graph (1) the following: “The head of any de-
19 partment or agency with the authority to seek
20 fines, civil penalties, or punitive damages under
21 this Act may consider, compromise, and settle
22 claims for any such fines, civil penalties, or pu-
23 nitive damages which may otherwise be assessed
24 in civil administrative or judicial proceedings if
25 the claim has not been referred to the Depart-

1 ment of Justice for further action. If the total
2 claim for response costs, fines, civil penalties, or
3 punitive damages exceeds \$3,000,000, such
4 claim may be compromised and settled only
5 with the prior written approval of the Attorney
6 General.”;

7 (D) by striking “\$500,000 (excluding in-
8 terest), any claim referred to in the preceding
9 sentence” in the second sentence of paragraph
10 (1) and inserting “\$2,000,000 (excluding inter-
11 est), any claim for response costs referred to
12 in this subsection”; and

13 (E) by striking paragraph (4).

14 (d) MUNICIPALITY DEFINED.—Section 101 (42
15 U.S.C. 9601), as amended by section 303(d) of this Act,
16 is further amended by inserting after paragraph (34) the
17 following:

18 “(35) The term ‘municipality’ means a political sub-
19 division of a State, including a city, county, village, town,
20 township, borough, parish, school district, sanitation dis-
21 trict, water district, or other public entity performing local
22 governmental functions. The term also includes a natural
23 person acting in the capacity of an official, employee, or
24 agent of any entity referred to in the preceding sentence
25 in the performance of governmental functions.”.

1 **SEC. 310. CLARIFICATION OF LIABILITY FOR RECYCLING**
2 **TRANSACTIONS.**

3 (a) RECYCLING TRANSACTIONS.—Title I (42 U.S.C.
4 9601 et seq.) is amended by adding at the end the fol-
5 lowing:

6 **“SEC. 130. RECYCLING TRANSACTIONS.**

7 “(a) LIABILITY CLARIFICATION.—As provided in
8 subsections (b), (c), (d), (e), and (f), a person who ar-
9 ranged for the recycling of recyclable material or trans-
10 ported such material shall not be liable under sections
11 107(a)(1)(C) and 107(a)(1)(D) with respect to such mate-
12 rial.

13 “(b) RECYCLABLE MATERIAL DEFINED.—For pur-
14 poses of this section, the term ‘recyclable material’
15 means—

16 “(1) plastic, glass, textiles, rubber (other than
17 whole tires), and metal, as well as minor amounts of
18 material incident to or adhering to the scrap mate-
19 rial as a result of its normal and customary use
20 prior to becoming scrap; except that such term shall
21 not include shipping containers of a capacity from
22 30 liters to and including 3,000 liters, whether in-
23 tact or not, having any hazardous substances (but
24 not metal bits or pieces or hazardous substances
25 that form an integral part of the container) con-
26 tained in or adhering thereto;

1 “(2) spent lead-acid, spent nickel-cadmium, and
2 other spent batteries; and

3 “(3) used oil.

4 “(c) TRANSACTIONS INVOLVING SCRAP, PLASTIC,
5 GLASS, TEXTILES, OR RUBBER.—

6 “(1) IN GENERAL.—Transactions involving re-
7 cyclable materials that consist of scrap plastic, scrap
8 glass, scrap textiles, or scrap rubber (other than
9 whole tires) shall be deemed to be arranging for re-
10 cycling if the person who arranged for the trans-
11 action (by selling recyclable material or otherwise ar-
12 ranging for the recycling of recyclable material) can
13 demonstrate by a preponderance of the evidence that
14 all of the following criteria were met at the time of
15 the transaction:

16 “(A) The recyclable material met a com-
17 mercial specification grade.

18 “(B) A market existed for the recyclable
19 material.

20 “(C) A substantial portion of the recyclable
21 material was made available for use as a feed-
22 stock for the manufacture of a new saleable
23 product.

24 “(D) The recyclable material could have
25 been a replacement or substitute for a virgin

1 raw material, or the product to be made from
2 the recyclable material could have been a re-
3 placement or substitute for a product made, in
4 whole or in part, from a virgin raw material.

5 “(E) For transactions occurring on or
6 after the 90th day following the date of the en-
7 actment of this section, the person exercised
8 reasonable care to determine that the facility
9 where the recyclable material would be handled,
10 processed, reclaimed, or otherwise managed by
11 another person (hereinafter in this section re-
12 ferred to as a ‘consuming facility’) was in com-
13 pliance with substantive (not procedural or ad-
14 ministrative) provisions of any Federal, State,
15 or local environmental law or regulation, or
16 compliance order or decree issued pursuant
17 thereto, applicable to the handling, processing,
18 reclamation, storage, or other management ac-
19 tivities associated with the recyclable material.

20 “(2) REASONABLE CARE.—For purposes of this
21 subsection, ‘reasonable care’ shall be determined
22 using criteria that include—

23 “(A) the price paid in the recycling trans-
24 action;

1 “(B) the ability of the person to detect the
2 nature of the consuming facility’s operations
3 concerning its handling, processing, reclama-
4 tion, or other management activities associated
5 with the recyclable material; and

6 “(C) the result of inquiries made to the ap-
7 propriate Federal, State, or local environmental
8 agency (or agencies) regarding the consuming
9 facility’s past and current compliance with sub-
10 stantive (not procedural or administrative) pro-
11 visions of any Federal, State, or local environ-
12 mental law or regulation, or compliance order
13 or decree issued pursuant thereto, applicable to
14 the handling, processing, reclamation, storage,
15 or other management activities associated with
16 the recyclable material.

17 “(3) TREATMENT OF CERTAIN REQUIREMENTS
18 AS SUBSTANTIVE PROVISIONS.—For purposes of this
19 subsection, a requirement to obtain a permit applica-
20 ble to the handling, processing, reclamation, or other
21 management activities associated with the recyclable
22 materials shall be deemed to be a substantive provi-
23 sion.

24 “(d) TRANSACTIONS INVOLVING SCRAP METAL.—

1 “(1) IN GENERAL.—Transactions involving re-
2 cyclable materials that consist of scrap metal shall
3 be deemed to be arranging for recycling if the per-
4 son who arranged for the transaction (by selling re-
5 cyclable material or otherwise arranging for the re-
6 cycling of recyclable material) can demonstrate by a
7 preponderance of the evidence that at the time of
8 the transaction—

9 “(A) the person met the criteria set forth
10 in subsection (c) with respect to the scrap
11 metal;

12 “(B) the person was in compliance with
13 any applicable regulations or standards regard-
14 ing the storage, transport, management, or
15 other activities associated with the recycling of
16 scrap metal that the Administrator issues under
17 the Solid Waste Disposal Act (42 U.S.C. 6901
18 et seq.) after the date of the enactment of this
19 section and with regard to transactions occur-
20 ring after the effective date of such regulations
21 or standards; and

22 “(C) the person did not melt the scrap
23 metal prior to the transaction.

24 “(2) MELTING OF SCRAP METAL.—For pur-
25 poses of paragraph (1)(C), melting of scrap metal

1 does not include the thermal separation of 2 or more
2 materials due to differences in their melting points
3 (referred to as ‘sweating’).

4 “(3) SCRAP METAL DEFINED.—In this sub-
5 section, the term ‘scrap metal’ means bits and pieces
6 of metal parts (such as bars, turnings, rods, sheets,
7 and wire) or metal pieces that may be combined to-
8 gether with bolts or soldering (such as radiators,
9 scrap automobiles, and railroad box cars) which
10 when worn or superfluous can be recycled, except for
11 scrap metals that the Administrator excludes from
12 this definition by regulation and electrical equipment
13 that contains polychlorinated biphenyls.

14 “(e) TRANSACTIONS INVOLVING BATTERIES.—

15 “(1) IN GENERAL.—Transactions involving re-
16 cyclable materials that consist of spent lead-acid bat-
17 teries, spent nickel-cadmium batteries, or other
18 spent batteries shall be deemed to be arranging for
19 recycling if the person who arranged for the trans-
20 action (by selling recyclable material or otherwise ar-
21 ranging for the recycling of recyclable material) can
22 demonstrate by a preponderance of the evidence that
23 at the time of the transaction—

24 “(A) the person met the criteria set forth
25 in subsection (c) with respect to the spent lead-

1 acid batteries, spent nickel-cadmium batteries,
2 or other spent batteries but did not recover the
3 valuable components of such batteries; and

4 “(B)(i) with respect to transactions involv-
5 ing lead-acid batteries, the person was in com-
6 pliance with applicable Federal environmental
7 regulations or standards, and any amendments
8 thereto, regarding the storage, transport, man-
9 agement, or other activities associated with the
10 recycling of spent lead-acid batteries;

11 “(ii) with respect to transactions involving
12 nickel-cadmium batteries, Federal environ-
13 mental regulations or standards were in effect
14 regarding the storage, transport, management,
15 or other activities associated with the recycling
16 of spent nickel-cadmium batteries and the per-
17 son was in compliance with such regulations or
18 standards and any amendments thereto; or

19 “(iii) with respect to transactions involving
20 other spent batteries, Federal environmental
21 regulations or standards were in effect regard-
22 ing the storage, transport, management, or
23 other activities associated with the recycling of
24 such batteries and the person was in compliance

1 with such regulations or standards and any
2 amendments thereto.

3 “(2) RECOVERY OF VALUABLE BATTERY COM-
4 PONENTS.—For purposes of paragraph (1)(A), a
5 person who, by contract, arranges or pays for proc-
6 essing of batteries by an unrelated third person and
7 receives from such third person materials reclaimed
8 from such batteries shall not thereby be deemed to
9 recover the valuable components of such batteries.

10 “(f) TRANSACTIONS INVOLVING USED OIL.—

11 “(1) IN GENERAL.—Transactions involving re-
12 cyclable materials that consist of used oil shall be
13 deemed to be arranging for recycling if the person
14 who arranged for the transaction (by selling recycla-
15 ble material or otherwise arranging for the recycling
16 of recyclable material) did not mix the recyclable
17 material with a hazardous substance following the
18 removal of the used oil from service and can dem-
19 onstrate by a preponderance of the evidence that at
20 the time of the transaction—

21 “(A) the recyclable material was sent to a
22 facility that recycled used oil by using it as feed
23 stock for the manufacture of a new saleable
24 product;

1 “(B) the person met the criteria specified
2 in subparagraphs (D) and (E) of subsection
3 (c)(1), as modified by paragraphs (2) and (3)
4 of subsection (c), with respect to used oil; and

5 “(C) regulations or standards for the man-
6 agement of used oil promulgated under the
7 Solid Waste Disposal Act (42 U.S.C. 6901 et
8 seq.) were in effect on the date of the trans-
9 action and the person was in compliance with
10 such regulations or standards and any amend-
11 ment thereto.

12 “(2) USED OIL DEFINED.—In this subsection,
13 the term ‘used oil’ means any oil that has been re-
14 fined from crude oil, or any synthetic oil, that has
15 been used or stored. Such term does not include any
16 oil that is subject to regulation under section
17 6(e)(1)(A) of the Toxic Substances Control Act (15
18 U.S.C. 2605(e)(1)(A)), relating to regulations pre-
19 scribing methods for disposal of polychlorinated
20 biphenyls.

21 “(g) EXCLUSIONS.—

22 “(1) IN GENERAL.—The exemptions set forth in
23 subsections (c), (d), (e), and (f) shall not apply if—

1 “(A) the person had an objectively reason-
2 able basis to believe at the time of the recycling
3 transaction that—

4 “(i) the recyclable material would not
5 be recycled;

6 “(ii) in the case of recyclable mate-
7 rials other than used oil, the recyclable ma-
8 terial would be burned as fuel or for en-
9 ergy recovery or incineration; or

10 “(iii) for transactions occurring on or
11 before the 90th day following the date of
12 the enactment of this section, the con-
13 suming facility was not in compliance with
14 a substantive (not a procedural or adminis-
15 trative) provision of any Federal, State, or
16 local environmental law or regulation, or
17 compliance order or decree issued pursuant
18 thereto, applicable to the handling, proc-
19 essing, reclamation, or other management
20 activities associated with the recyclable
21 material;

22 “(B) the person had reason to believe that
23 hazardous substances had been added to the re-
24 cyclable material for purposes other than proc-
25 essing for recycling; or

1 “(C) the person failed to exercise reason-
2 able care with respect to the management and
3 handling of the recyclable material (including
4 adhering to customary industry practices cur-
5 rent at the time of the recycling transaction de-
6 signed to minimize, through source control, con-
7 tamination of the recyclable material by haz-
8 ardous substances).

9 “(2) OBJECTIVELY REASONABLE BASIS.—For
10 purposes of paragraph (1)(A), an objectively reason-
11 able basis for belief shall be determined using cri-
12 teria that include the size of the person’s business,
13 customary industry practices (including customary
14 industry practices current at the time of the recy-
15 cling transaction designed to minimize, through
16 source control, contamination of the recyclable mate-
17 rial by hazardous substances), the price paid in the
18 recycling transaction, and the ability of the person
19 to detect the nature of the consuming facility’s oper-
20 ations concerning its handling, processing, reclama-
21 tion, or other management activities associated with
22 the recyclable material.

23 “(3) TREATMENT OF CERTAIN REQUIREMENTS
24 AS SUBSTANTIVE PROVISIONS.—For purposes of this
25 subsection, a requirement to obtain a permit applica-

1 ble to the handling, processing, reclamation, or other
2 management activities associated with recyclable ma-
3 terial shall be deemed to be a substantive provision.

4 “(h) EFFECT ON OWNER LIABILITY.—Nothing in
5 this section shall be deemed to affect the liability of a per-
6 son under subparagraph (A) or (B) of section 107(a)(1).

7 “(i) RELATIONSHIP TO LIABILITY UNDER OTHER
8 LAWS.—Nothing in this section shall affect—

9 “(1) liability under any other Federal, State, or
10 local statute or regulation promulgated pursuant to
11 any such statute, including any requirements pro-
12 mulgated by the Administrator under the Solid
13 Waste Disposal Act (42 U.S.C. 6901 et seq.); or

14 “(2) the ability of the Administrator to promul-
15 gate regulations under any other statute, including
16 the Solid Waste Disposal Act (42 U.S.C. 6901 et
17 seq.).

18 “(j) LIMITATION ON STATUTORY CONSTRUCTION.—
19 Nothing in this section shall be construed to affect any
20 liability under section 107(a)(1) of any person with re-
21 spect to any material other than a recyclable material sub-
22 ject to subsection (a).”.

23 (b) SERVICE STATION DEALERS.—Section 114(c)
24 (42 U.S.C. 9614(c)) is amended—

25 (1) in paragraph (1)—

1 (A) by striking “No person” and inserting
2 “A person”;

3 (B) by striking “may recover” and insert-
4 ing “may not recover”;

5 (C) by striking “if such recycled oil” and
6 inserting “unless the service station dealer”;
7 and

8 (D) by striking subparagraphs (A) and (B)
9 and inserting the following:

10 “(A) mixed the recycled oil with any other
11 hazardous substance; or

12 “(B) did not store, treat, transport, or oth-
13 erwise manage the recycled oil in compliance
14 with any applicable regulations or standards
15 promulgated pursuant to section 3014 of the
16 Solid Waste Disposal Act and other applicable
17 authorities that were in effect on the date of
18 such activity.”; and

19 (2) by striking paragraph (4).

20 **SEC. 311. ALLOCATION.**

21 Title I (42 U.S.C. 9601 et seq.) is amended by adding
22 at the end the following new section:

23 **“SEC. 131. ALLOCATION.**

24 “(a) PURPOSE OF ALLOCATION.—The purpose of an
25 allocation under this section is to determine equitable

1 shares of liability for the costs of performing a response
2 action that is eligible for an allocation under this section,
3 including the equitable share of liability to be borne by
4 the Trust Fund under subsection (i).

5 “(b) ELIGIBLE RESPONSE ACTION.—A response ac-
6 tion is eligible for an allocation under this section if—

7 “(1) the performance of such response action is
8 not the subject of a consent decree or an administra-
9 tive order as of March 25, 1999; and

10 “(2) the President’s estimate of the cost of such
11 response action exceeds \$2,000,000.

12 “(c) ALLOCATION PROCESS.—

13 “(1) IN GENERAL.—The President shall initiate
14 an allocation under this section for each eligible re-
15 sponse action by filing a cost recovery and declara-
16 tory judgment action under section 107 for costs of
17 response to a release or threatened release of haz-
18 ardous substances from a facility or vessel in the
19 district court of the United States in the district in
20 which such release occurs.

21 “(2) STAY.—The President shall seek a stay of
22 litigation of the action referred to in paragraph (1)
23 until 150 days after the issuance of an allocator’s
24 report unless the court determines that a stay will
25 result in manifest injustice.

1 “(3) JURISDICTION OF THE COURT.—Upon the
2 filing of the action referred to in paragraph (1), the
3 court shall have jurisdiction to ensure that a fair
4 and equitable allocation of liability is undertaken by
5 a neutral allocator selected by agreement of the par-
6 ties, or by the court, under such process or proce-
7 dures as are agreed to by the parties, or ordered by
8 the court.

9 “(d) DISCRETIONARY ALLOCATION PROCESS.—Not-
10 withstanding subsection (a)(1), the President may initiate
11 an allocation under this section for any response action.

12 “(e) EARLY OFFER OF SETTLEMENT.—As soon as
13 practicable and prior to the selection of an allocator, the
14 President shall provide an estimate of the aggregate Fund
15 share in accordance with subsection (i). The President
16 shall offer to contribute to a settlement of liability for re-
17 sponse costs on the basis of this estimate.

18 “(f) REPRESENTATION OF THE UNITED STATES AND
19 AFFECTED STATES.—The Administrator or the Attorney
20 General, as a representative of the Fund, and a represent-
21 ative of any State that is or may be responsible pursuant
22 to section 104(c)(3) for any costs of a response action that
23 is the subject of an allocation shall be entitled to partici-
24 pate in the allocation proceeding to the same extent as
25 any potentially responsible party.

1 “(g) MORATORIUM ON LITIGATION.—

2 “(1) MORATORIUM ON LITIGATION.—No person
3 may commence any civil action or assert any claim
4 under this Act seeking recovery of any response
5 costs, or contribution toward such costs, in connec-
6 tion with any response action for which the Presi-
7 dent has initiated an allocation under this section,
8 until 150 days after issuance of the allocator’s re-
9 port or of a report under this section.

10 “(2) STAY.—If any action or claim referred to
11 in paragraph (1) is pending on the date of enact-
12 ment of this section or on the date of initiation of
13 an allocation, such action or claim (including any
14 pendant claim under State law over which a court is
15 exercising jurisdiction) shall be stayed until 150
16 days after the issuance of the allocator’s report or
17 of a report under this section, unless the court de-
18 termines that a stay will result in manifest injustice.

19 “(3) TOLLING OF LIMITATIONS PERIOD.—Any
20 applicable limitations period with respect to actions
21 subject to paragraph (1) shall be tolled from the ear-
22 lier of—

23 “(A) the date of listing of the facility on
24 the National Priorities List, where such listing

1 occurs after the date of enactment of this sec-
2 tion; or

3 “(B) the commencement of the allocation
4 process pursuant to this section, until 180 days
5 after rejects or waives its right to reject the al-
6 locator’s report.

7 “(h) EFFECT ON PRINCIPLES OF LIABILITY.—The
8 allocation process under this section shall not be construed
9 to modify or affect in any way the principles of liability
10 under this title as determined by the courts of the United
11 States.

12 “(i) FUND SHARE.—For each response action that
13 is the subject of an allocation under this section, the allo-
14 cator shall determine the share of response costs, if any,
15 to be allocated to the Fund. The Fund share shall consist
16 of the sum of following amounts:

17 “(1) The amount attributable to the aggregate
18 share of response costs that the allocator determines
19 to be attributable to parties who are not affiliated
20 with any potentially responsible party and whom the
21 President determines are insolvent or defunct.

22 “(2) The amount attributable to the difference
23 in the aggregate share of response costs that the al-
24 locator determines to be attributable to parties who
25 have resolved their liability to the United States for

1 the response and the amount actually assumed by
2 those parties in any settlement for the response ac-
3 tion with the United States. Except where such set-
4 tlements include a consideration of ability to pay,
5 the allocator may presume that the amount accepted
6 by the United States in a settlement is that party's
7 equitable share.

8 “(3) Except as provided in subsection (j), the
9 amount attributable to the aggregate share of re-
10 sponse costs that the allocator determines to be at-
11 tributable to persons who are entitled to an exemp-
12 tion from liability under subsection (o) or (p) of sec-
13 tion 107 or section 114(c) or 130 at a facility or
14 vessel on the National Priorities List.

15 “(4) The amount attributable to the difference
16 in the aggregate share of response costs that an allo-
17 cator determines to be attributable to persons sub-
18 ject to a limitation on liability under section 107(q)
19 and the amount actually assumed by those parties in
20 accordance with such limitation.

21 “(j) CERTAIN MSW GENERATORS.—Notwith-
22 standing subsection (i)(3), the allocator shall not attribute
23 any response costs to any person who would have been
24 liable under section 107(a)(1)(C) but for the exemption
25 from liability under section 107(p) and who is—

1 “(1) an owner, operator, or lessee of residential
2 property;

3 “(2) a business entity that employs no more
4 than 100 individuals and is a small business concern
5 as defined under the Small Business Act (15 U.S.C.
6 631 et seq.); or

7 “(3) an organization described in section
8 501(c)(3) of the Internal Revenue Code of 1986 and
9 exempt from tax under section 501(a) of such Code
10 if such organization employs no more than 100 paid
11 individuals at the involved chapter, office, or depart-
12 ment.

13 “(k) UNATTRIBUTABLE SHARE.—The share attrib-
14 utable to the aggregate share of response costs incurred
15 to respond to materials containing hazardous substances
16 for which no generator, transporter, or owner or operator
17 at the time of disposal or placement can be identified shall
18 be divided pro rata among the potentially responsible par-
19 ties and the Fund share determined under subsection (i).

20 “(l) EXPEDITED ALLOCATION.—At the request of the
21 potentially responsible parties or the United States, to as-
22 sist in reaching settlement, the allocator may, prior to
23 reaching a final allocation of response costs among all par-
24 ties, first provide an estimate of the aggregate Fund
25 share, in accordance with subsection (i), and an estimate

1 of the aggregate share of the potentially responsible par-
2 ties.

3 “(m) OTHER SETTLEMENTS.—The President may
4 use the authority under section 122(g) to enter into settle-
5 ment agreements with respect to any response action that
6 is the subject of an allocation at any time.

7 “(n) SETTLEMENTS BASED ON ALLOCATIONS.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 the President shall accept an offer of settlement of
10 liability for a response action that is the subject of
11 an allocation if—

12 “(A) the offer is made within 90 days after
13 issuance of the allocator’s report; and

14 “(B) the offer is based on the share of re-
15 sponse costs specified by the allocator and such
16 other terms and conditions (other than the allo-
17 cated share of response costs) as are acceptable
18 to the President.

19 “(2) REJECTION OF ALLOCATION REPORT.—

20 The requirement of paragraph (1) to accept an offer
21 of settlement shall not apply if the Administrator
22 and the Attorney General reject the allocation re-
23 port.

24 “(o) REIMBURSEMENT FOR UAO PERFORMANCE.—

1 “(1) REIMBURSEMENT.—Parties who satisfac-
2 torily perform work under an administrative order
3 issued under section 106(a) with respect to a reme-
4 dial action for which an allocation is required by
5 subsection (c) shall be entitled to reimbursement for
6 the reasonable and necessary costs of work they per-
7 form in excess of the share assigned to them in the
8 allocation in accordance with the provisions of this
9 section if the allocation report is not rejected by the
10 United States and, that, at the end of the morato-
11 rium following the allocation, the performing party,
12 in consideration of such reimbursement—

13 “(A) agrees not to contest liability for all
14 response costs not inconsistent with the Na-
15 tional Contingency Plan to the extent of the al-
16 located share;

17 “(B) receives no covenant not to sue; and

18 “(C) waives contribution rights against all
19 parties who are potentially responsible parties
20 for the response action, as well as waives any
21 rights to challenge any settlement the President
22 enters into with any other potentially respon-
23 sible party.

24 “(2) OFFSET.—Any reimbursement provided to
25 a performing party under this subsection shall be

1 subject to equitable offset or reduction by the Ad-
2 ministrator upon a finding of a failure to perform
3 any aspect of the remedy in a proper and timely
4 manner.

5 “(3) TIME OF PAYMENT.—Any reimbursement
6 to a performing party under this subsection shall be
7 paid after work is completed, but no sooner than
8 completion of the construction of the remedial action
9 and, subject to paragraph (5), without any increase
10 for interest or inflation.

11 “(4) LIMIT ON AMOUNT OF REIMBURSE-
12 MENT.—The amount of reimbursement under this
13 subsection shall be further limited as follows:

14 “(A) Performing parties who waive their
15 right to challenge remedy selection at the end
16 of the moratorium following allocation shall be
17 entitled to reimbursement of actual dollars
18 spent by each such performing party in excess
19 of the party’s share and attributable by the al-
20 locator to the Fund share under subsection (i).

21 “(B) Performing parties who retain their
22 right to challenge the remedy shall be reim-
23 bursed (i) for actual dollars spent by each such
24 performing party, but not to exceed 90 percent
25 of the Fund share, or (ii) an amount equal to

1 80 percent of the Fund share if the Fund share
2 is less than 20 percent of responsibility at the
3 site.

4 “(5) REIMBURSEMENT OF SHARES ATTRIB-
5 UTABLE TO OTHER PARTIES.—If reimbursement is
6 made under this subsection to a performing party
7 for work in excess of the performing party’s allo-
8 cated share that is not attributable to the Fund
9 share, the performing party shall be entitled to all
10 interest (prejudgment and post judgment, whether
11 recovered from a party or earned in a site account)
12 that has accrued on money recovered by the United
13 States from other parties for such work at the time
14 construction of the remedy is completed.

15 “(6) REIMBURSEMENT CLAIMS.—The Adminis-
16 trator shall require that all claims for reimburse-
17 ment be supported by—

18 “(A) documentation of actual costs in-
19 curred; and

20 “(B) sufficient information to enable the
21 Administrator to determine whether such costs
22 were reasonable.

23 “(7) INDEPENDENT AUDITING.—The Adminis-
24 trator may require independent auditing of any
25 claim for reimbursement.

1 “(p) POST-SETTLEMENT LITIGATION.—Following
2 expiration of the moratorium periods under subsection (g),
3 the United States may request the court to lift the stay
4 and proceed with an action under this Act against any
5 potentially responsible party that has not resolved its li-
6 ability to the United States following an allocation, seek-
7 ing to recover response costs that are not recovered
8 through settlements with other persons. All such actions
9 shall be governed by the principles of liability under this
10 Act as determined by the courts of the United States. In
11 allocating response costs among persons determined by the
12 court to be liable in such litigation, the court may use the
13 allocator’s report as a basis for such allocation.

14 “(q) RESPONSE COSTS.—

15 “(1) DESCRIPTION.—The following costs shall
16 be considered response costs for purposes of this
17 Act:

18 “(A) Costs incurred by the United States
19 and the court of implementing the allocation
20 procedure set forth in this section, including
21 reasonable fees and expenses of the allocator.

22 “(B) Costs paid from amounts made avail-
23 able under section 111(a)(1).

24 “(2) SETTLED PARTIES.—Any costs of alloca-
25 tion described in paragraph (1)(A) and incurred

1 after a party has settled all of its liability with re-
2 spect to the response action or actions that are the
3 subject of the allocation may not be recovered from
4 such party.

5 “(r) FEDERAL, STATE, AND LOCAL AGENCIES.—All
6 Federal, State, and local governmental departments, agen-
7 cies, or instrumentalities that are identified as potentially
8 responsible parties shall be subject to, and be entitled to
9 the benefits of, the allocation process and allocation deter-
10 mination provided by this section to the same extent as
11 any other party.

12 “(s) SAVINGS PROVISIONS.—Except as otherwise ex-
13 pressly provided, nothing in this section shall limit or af-
14 fect the following:

15 “(1) The President’s—

16 “(A) authority to exercise the powers con-
17 ferred by sections 103, 104, 105, 106, 107, or
18 122;

19 “(B) authority to commence an action
20 against a party where there is a contempora-
21 neous filing of a judicial consent decree resolv-
22 ing that party’s liability;

23 “(C) authority to file a proof of claim or
24 take other action in a proceeding under title 11,
25 United States Code;

1 “(D) authority to file a petition to preserve
2 testimony under Rule 27 of the Federal Rules
3 of Civil Procedure; or

4 “(E) authority to take action to prevent
5 dissipation of assets, including actions under
6 chapter 176 of title 28, United States Code.

7 “(2) The ability of any person to resolve its li-
8 ability at a facility to any other person at any time
9 before or during the allocation process.

10 “(3) The validity, enforceability, finality, or
11 merits of any judicial or administrative order, judg-
12 ment, or decree issued, signed, lodged, or entered,
13 before the date of enactment of this paragraph with
14 respect to liability under this Act, or authority to
15 modify any such order, judgment, or decree with re-
16 gard to the response action addressed in the order,
17 judgment or decree.

18 “(4) The validity, enforceability, finality, or
19 merits of any pre-existing contract or agreement re-
20 lating to any allocation of responsibility or any in-
21 demnity for, or sharing of, any response costs under
22 this Act.”.

1 **TITLE IV—REMEDY SELECTION**

2 **SEC. 401. REMEDY SELECTION.**

3 (a) REMEDY SELECTION.—Section 121(b) (42
4 U.S.C. 9621(b)) is amended—

5 (1) by striking “(1) Remedial” and all that fol-
6 lows through “or containment.” and inserting the
7 following:

8 “(1) HEALTH AND ENVIRONMENTAL STAND-
9 ARDS.—

10 “(A) IN GENERAL.—Final remedies se-
11 lected under this Act shall protect human
12 health and the environment.

13 “(B) EXPOSURE INFORMATION.—Exposure
14 assessments shall be consistent with the current
15 and reasonably anticipated uses of land, water,
16 and other resources as identified under para-
17 graph (2). The President shall consider and
18 use, in selecting final remedies under this Act,
19 information made available to the President on
20 actual exposure to hazardous substances or pol-
21 lutants or contaminants, along with other rel-
22 evant information.

23 “(C) PLANTS AND ANIMALS.—In deter-
24 mining what is protective of plants and animals
25 for purposes of this section, the President shall

1 base such determinations on the significance of
2 impacts from a release or releases of hazardous
3 substances from a facility to local populations
4 or communities of plants and animals or eco-
5 systems. If a species is listed as threatened or
6 endangered under the Endangered Species Act
7 of 1973 (16 U.S.C. 1531 et seq.) impacts to in-
8 dividual plants or animals may be considered to
9 be impacts to populations of plants or animals.

10 “(2) ANTICIPATED USE OF LAND, WATER, AND
11 OTHER RESOURCES.—

12 “(A) IN GENERAL.—For purposes of se-
13 lecting the method or methods of remediation
14 appropriate for a given facility, the President
15 shall identify the current and reasonably antici-
16 pated uses of land, water, and other resources
17 at and around the facility and the timing of
18 such uses.

19 “(B) INSTITUTIONAL CONTROLS.—Land
20 use assumptions restricting future use can be
21 used in evaluating remedial alternatives only to
22 the extent that institutional controls meeting
23 the criteria of subsection (g) have been or will
24 be adopted in the final remedy.

1 “(C) INCLUSION IN ADMINISTRATIVE
2 RECORD.—All information considered by the
3 President in evaluating current and reasonably
4 anticipated future land uses under this sub-
5 section shall be included in the administrative
6 record under section 113(k).

7 “(3) SITE-SPECIFIC RISK ASSESSMENT.—The
8 President shall use site-specific risk assessment that
9 meets the requirements of the principles set forth in
10 section 132 to—

11 “(A) determine the nature and extent of
12 risk to human health and the environment;

13 “(B) assist in establishing remedial objec-
14 tives for the facility respecting releases or
15 threatened releases, and in identifying geo-
16 graphic areas or exposure pathways of concern;
17 and

18 “(C) evaluate alternative remedial actions
19 for the facility to determine their risk reduction
20 benefits and assist in selecting the remedial ac-
21 tion for the facility that meets the criteria of
22 paragraph (1).

23 “(4) APPROPRIATE REMEDIAL ACTION.—

24 “(A) REMEDY EVALUATION.—The Presi-
25 dent shall identify appropriate remedial options,

1 including options with a treatment component,
2 that are designed to meet the standards set
3 forth in this section within a reasonable period
4 of time and considering reasonable points of
5 compliance (as determined by the President)
6 and shall select an appropriate remedy by bal-
7 ancing the following factors:

8 “(i) The effectiveness of the remedy,
9 including its implementability.

10 “(ii) The long-term reliability of the
11 remedy, that is, its capability to achieve
12 long-term protection of human health and
13 the environment, including consideration of
14 the preference for treatment of principal
15 threats.

16 “(iii) Any short-term risk posed by
17 the implementation of the remedy to the
18 affected community, to those engaged in
19 the cleanup effort, and to the environment.

20 “(iv) The acceptability of the remedy
21 to the affected community, including the
22 affected local government.

23 “(v) The reasonableness of the cost of
24 the remedy.

1 “(B) CONSIDERATION OF TREATMENT AS
2 A COMPONENT OF A REMEDY.—

3 “(i) IN GENERAL.—In balancing fac-
4 tors under subparagraph (A) and deter-
5 mining the appropriate remedial action,
6 the President shall give preference to rem-
7 edies that include a treatment component
8 for facilities with source materials that
9 constitute a principal threat.

10 “(ii) SELECTION OF A REMEDY WITH-
11 OUT A TREATMENT COMPONENT.—In the
12 case of a facility containing source mate-
13 rials that constitute a principal threat, if
14 the President selects a remedy that does
15 not include a treatment component, the
16 President shall publish an explanation of
17 why such treatment component was not in-
18 cluded in the remedy.”;

19 (2) by striking “The President” and inserting
20 “(5) PROTECTIVE REMEDIES.—The President”;

21 (3) by striking “If the” and all that follows
22 through “not selected.”;

23 (4) by striking “(2) The President” and insert-
24 ing the following:

1 “(6) ALTERNATIVE REMEDIAL ACTIONS.—The
2 President”; and

3 (5) by aligning the remainder of the text of
4 paragraph (6) (as designated by paragraph (4) of
5 this subsection) accordingly.

6 (b) APPLICABLE STANDARDS.—Section 121(d) (42
7 U.S.C. 9621(d)) is amended—

8 (1) in paragraph (1) by striking the last sen-
9 tence;

10 (2) in paragraph (2)(A)—

11 (A) by inserting “that is generally applica-
12 ble, that is consistently applied to response ac-
13 tions in the State,” after “subparagraph (A),”;

14 (B) by striking “or is relevant and appro-
15 priate under the circumstances of the release or
16 threatened release of such hazardous substance
17 or pollutant or contaminant”;

18 (C) by striking “or relevant and appro-
19 priate”;

20 (D) by striking “Level Goals” and insert-
21 ing “Levels”;

22 (E) by striking “goals or” and inserting
23 “levels or”; and

24 (F) by adding at the end the following:

1 “The President shall closely examine whether a require-
2 ment is of general applicability under clause (ii) if, in
3 practice, the requirement only applies to one facility in the
4 State or if the requirement only applies to facilities owned
5 or operated by the United States.”; and

6 (3) by adding at the end the following:

7 “(5) EXCLUSIONS.—The standards, require-
8 ments, criteria, and limitations referred to in para-
9 graph (2) shall not include—

10 “(A) any requirement with respect to the
11 return, replacement, or disposal of contami-
12 nated media, residuals, or other solid waste or
13 contaminated media into the same medium in
14 or very near existing areas of contamination on
15 site; or

16 “(B) any requirement for a reduction in
17 concentrations of contaminants below back-
18 ground levels.”.

19 (c) INSTITUTIONAL CONTROLS.—Section 121 (42
20 U.S.C. 9621) is amended by adding at the end the fol-
21 lowing:

22 “(g) INSTITUTIONAL CONTROLS.—

23 “(1) ASSURANCES.—In any case in which the
24 President selects a remedial action that relies on re-
25 strictions on the use of land, water, or other re-

1 sources or other activities to provide protection, the
2 President shall ensure that such controls, taken to-
3 gether with other response measures, are adequate
4 to protect human health and the environment. Insti-
5 tutional controls which form a significant portion of
6 the basis for a finding that a set of remedial options
7 will adequately protect human health and the envi-
8 ronment must be—

9 “(A) enforceable;

10 “(B) publicly noticed; and

11 “(C) as appropriate for deed restrictions or
12 other similar measure, incorporated in the rec-
13 ordation systems of the appropriate jurisdiction
14 where the property is located.

15 The President may allow for a reasonable schedule
16 for appropriate public notice and recordation.

17 “(2) IDENTIFICATION AND REGISTRY.—Each
18 record of decision with respect to a facility shall
19 clearly identify any institutional controls that re-
20 strict uses of land, water, or other resources or other
21 activities at the facility. The President shall also
22 provide the identity of the Government official who
23 is primarily responsible for monitoring and enforcing
24 the institutional controls. The President shall main-
25 tain a registry of restrictions on the use of land,

1 water, or other resources through institutional con-
2 trols that are included in final records of decision as
3 part of the basis of decision at National Priorities
4 List facilities.”.

5 (d) REMEDIAL DESIGN.—Section 121 is further
6 amended by adding at the end the following:

7 “(h) REMEDIAL DESIGN.—Where appropriate and
8 practicable, remedial designs for remedies selected under
9 this section shall seek to accommodate existing beneficial
10 uses of the contaminated property and shall seek to expe-
11 dite the return of contaminated property to beneficial use,
12 including the return to beneficial use of separate areas
13 within a facility prior to completion of the remedial action
14 for an entire facility.”.

15 **SEC. 402. HAZARDOUS SUBSTANCE PROPERTY USE.**

16 Section 104 (42 U.S.C. 9604) is amended by adding
17 at the end the following:

18 “(k) HAZARDOUS SUBSTANCE PROPERTY USE.—

19 “(1) AUTHORITY OF PRESIDENT TO ACQUIRE
20 EASEMENTS.—In connection with any remedial ac-
21 tion under this Act, in order to prevent exposure to,
22 reduce the likelihood of, or otherwise respond to a
23 release or threatened release of a hazardous sub-
24 stance, pollutant, or contaminant, the President may
25 acquire, at fair market value, or for other consider-

1 ation as agreed to by the parties, a hazardous sub-
2 stance easement which restricts, limits, or controls
3 the use of land or other natural resources, including
4 specifying permissible or impermissible uses of land,
5 prohibiting specified activities upon property, prohib-
6 iting the drilling of wells or use of ground water, or
7 restricting the use of surface water.

8 “(2) USE OF EASEMENTS.—A hazardous sub-
9 stance easement under this subsection may be used
10 wherever institutional controls have been selected as
11 a component of a remedial action under this Act and
12 the National Contingency Plan.

13 “(3) PERSONS SUBJECT TO EASEMENTS.—A
14 hazardous substance easement shall be enforceable
15 in perpetuity (unless terminated and released as pro-
16 vided for in this section) against any owner of the
17 affected property and all persons who subsequently
18 acquire an interest in the property or rights to use
19 the property, including lessees, licensees, and any
20 other person with an interest in the property, with-
21 out respect to privity or lack of privity of estate or
22 contract, lack of benefit running to any other prop-
23 erty, assignment of the easement to another party or
24 sale or other transfer of the burdened property, or
25 any other circumstance which might otherwise affect

1 the enforceability of easements or similar deed re-
2 strictions under the laws of the State. The easement
3 shall be binding upon holders of any other interests
4 in the property regardless of whether such interests
5 are recorded or whether they were recorded prior or
6 subsequent to the easement, and shall remain in ef-
7 fect notwithstanding any foreclosure or other asser-
8 tion of such interests.

9 “(4) CONTENTS OF EASEMENTS.—A hazardous
10 substance easement shall contain, at a minimum—

11 “(A) a legal description of the property af-
12 fected;

13 “(B) the name or names of any current
14 owner or owners of the property as reflected in
15 public land records;

16 “(C) a description of the release or threat-
17 ened release; and

18 “(D) a statement as to the nature of the
19 restriction, limitation, or control created by the
20 easement.

21 “(5) RECORDING AND FILING OF EASEMENT.—
22 Whenever the President acquires a hazardous sub-
23 stance easement or assigns a hazardous substance
24 easement to another party, the President shall
25 record the easement in the public land records for

1 the jurisdiction in which the affected property is lo-
2 cated. If the State has not by law designated an of-
3 fice for the recording of interests in real property or
4 claims or rights burdening real property, the ease-
5 ment shall be filed in the office of the clerk of the
6 United States district court for the district in which
7 the affected property is located and the registry.

8 “(6) METHODS OF ACQUIRING EASEMENTS.—

9 The President may acquire a hazardous substance
10 easement by purchase or other agreement, by con-
11 demnation, or by any other means permitted by law.
12 Compensation for such easement shall be at fair
13 market value, or for other consideration as agreed to
14 by the parties, for the interest acquired.

15 “(7) ASSIGNMENT OF EASEMENTS TO PARTIES

16 OTHER THAN THE PRESIDENT.—

17 “(A) AUTHORITY TO ASSIGN.—The Presi-

18 dent may, where appropriate and with the con-
19 sent of the State or other governmental entity,
20 assign an easement acquired under this sub-
21 section to a State or other governmental entity
22 that has the capability of effectively enforcing
23 the easement over the period of time necessary
24 to achieve the purposes of the easement. In the
25 case of any assignment, the easement shall also

1 be fully enforceable by the assignee. Any assign-
2 ment of such an easement by the President may
3 be made by following the same procedures as
4 are used for the transfer of an interest in real
5 property to a State under subsection (j).

6 “(B) EASEMENTS HELD BY OTHER PER-
7 SONS.—

8 “(i) DESIGNATION AS HAZARDOUS
9 SUBSTANCE EASEMENTS.—Subject to
10 clause (ii), in a case in which an institu-
11 tional control is a component of a remedy
12 selected under section 121 at a facility list-
13 ed on the National Priorities List, the
14 owner of property and the potential holder
15 of a restrictive easement may expressly
16 designate, in writing, any interest in prop-
17 erty as a hazardous substance easement
18 within the meaning of this paragraph.

19 “(ii) CONDITIONS.—An interest in
20 property may be designated as a hazardous
21 substance easement under clause (i) if
22 such interest is granted to a State, an In-
23 dian Tribe, or another governmental entity
24 or other person for the purpose of restrict-
25 ing or limiting the use of land, water, or

1 other resources in order to prevent expo-
2 sure to, reduce the likelihood of, or other-
3 wise respond to a release or threatened re-
4 lease of a hazardous substance, pollutant,
5 or contaminant from such a facility.

6 “(iii) EFFECT OF DESIGNATION.—

7 When properly recorded or filed under
8 paragraph (5), a hazardous substance
9 easement designated under clause (i) shall
10 create the same rights, have the same legal
11 effect, and be enforceable in the same
12 manner as a hazardous substance ease-
13 ment acquired by the President regardless
14 of whether the interest in property is oth-
15 erwise denominated as an easement, cov-
16 enant, or any other form of property right.

17 “(8) PUBLIC NOTICE.—Not later than 180 days

18 after the date of the enactment of this subsection,
19 the President shall issue regulations regarding the
20 procedures to be used for public notice of proposed
21 property use restrictions. Such regulations shall en-
22 sure that before acquiring a hazardous substance
23 easement, and before recording any notice of such
24 easement, the President will give notice and an op-
25 portunity to comment to the owner of the affected

1 property, all other persons with recorded interests in
2 the property, any lessees or other authorized occu-
3 pants of the property known to the President, the
4 State and any municipalities in which the property
5 is located, any relevant Community Advisory Group
6 established under section 117, the affected commu-
7 nity, and the general public.

8 “(9) TERMINATION OR MODIFICATION OF EASE-
9 MENTS.—An easement acquired under this sub-
10 section shall remain in force until the Administrator
11 approves a modification or termination and release
12 of the easement and, following such approval, the
13 holder of the easement executes and records such
14 modification or termination and release in accord-
15 ance with the terms of the easement. Such modifica-
16 tion or termination shall be recorded in the same
17 manner as the easement. A person may conduct ad-
18 ditional response actions at a facility to allow for un-
19 restricted use of the facility and may subsequently
20 request termination of the easement. Such a request
21 shall be granted by the holder of the easement and
22 approved by the President, in the discretion of the
23 holder and the President, if the holder and the
24 President determine that the easement is no longer

1 necessary to protect human health and the environ-
2 ment.

3 “(10) ENFORCEMENT.—

4 “(A) EFFECT OF VIOLATIONS.—Violation
5 of any restriction, limitation, or control imposed
6 under a hazardous substance easement shall
7 have the same effect as failure to comply with
8 an order issued under section 106 and relief
9 may be sought either in enforcement actions
10 under section 106(b)(1) or section 120(g), by
11 States under section 121(e)(2), or in citizens
12 suits under section 310. No citizens suit under
13 section 310 to enforce such a notice may be
14 commenced if the holder of the easement has
15 commenced and is diligently prosecuting an ac-
16 tion in court to enforce the easement.

17 “(B) ENFORCEMENT ACTIONS.—The
18 President may take appropriate enforcement ac-
19 tions to ensure compliance with the terms of
20 the easement whenever the President deter-
21 mines that the terms set forth in the easement
22 are being violated. If the easement is held by a
23 party other than the President and that party
24 has not taken appropriate enforcement actions,
25 the President may notify the party of the viola-

1 tion. If the party does not take appropriate en-
2 forcement actions within 30 days of such notifi-
3 cation, or sooner in the case of an imminent
4 hazard, the President may initiate such enforce-
5 ment actions.

6 “(C) SAVINGS CLAUSE.—Nothing in this
7 section shall limit rights or remedies available
8 under other laws.

9 “(11) APPLICABILITY OF OTHER PROVISIONS.—
10 Holding a hazardous substance easement shall not
11 in itself subject either the holder thereof or the
12 owner of the affected property to liability under sec-
13 tion 107. Any such easement acquired by the Presi-
14 dent shall not be subject to the requirements of sub-
15 section (j)(2) or section 120(h). Nothing in this sub-
16 section limits or modifies the authority of the Presi-
17 dent pursuant to subsection (j)(1).”.

18 **SEC. 403. RISK ASSESSMENT STANDARDS.**

19 Title I (42 U.S.C. 9601–9626) is amended by adding
20 at the end the following:

21 **“SEC. 132. RISK ASSESSMENT PRINCIPLES, GUIDELINES,**
22 **AND REVIEWS.**

23 “Risk assessments and characterizations conducted
24 under this Act shall—

1 “(1) provide objective assessments, estimates,
2 and characterizations which neither minimize nor ex-
3 aggerate the nature and magnitude of risks to
4 human health and the environment;

5 “(2) distinguish scientific findings from other
6 considerations;

7 “(3) be based on the best, relevant, and current
8 scientific and technical information, including (A)
9 available epidemiologic data, (B) available data on
10 bioavailability, (C) available or reasonably obtainable
11 site-specific information, and (D) all other relevant
12 information made available to the President; and

13 “(4) be based on an analysis of the weight of
14 scientific evidence that supports conclusions about a
15 problem’s potential risk to human health and the en-
16 vironment.”.

17 **TITLE V—GENERAL PROVISIONS**

18 **SEC. 501. TRUST FUND DEFINED.**

19 Section 101(11) (42 U.S.C. 9601(11)) is amended to
20 read as follows:

21 “(11) The term ‘Fund’ or ‘Trust Fund’ means the
22 Hazardous Substance Superfund established by section
23 9507 of the Internal Revenue Code of 1986.”.

1 **SEC. 502. INDIAN TRIBES.**

2 (a) TREATMENT GENERALLY.—Section 126(a) (42
3 U.S.C. 9626(a)) is amended—

4 (1) by striking “and section 105” and inserting
5 “, section 105”;

6 (2) by inserting before the period at the end the
7 following: “, section 117 (regarding public participa-
8 tion), and section 121 (regarding selection of reme-
9 dies)”; and

10 (3) by adding at the end the following: “In ap-
11 plying this subsection, any reference contained in a
12 section identified in the preceding sentence to a fa-
13 cility located in a State shall include a facility lo-
14 cated on lands within the jurisdiction of a Federal
15 Indian reservation under the jurisdiction of the
16 United States government.”.

17 (b) STUDY.—Section 126(c) (42 U.S.C. 9626(c)) is
18 amended to read as follows:

19 “(c) HEALTH IMPACTS.—

20 “(1) STUDY.—The President shall conduct a
21 study of the health impacts on Indian tribes of pol-
22 lutants, contaminants, and hazardous substances re-
23 leased from facilities that have been listed or pro-
24 posed for listing on the National Priorities List.

25 “(2) REPORT.—Not later than 2 years after the
26 date of the enactment of the Superfund Accelera-

1 tion, Fairness, and Efficiency Act, the President
2 shall transmit to Congress a report on the results of
3 the study conducted under this subsection.”.

4 **SEC. 503. GRANTS FOR TRAINING AND EDUCATION OF**
5 **WORKERS.**

6 Section 126(g) of the Superfund Amendments and
7 Reauthorization Act of 1986 (42 U.S.C. 9660a) is
8 amended—

9 (1) by inserting “from the Fund” after
10 “Grants” in each of paragraphs (1), (2), and (3);
11 and

12 (2) by adding at the end the following:

13 “(4) ALLOCATION OF AMOUNTS.—Of the
14 amounts made available under section 111 to
15 carry out this subsection in a fiscal year, at
16 least 20 percent shall be allocated to non-profit
17 organizations described in paragraph (3) for
18 training minority and other community-based
19 workers who are or may be directly engaged in
20 hazardous waste removal or containment or
21 emergency response actions.”.

22 **SEC. 504. STATE COST SHARE.**

23 Section 104(c)(3) (42 U.S.C. 9604(c)(3)) is amended
24 to read as follows:

1 “(3) STATE COST SHARE.—The President shall
2 not provide any remedial actions pursuant to this
3 section unless the State in which the release or
4 threatened release occurs has entered into a contract
5 or cooperative agreement with the President that
6 provides assurances, deemed adequate by the Presi-
7 dent, that the State will pay or assure payment, in
8 cash or through in-kind contribution, of 10 percent
9 of the cost of such remedial action (other than any
10 cost paid by the Fund under section 111(a)(1)) and
11 10 percent of the cost of operation and mainte-
12 nance.”.

13 **SEC. 505. STATE AND LOCAL REIMBURSEMENT FOR RE-**
14 **SPONSE ACTIONS.**

15 Section 123 (42 U.S.C. 9623) is amended to read as
16 follows:

17 **“SEC. 123. REIMBURSEMENT TO STATE AND LOCAL GOV-**
18 **ERNMENTS.**

19 “(a) APPLICATION.—Any State or general purpose
20 unit of local government for a political subdivision which
21 is affected by a release or threatened release at any facility
22 may apply to the President for reimbursement under this
23 section.

24 “(b) REIMBURSEMENT.—

1 “(1) EMERGENCY RESPONSE.—The President is
2 authorized to reimburse a State or general purpose
3 unit of local government for expenses incurred in
4 carrying out emergency response actions necessary
5 to prevent or mitigate injury to human health or the
6 environment associated with the release or threat-
7 ened release of any hazardous substance or pollutant
8 or contaminant. Such actions may include, where ap-
9 propriate, security fencing to limit access, response
10 to fires and explosions, and other activities which re-
11 quire immediate response at the State or local level.

12 “(2) STATE OR LOCAL FUNDS NOT SUP-
13 PLANTED.—Reimbursement under this section shall
14 not supplant State or local funds normally provided
15 for response.

16 “(c) AMOUNT.—

17 “(1) REIMBURSEMENT TO STATES AND GEN-
18 ERAL PURPOSE UNITS OF LOCAL GOVERNMENT.—
19 The amount of any reimbursement to a State or
20 general purpose unit of local government under sub-
21 section (b)(1) may not exceed \$25,000 for a single
22 response. The reimbursement under this section with
23 respect to a single facility shall be limited to the
24 State or general purpose unit of local government

1 having jurisdiction over the political subdivision in
2 which the facility is located.

3 “(2) LIMITATION.—The amounts allowed for
4 the State and general purpose units of local govern-
5 ment may not be combined for any single response
6 action.

7 “(d) PROCEDURE.—Reimbursements authorized pur-
8 suant to this section shall be in accordance with rules pro-
9 mulgated by the Administrator within 1 year after the
10 date of the enactment of the Recycle America’s Land Act
11 of 1999.”.

12 **SEC. 506. STATE ROLE AT FEDERAL FACILITIES.**

13 Section 120(g) (42 U.S.C. 9620(g)) is amended to
14 read as follows:

15 “(g) STATE ROLE AT FEDERAL FACILITIES.—

16 “(1) ENFORCEMENT AND DISPUTE RESOLU-
17 TION.—

18 “(A) IN GENERAL.—An interagency agree-
19 ment under this section between a State and
20 any department, agency, or instrumentality of
21 the United States shall be enforceable by the
22 State or the Federal department, agency, or in-
23 strumentality in the United States district court
24 for the district in which the facility is located.

25 The district court shall have the jurisdiction to

1 enforce compliance with any provision, stand-
2 ard, regulation, condition, requirement, order,
3 or final determination which has become effec-
4 tive under such agreement, and to impose any
5 appropriate civil penalty provided for any viola-
6 tion of the agreement, not to exceed \$25,000
7 per day.

8 “(B) NONCONCURRENCE BY STATE.—At a
9 Federal facility in a State to which the Presi-
10 dent’s authorities under subsection (e)(4) have
11 been transferred pursuant to a cooperative
12 agreement, if the State does not concur in the
13 remedy selection proposed by the Federal de-
14 partment, agency, or instrumentality that owns
15 or operates the facility, the parties shall enter
16 into dispute resolution as provided in the inter-
17 agency agreement. If there is no interagency
18 agreement, the State shall, not later than 120
19 days after the transfer of authorities under a
20 cooperative agreement, enter into an agreement
21 with the head of the department, agency, or in-
22 strumentality on a process for resolving dis-
23 putes regarding remedy selection for the facil-
24 ity. If a dispute is unresolved after using the
25 process under the interagency agreement or dis-

1 pute resolution agreement, the head of the Fed-
2 eral department, agency, or instrumentality
3 that owns the Federal facility and the Governor
4 of the State shall attempt to resolve such dis-
5 pute by consensus. If no agreement is reached
6 between the head of the Federal department,
7 agency, or instrumentality and the Governor,
8 the State may issue the final determination. In
9 order to compel implementation of the State’s
10 selected remedy, the State must bring a civil ac-
11 tion in the appropriate United States district
12 court. The district court shall have jurisdiction
13 as provided in subparagraph (A) to issue any
14 relief that may be necessary to implement the
15 remedial action, to impose appropriate civil pen-
16 alties not to exceed \$25,000 per day from the
17 date the selected remedy becomes final, and to
18 review any challenges to the State’s final deter-
19 mination consistent with the standards set forth
20 in section 113(j) of this Act.

21 “(2) LIMITATION.—Except as necessary to im-
22 plement the transfer of the Administrator’s authori-
23 ties to a State under a cooperative agreement, noth-
24 ing in this subsection shall be construed as altering,
25 modifying, or impairing in any manner, or author-

1 izing the unilateral modification of, any terms of any
2 agreement, permit, administrative or judicial order,
3 decree, or interagency agreement existing on the ef-
4 fective date of the Recycle America’s Land Act of
5 1999. Any other modifications or revisions of an
6 interagency agreement entered into under this sec-
7 tion shall require the consent of all parties to such
8 agreement, and absent such consent the agreement
9 shall remain unchanged.

10 “(3) EFFECT ON OTHER AUTHORITIES.—Noth-
11 ing in this subsection shall affect the exercise by a
12 State of any other authorities that may be applicable
13 to Federal facilities in the State.”.

14 **SEC. 507. FEDERAL COST STUDY.**

15 (a) IN GENERAL.—Within 18 months after the date
16 of enactment of this Act, the Congressional Budget Office
17 shall conduct, and submit to Congress the results of, a
18 study of the potential costs to the Federal Government
19 over the next 20 years from Federal liability for natural
20 resource damages under section 107 of the Comprehensive
21 Environmental Response, Compensation, and Liability Act
22 of 1980.

23 (b) METHODOLOGY.—In conducting the study, the
24 Congressional Budget Office shall review pleadings filed
25 by the Department of Justice on behalf of Federal natural

1 resource trustees seeking damages for restoration of nat-
 2 ural resources and shall apply the same statutory interpre-
 3 tations and methods of calculating damages employed by
 4 the United States, as plaintiff, in determining the poten-
 5 tial liability of the United States, as defendant, in actions
 6 seeking recovery for natural resource damages.

7 **SEC. 508. NO PREEMPTION OF STATE LAW CLAIMS.**

8 Section 302 (42 U.S.C. 9652) is amended by adding
 9 at the end the following:

10 “(e) NO PREEMPTION OF STATE LAW CLAIMS.—Sec-
 11 tion 107 shall not be construed to preempt any claims
 12 under State law for contribution to or recovery of costs
 13 of responding to releases or threatened releases of haz-
 14 ardous substances.”.

15 **TITLE VI—FUNDING**

16 **Subtitle A—Expenditures From the**
 17 **Hazardous Substance Superfund**

18 **SEC. 601. EXPENDITURES FROM THE HAZARDOUS SUB-**
 19 **STANCE SUPERFUND.**

20 (a) EXPENDITURES.—Section 111 (42 U.S.C. 9611)
 21 is amended—

22 (1) by redesignating subsections (f) and (g) as
 23 subsections (g) and (h), respectively; and

24 (2) by striking subsections (a), (b), (c), (d), and
 25 (e) and inserting the following:

1 “(a) EXPENDITURES FROM HAZARDOUS SUBSTANCE
2 SUPERFUND.—

3 “(1) SUBSECTION (b) EXPENDITURES.—The
4 following amounts of amounts appropriated to the
5 Hazardous Substance Superfund after January 1,
6 2000, pursuant to section 9507(b) of the Internal
7 Revenue Code of 1986, and of amounts credited
8 under section 9602(b) of such Code with respect to
9 those appropriated amounts shall be available for the
10 purposes specified in subsection (b):

11 “(A) For fiscal year 2000, \$300,000,000.

12 “(B) For fiscal year 2001, \$300,000,000.

13 “(C) For fiscal year 2002, \$300,000,000.

14 “(D) For fiscal year 2003, \$300,000,000.

15 “(E) For fiscal year 2004, \$300,000,000.

16 Such funds shall remain available until expended.

17 “(2) SUBSECTION (c) EXPENDITURES.—There
18 is authorized to be appropriated from the Hazardous
19 Substance Superfund established pursuant to section
20 9507(b) of the Internal Revenue Code of 1986 not
21 more than \$7,500,000,000 for the period beginning
22 October 1, 1999, and ending September 30, 2004,
23 for the purposes specified in subsection (c) of this
24 section.

1 “(b) PAYMENTS RELATED TO CERTAIN REDUC-
2 TIONS, LIMITATIONS, AND EXEMPTIONS.—

3 “(1) FUNDING OF EXEMPT PARTY FUND
4 SHARE.—The President may use amounts in the
5 Fund made available by subsection (a)(1) for fund-
6 ing the equitable share of liability attributable to ex-
7 empt parties under section 107(s) and the Fund
8 share under section 131(i).

9 “(2) LIMITATIONS.—

10 “(A) FUNDING.—Amounts made available
11 by subsection (a)(1) for the purposes of this
12 subsection shall not exceed the following:

13 “(i) For fiscal year 2000,
14 \$300,000,000.

15 “(ii) For fiscal year 2001,
16 \$300,000,000.

17 “(iii) For fiscal year 2002,
18 \$300,000,000.

19 “(iv) For fiscal year 2003,
20 \$300,000,000.

21 “(v) For fiscal year 2004,
22 \$300,000,000.

23 “(B) ELIGIBLE COSTS.—No funds made
24 available under paragraph (1) may be used for
25 payment of, or reimbursement for, any portion

1 of attorneys' fees that do not constitute nec-
2 essary costs of response consistent with section
3 107(a)(2)(B).

4 “(c) RESPONSE, REMOVAL, AND REMEDIATION.—
5 The President may use amounts in the Fund appropriated
6 under subsection (a)(2) for costs of response, removal, and
7 remediation (and administrative costs directly related to
8 such costs), including the following:

9 “(1) GOVERNMENT RESPONSE COSTS.—Pay-
10 ment of governmental response costs incurred pursu-
11 ant to section 104, including costs incurred pursuant
12 to the Intervention on the High Seas Act.

13 “(2) PRIVATE RESPONSE COST CLAIMS.—Pay-
14 ment of any claim for necessary response costs in-
15 curred by any other person as a result of carrying
16 out the national contingency plan established under
17 section 105, if such costs are approved under such
18 plan, are reasonable in amount based on open and
19 free competition or fair market value for similar
20 available goods and services, and are certified by the
21 responsible Federal official.

22 “(3) ACQUISITION COSTS UNDER SECTION
23 104(j).—The costs incurred by the President in ac-
24 quiring real estate or interests in real estate under
25 section 104(j) (relating to acquisition of property).

1 “(4) STATE AND LOCAL GOVERNMENT REIM-
2 BURSEMENT.—Reimbursement to States and local
3 governments under section 123; except that during
4 any fiscal year not more than 0.1 percent of the
5 total amount appropriated under subsection (a)(2)
6 may be used for such reimbursements.

7 “(5) CONTRACTS AND COOPERATIVE AGREE-
8 MENTS.—Payment for the implementation of any
9 contract or cooperative agreement under section
10 104(d).

11 “(6) NATURAL RESOURCE DAMAGE ASSESS-
12 MENTS.—The costs of assessing both short-term and
13 long-term injury to, destruction of, or loss of any
14 natural resources resulting from a release of a haz-
15 ardous substance.

16 “(7) NATURAL RESOURCE DAMAGES.—The
17 costs of Federal or State or Indian tribe efforts in
18 the restoration, rehabilitation, or replacement or ac-
19 quiring the equivalent of any natural resources in-
20 jured, destroyed, or lost as a result of a release of
21 a hazardous substance.

22 “(d) ADMINISTRATION, OVERSIGHT, RESEARCH, AND
23 OTHER COSTS.—The President may use amounts in the
24 Fund appropriated under subsection (a)(2) for the fol-

1 lowing costs (and administrative costs directly related to
2 such costs):

3 “(1) INVESTIGATION AND ENFORCEMENT.—The
4 costs of identifying, investigating, and taking en-
5 forcement action against releases of hazardous sub-
6 stances.

7 “(2) OVERHEAD.—

8 “(A) IN GENERAL.—The costs of providing
9 services, equipment, and other overhead related
10 to the purposes of this Act and section 311 of
11 the Federal Water Pollution Control Act and
12 needed to supplement equipment and services
13 available through contractors and other non-
14 Federal entities.

15 “(B) DAMAGE ASSESSMENT CAPABILITY.—
16 The costs of establishing and maintaining dam-
17 age assessment capability for any Federal agen-
18 cy involved in strike forces, emergency task
19 forces, or other response teams under the Na-
20 tional Contingency Plan.

21 “(3) EMPLOYEE SAFETY PROGRAMS.—The cost
22 of maintaining programs otherwise authorized by
23 this Act to protect the health and safety of employ-
24 ees involved in response to hazardous substance re-
25 leases.

1 “(4) GRANTS FOR TECHNICAL ASSISTANCE.—
2 The cost of grants under section 117(e) (relating to
3 public participation grants for technical assistance).

4 “(5) WORKER TRAINING AND EDUCATION
5 GRANTS.—The cost of grants under section 126(g)
6 of the Superfund Amendments and Reauthorization
7 Act of 1986 for training and education of workers
8 to the extent that such costs do not exceed
9 \$40,000,000 for each of fiscal years 2000, 2001,
10 2002, 2003, and 2004.

11 “(6) ATSDR ACTIVITIES.—Any costs incurred
12 in accordance with subsection (m) of this section (re-
13 lating to ATSDR) and section 104(i), including the
14 costs of epidemiologic and laboratory studies, health
15 assessments, and other activities authorized by sec-
16 tion 104(i).

17 “(7) EVALUATION COSTS UNDER PETITION
18 PROVISIONS OF SECTION 105(d).—Costs incurred by
19 the President in evaluation facilities pursuant to pe-
20 titions under section 105(d) (relating to petitions for
21 assessment of release).

22 “(8) CONTRACT COSTS UNDER SECTION
23 104(a)(1).—The costs of contracts or arrangements
24 entered into under section 104(a)(1) to oversee and
25 review the conduct of remedial investigations and

1 feasibility studies undertaken by persons other than
2 the President and the costs of appropriate Federal
3 and State oversight of remedial activities at National
4 Priorities List sites resulting from consent orders or
5 settlement agreements.

6 “(9) RESEARCH, DEVELOPMENT, AND DEM-
7 ONSTRATION COSTS UNDER SECTION 311.—The cost
8 of carrying out section 311 (relating to research, de-
9 velopment, and demonstration).

10 “(10) AWARDS UNDER SECTION 109.—The costs
11 of any awards granted under section 109(d) (relat-
12 ing to providing information concerning violations).

13 “(e) LIMITATIONS ON NATURAL RESOURCES
14 CLAIMS.—No money in the Fund may be used for the pay-
15 ment of any claim under subsection (c)(7) or (c)(8) of this
16 section where such expenses are associated with injury or
17 loss resulting from long-term exposure to ambient con-
18 centrations of air pollutants from multiple or diffuse
19 sources.

20 “(f) OTHER LIMITATIONS.—

21 “(1) LIMITATIONS ON PAYMENTS OF CLAIMS.—
22 Claims against or presented to the Fund shall not
23 be valid or paid in excess of the total unobligated
24 balance in the Fund at any one time. Such claims
25 become valid and are payable only when additional

1 money is collected, appropriated, or otherwise added
2 to the Fund. Should the total claims outstanding at
3 any time exceed the current balance of the Fund,
4 the President shall pay such claims, to the extent
5 authorized under this section, in full in the order in
6 which they were finally determined.

7 “(2) REMEDIAL ACTIONS AT FEDERALLY
8 OWNED FACILITIES.—No money in the Fund shall
9 be available for costs of remedial action, other than
10 costs specified in subsection (d), with respect to fed-
11 erally owned facilities; except that money in the
12 Fund shall be available for the provision of alter-
13 native water supplies (including the reimbursement
14 of costs incurred by a municipality) in any case in-
15 volving groundwater contamination outside the
16 boundaries of a federally owned facility in which the
17 federally owned facility is not the only potentially re-
18 sponsible party.

19 “(3) REMEDIAL ACTIONS AT FACILITIES NOT
20 LISTED ON NPL.—No money in the Fund shall be
21 available for response actions that are not removal
22 actions under section 101(23) with respect to any
23 facility that is not listed on the National Priorities
24 List.”.

25 (b) ADDITIONAL AMENDMENT.—

1 (1) SECTION 111.—Section 111 (42 U.S.C.
2 9611) is further amended by striking subsections (j)
3 and (n).

4 (2) SECTION 107.—Section 107 (42 U.S.C.
5 9607) is amended by striking subsection (k).

6 **SEC. 602. AUTHORIZATION OF APPROPRIATIONS FROM**
7 **GENERAL REVENUES.**

8 (a) AUTHORIZATION.—Section 111(p)(1) is amended
9 to read as follows:

10 “(1) IN GENERAL.—The following sums are au-
11 thorized to be appropriated, out of any money in the
12 Treasury not otherwise appropriated, to the Haz-
13 ardous Substance Superfund:

14 “(A) For fiscal year 2000, \$250,000,000.

15 “(B) For fiscal year 2001, \$250,000,000.

16 “(C) For fiscal year 2002, \$250,000,000.

17 “(D) For fiscal year 2003, \$250,000,000.

18 “(E) For fiscal year 2004, \$250,000,000.

19 In addition, there is authorized to be appropriated to
20 the Hazardous Substance Superfund for each fiscal
21 year an amount equal to so much of the aggregate
22 amount authorized to be appropriated under this
23 subsection as has not been appropriated before the
24 beginning of the fiscal year involved.”.

1 (b) REPEAL OF DUPLICATIVE AUTHORIZATION.—
2 Subsection (b) of section 517 of the Superfund Amend-
3 ments and Reauthorization Act of 1986 (26 U.S.C. 9507
4 note) is hereby repealed.

5 (c) CONFORMING AMENDMENT.—Section 9507(a)(2)
6 of the Internal Revenue Code of 1986 is amended by strik-
7 ing “section 517(b) of the Superfund Revenue Act of
8 1986” and inserting “section 111(p) of the Comprehensive
9 Environmental Response, Compensation, and Liability Act
10 of 1980 (42 U.S.C. 9611(p))”.

11 **Subtitle B—Extension of**
12 **Hazardous Substance Superfund**

13 **SEC. 611. EXTENSION OF HAZARDOUS SUBSTANCE SUPER-**
14 **FUND.**

15 (a) EXTENSION OF TAXES.—

16 (1) Paragraph (1) of section 59A(e) of the In-
17 ternal Revenue Code of 1986 is amended to read as
18 follows:

19 “(1) IN GENERAL.—The tax imposed by this
20 section shall apply to taxable years beginning after
21 December 31, 1999, and before January 1, 2004.”

22 (2) Paragraph (1) of section 4611(e) of such
23 Code is amended to read as follows:

24 “(1) IN GENERAL.—Except as provided in para-
25 graphs (2) and (3), the Hazardous Substance Super-

1 fund financing rate under this section shall apply
2 after December 31, 1999, and before January 1,
3 2004.”

4 (3) Paragraph (2) of section 4611(e) of such
5 Code is amended—

6 (A) by striking “1993” and inserting
7 “2000”;

8 (B) by striking “1994” each place it ap-
9 pears and inserting “2001”;

10 (C) by striking “1995” each place it ap-
11 pears and inserting “2002”; and

12 (D) by striking “\$3,500,000,000” each
13 place it appears and inserting
14 “\$1,800,000,000”.

15 (b) EXTENSION OF REPAYMENT DEADLINE FOR
16 SUPERFUND BORROWING.—Subparagraph (B) of section
17 9507(d)(3) of such Code is amended by striking “Decem-
18 ber 31, 1995” and inserting “December 31, 2002”.

19 (c) TRUST FUND PURPOSES.—Paragraph (1) of sec-
20 tion 9507(c) of such Code is amended by striking subpara-
21 graphs (A) and (B) and inserting the following new sub-
22 paragraphs:

23 “(A) to carry out the purposes specified in
24 subsections (b), (c), and (d) of section 111
25 CERCLA, or

1 “(B) hereafter authorized by a law which
2 does not authorize the expenditure out of the
3 Superfund for a general purpose not covered by
4 subparagraph (A).”

5 (d) COORDINATION WITH OTHER PROVISIONS.—
6 Paragraph (2) of section 9507(e) of such Code is amended
7 by striking “CERCLA” and all that follows through
8 “Acts)” and inserting “CERCLA, the Superfund Amend-
9 ments and Reauthorization Act of 1986, and Recycle
10 America’s Land Act of 1999 (or in any amendment made
11 by any of such Acts)”.

○