

106TH CONGRESS
1ST SESSION

H. R. 1750

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

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 1999

Mr. TOWNS (for himself, Mr. BORSKI, Mr. GEPHARDT, Mr. DINGELL, Mr. OBERSTAR, Ms. DEGETTE, Mr. REYES, Mr. RANGEL, Mr. LAFALCE, Mr. BROWN of California, Mr. CLYBURN, Ms. ROYBAL-ALLARD, Mr. KLINK, Mr. MENENDEZ, Mr. BROWN of Ohio, Mr. RAHALL, Mr. PALLONE, Mr. BLUMENAUER, Mr. GREEN of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. STRICKLAND, Ms. MILLENDER-McDONALD, Ms. ESHOO, Mr. MASCARA, Mr. WAXMAN, Mr. CLEMENT, Mr. MARKEY, Mrs. TAUSCHER, Mr. RUSH, Mr. DEFazio, Mr. HALL of Texas, Ms. BROWN of Florida, Ms. MCCARTHY of Missouri, Mr. LIPINSKI, Mr. GORDON, Mr. PASCRELL, Mr. DEUTSCH, Mr. CUMMINGS, Mr. WYNN, Mr. SHOWS, Mr. ENGEL, Mr. HOLDEN, Mr. BOUCHER, Mr. COSTELLO, Mr. STUPAK, Mr. NADLER, Mr. BARRETT of Wisconsin, Mr. BARCIA, Mr. LUTHER, Mr. FILNER, Mrs. CAPPS, Mr. SANDLIN, Mr. SAWYER, Mr. MCGOVERN, Mr. LAMPSON, Mr. BALDACCI, Mr. BAIRD, Mr. WISE, Ms. NORTON, Mr. CROWLEY, Mr. CLAY, Mr. HINCHEY, Mr. OWENS, Mr. DOYLE, Ms. JACKSON-LEE of Texas, Mr. McDERMOTT, Mr. KILDEE, Ms. RIVERS, Ms. DELAURO, Mr. HILLIARD, Mr. JEFFERSON, Mr. SERRANO, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, Ms. KILPATRICK, Mr. OLVER, Mr. KANJORSKI, Ms. CARSON, Mr. ACKERMAN, Mrs. MALONEY of New York, Mr. MEEKS of New York, Mr. COYNE, Mr. FATTAH, Mr. MATSUI, Mr. LEWIS of Georgia, Mrs. MEEK of Florida, Mr. VENTO, Mrs. LOWEY, Mr. ANDREWS, Ms. PELOSI, Mr. CARDIN, Mrs. CHRISTENSEN, Mr. BRADY of Pennsylvania, Mr. HOEFFEL, Mr. JACKSON of Illinois, Mr. DAVIS of Illinois, Mr. MARTINEZ, Ms. STABENOW, Mr. MALONEY of Connecticut, Mr. STARK, Mr. GUTIERREZ, Mr. GEORGE MILLER of California, Ms. KAPTUR, Mr. MEEHAN, Ms. VELÁZQUEZ, Ms. MCKINNEY, Mr. SISISKY, Mr. KENNEDY of Rhode Island, Ms. LEE, Mr. CAPUANO, Mr. EVANS, Ms. BERKLEY, Mr. LARSON, Ms. SANCHEZ, Mr. GONZALEZ, Mrs. THURMAN, Mr. FROST, Mr. ABERCROMBIE, Mr. ROTHMAN, Mr. UDALL of Colorado, Mr. LEVIN, Ms. DANNER, Mr. PASTOR, Mrs. NAPOLITANO, Mr. ROMERO-BARCELÓ, Mr. FARR of California, Mr. MORAN of Virginia, Mr. BOS-

WELL, Mr. ORTIZ, Mr. MOORE, Mr. VISCLOSKY, Mr. PAYNE, Mr. BECERRA, Mr. FORD, Mr. BERRY, Mr. BONIOR, Mr. BISHOP, Mr. HOLT, Mr. WEYGAND, Mrs. CLAYTON, Mr. HASTINGS of Florida, and Mr. HOYER) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Community Revitalization and Brownfield Cleanup Act
 6 of 1999”.

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL
 CLEANUP

- Sec. 101. Definitions.
- Sec. 102. Inventory and site assessment.
- Sec. 103. Grants for revolving loan programs.
- Sec. 104. Limitations on use of funds.
- Sec. 105. Reports.
- Sec. 106. Effect on other laws.
- Sec. 107. Regulations.

Sec. 108. Authorizations of appropriations.

TITLE II—INNOCENT LANDOWNER, PROSPECTIVE PURCHASER,
AND CONTIGUOUS PROPERTY OWNER LIABILITY

Sec. 201. Innocent landowners.

Sec. 202. Limitations on liability for response costs for prospective purchasers.

Sec. 203. Contiguous or nearby properties.

TITLE III—SELLER LIABILITY RELIEF AND STATE VOLUNTARY
RESPONSE PROGRAMS

Sec. 301. State voluntary response programs.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Brownfields are parcels of land that contain
4 or contained abandoned or under-used commercial or
5 industrial facilities, the expansion or redevelopment
6 of which is complicated by the presence or potential
7 presence of hazardous substances, pollutants, or con-
8 taminants.

9 (2) Brownfields, which may number in the hun-
10 dreds of thousands nationwide, threaten the environ-
11 ment, devalue surrounding property, erode local tax
12 bases, and prevent job growth.

13 (3) Despite potentially great productive value,
14 prospective developers may avoid brownfields be-
15 cause of the uncertainty of cleanup and development
16 costs, which leads to construction on undeveloped so-
17 called greenfield sites, creating infrastructure prob-
18 lems and reducing the amount of open spaces.

19 (4) Cleanup and redevelopment of brownfields
20 would reduce environmental contamination, encour-

1 age job growth, and curb the development of green-
2 fields.

3 (5) State voluntary programs to address envi-
4 ronmental contamination, and addressing liability
5 concerns to encourage developers and current owners
6 to invest in brownfield sites, can be very effective in
7 promoting the cleanup and redevelopment of
8 brownfields.

9 **TITLE I—BROWNFIELD REMEDI-**
10 **ATION AND ENVIRONMENTAL**
11 **CLEANUP**

12 **SEC. 101. DEFINITIONS.**

13 In this title:

14 (1) ADMINISTRATOR.—The term “Adminis-
15 trator” means the Administrator of the Environ-
16 mental Protection Agency.

17 (2) BROWNFIELD SITE.—The term “brownfield
18 site” means a parcel of land that contains or con-
19 tained abandoned or under-used commercial or in-
20 dustrial facilities, the expansion or redevelopment of
21 which may be complicated by the presence or poten-
22 tial presence of hazardous substances, pollutants, or
23 contaminants.

24 (3) ENVIRONMENT.—The term “environment”
25 has the meaning given the term in section 101 of the

1 Comprehensive Environmental Response, Compensa-
2 tion, and Liability Act of 1980 (42 U.S.C. 9601).

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

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

9 (6) HAZARDOUS SUBSTANCE.—The term “haz-
10 arduous substance” has the meaning given the term
11 in section 101 of the Comprehensive Environmental
12 Response, Compensation, and Liability Act of 1980
13 (42 U.S.C. 9601).

14 (7) INDIAN TRIBE.—The term “Indian tribe”
15 has the meaning given the term in section 101 of the
16 Comprehensive Environmental Response, Compensa-
17 tion, and Liability Act of 1980 (42 U.S.C. 9601).

18 (8) LOCAL GOVERNMENT.—The term “local
19 government” means any city, county, town, town-
20 ship, parish, village, regional council, or other gen-
21 eral purpose political subdivision of a State; any In-
22 dian tribe; Guam, the Northern Mariana Islands, the
23 Virgin Islands, American Samoa, the District of Co-
24 lumbia, and the Trust Territory of the Pacific Is-
25 lands, or any general purpose political subdivision

1 thereof; any redevelopment agency that is chartered
2 or otherwise sanctioned by a State or other unit of
3 local government; or any combination of local gov-
4 ernments.

5 (9) PERSON.—The term “person” has the
6 meaning given the term in section 101 of the Com-
7 prehensive Environmental Response, Compensation,
8 and Liability Act of 1980 (42 U.S.C. 9601).

9 (10) POLLUTANT OR CONTAMINANT.—The term
10 “pollutant or contaminant” has the meaning given
11 the term in section 101 of the Comprehensive Envi-
12 ronmental Response, Compensation, and Liability
13 Act of 1980 (42 U.S.C. 9601).

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

18 (12) RESPONSE ACTION.—The term “response
19 action” has the meaning given the term “response”
20 in section 101 of the Comprehensive Environmental
21 Response, Compensation, and Liability Act of 1980
22 (42 U.S.C. 9601).

23 (13) SITE ASSESSMENT.—

24 (A) IN GENERAL.—The term “site assess-
25 ment” means an investigation that determines

1 the nature and extent of a release or potential
2 release of a hazardous substance or pollutant or
3 contaminant at a brownfield site and meets the
4 requirements of subparagraph (B).

5 (B) INVESTIGATION.—For the purposes of
6 this paragraph, an investigation that meets the
7 requirements of this subparagraph—

8 (i) shall include—

9 (I) an onsite evaluation; and

10 (II) if necessary, sufficient test-
11 ing, sampling, and other field-data-
12 gathering activities to accurately de-
13 termine whether the brownfield site is
14 contaminated and whether threats to
15 human health and the environment
16 are posed by the release of hazardous
17 substances, pollutants, or contami-
18 nants at the brownfield site; and

19 (ii) may include—

20 (I) review of such information re-
21 garding the brownfield site and pre-
22 vious uses as is available at the time
23 of the review;

24 (II) an offsite evaluation, if ap-
25 propriate; and

1 (III) a marketing analysis.

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

6 **SEC. 102. INVENTORY AND SITE ASSESSMENT.**

7 (a) IN GENERAL.—The Administrator shall establish
8 a program to award grants to local governments to inven-
9 tory brownfield sites, which may include associated rivers,
10 streams, or lakes or mine-scarred land, and to conduct site
11 assessments of such brownfield sites.

12 (b) SCOPE OF PROGRAM.—

13 (1) GRANT AWARDS.—To carry out subsection
14 (a), the Administrator may, on approval of an appli-
15 cation, provide financial assistance to a local govern-
16 ment.

17 (2) GRANT APPLICATION PROCEDURE.—The
18 Administrator shall establish a grant application
19 procedure for this section. The Administrator may
20 include in such procedure requirements of the Na-
21 tional Contingency Plan, to the extent that those re-
22 quirements are relevant and appropriate to the pro-
23 gram under this section.

24 (3) APPROVAL OF APPLICATION.—

1 (A) IN GENERAL.—In making a decision
2 whether to approve an application under this
3 subsection, the Administrator shall—

4 (i) consider the need of the local gov-
5 ernment for financial assistance to carry
6 out inventories and site assessments under
7 this section;

8 (ii) consider the ability of the appli-
9 cant to carry out inventories and site as-
10 sessments under this section;

11 (iii) consider the ability of the appli-
12 cant to manage a grant; and

13 (iv) consider such other factors as the
14 Administrator considers relevant to carry
15 out this section.

16 (B) GRANT CONDITIONS.—As a condition
17 of awarding a grant under this section, the
18 Administrator—

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

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

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

3 (4) GRANT AMOUNT.—The amount of a grant
4 awarded to any local government under this section
5 for inventory and site assessment of one or more
6 brownfield sites shall not exceed \$500,000.

7 (5) TERMINATION OF GRANTS.—If the Admin-
8 istrator determines that a local government that re-
9 ceives a grant under this section is in violation of a
10 condition of a grant, the Administrator may termi-
11 nate the grant made to the local government and re-
12 quire full or partial repayment of the grant.

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

22 (c) TRAINING AND TECHNICAL ASSISTANCE.—The
23 Administrator may provide training and technical assist-
24 ance to individuals and organizations, as appropriate, to

1 inventory brownfield sites and conduct site assessments or
2 cleanup of brownfield sites.

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

4 (a) IN GENERAL.—

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

9 (2) LOANS.—The loans may be provided by the
10 local government to finance cleanups of eligible
11 brownfield sites by the local government, or by an
12 owner or developer of an eligible brownfield site (in-
13 cluding a local government).

14 (b) SCOPE OF PROGRAM.—

15 (1) IN GENERAL.—

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

20 (B) USE OF GRANT.—The grant shall be
21 used by the local government to capitalize a re-
22 volving loan fund to be used for cleanup of one
23 or more brownfield sites, which may include as-
24 sociated rivers, streams, or lakes or mine-
25 scarred land.

1 (C) GRANT APPLICATION PROCEDURE.—

2 The Administrator shall establish a grant appli-
3 cation procedure for this section. The Adminis-
4 trator may include in such procedure require-
5 ments of the National Contingency Plan, to the
6 extent that those requirements are relevant and
7 appropriate to the program under this section.

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

11 (A) the need of the local government for fi-
12 nancial assistance to clean up brownfield sites,
13 taking into consideration the financial resources
14 available to the local government;

15 (B) the ability of the local government to
16 ensure that the applicants repay the loans in a
17 timely manner;

18 (C) the extent to which the cleanup of
19 brownfield sites would reduce health and envi-
20 ronmental risks caused by the release of haz-
21 ardous substances, pollutants, or contaminants
22 at, or from, brownfield sites;

23 (D) the demonstrable potential of
24 brownfield sites for stimulating economic devel-

1 opment or creation of recreational areas on
2 completion of cleanup;

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

5 (F) the demonstrated experience of the
6 local government regarding brownfield sites and
7 the reuse of contaminated land, including
8 whether the local government has received any
9 grant under the Comprehensive Environmental
10 Response, Compensation, and Liability Act of
11 1980 (42 U.S.C. 9601 et seq.) to assess
12 brownfield sites, except that applicants who
13 have not previously received such a grant may
14 be considered for awards under this section;

15 (G) the experience of administering any
16 loan programs by the entity, including the loan
17 repayment rates; and

18 (H) such other factors as the Adminis-
19 trator considers relevant to carry out this sec-
20 tion.

21 (3) GRANT AMOUNT.—The amount of a grant
22 made to an applicant under this section shall not ex-
23 ceed \$500,000. The Administrator may make an
24 award under this section in an amount up to
25 \$1,000,000 if the Administrator determines that

1 such action would achieve particularly significant en-
2 vironmental and economic benefits.

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

7 (1) COMPLIANCE WITH LAW.—The local govern-
8 ment will include in all loan agreements a require-
9 ment that the loan recipient shall comply with all
10 laws applicable to the cleanup, and shall ensure that
11 the cleanup protects human health and the environ-
12 ment.

13 (2) REPAYMENT.—The local government will
14 require repayment of the loan consistent with this
15 section.

16 (3) USE OF FUNDS.—The local government will
17 use the funds, including repayment of principal, in-
18 terest, and fees, solely for purposes of establishing
19 and capitalizing a loan program in accordance with
20 this title and of cleaning up brownfield sites.

21 (4) REPAYMENT OF FUNDS.—The local govern-
22 ment will require in each loan agreement, and take
23 necessary steps to ensure, that the loan recipient will
24 use the loan funds solely for cleaning up brownfield
25 sites, and will require the return of any excess funds

1 immediately on a determination by the appropriate
2 local official that the cleanup has been completed.

3 (5) NONTRANSFERABILITY.—A local govern-
4 ment receiving a grant under this section may not
5 transfer funds received under the grant to any other
6 local government unless the Administrator agrees to
7 the transfer in writing.

8 (6) NOTICE TO STATE.—The local government
9 will notify the State in which the local government
10 is located of the receipt of the grant and of the iden-
11 tity of recipients of loans made under the revolving
12 loan fund.

13 (d) AUDITS.—

14 (1) IN GENERAL.—The Inspector General of
15 the Environmental Protection Agency shall audit a
16 portion of the grants awarded under this section to
17 ensure that all funds provided under those grants
18 are used for the purposes set forth in this section.

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

22 (e) TERMINATION OF GRANTS.—If the Administrator
23 determines that a local government that receives a grant
24 under this section is in violation of a condition of a grant,
25 the Administrator may terminate the grant made to the

1 local government and require full or partial repayment of
2 the grant.

3 (f) **AUTHORITY TO AWARD GRANTS TO STATES.**—

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

12 **SEC. 104. LIMITATIONS ON USE OF FUNDS.**

13 (a) **EXCLUDED FACILITIES.**—

14 (1) **FACILITIES.**—A grant for site inventory and
15 assessment under section 102 or to capitalize a re-
16 volving loan fund under section 103 may not be used
17 for any activity involving—

18 (A) a facility or portion of a facility that
19 is the subject of an order or other action under
20 section 106(a) of the Comprehensive Environ-
21 mental Response, Compensation, and Liability
22 Act of 1980 (42 U.S.C. 9606(a)), or a response
23 action under section 104 of the Comprehensive
24 Environmental Response, Compensation, and
25 Liability Act of 1980 (42 U.S.C. 9604);

1 (B) a facility included, or proposed for in-
2 clusion, on the National Priorities List main-
3 tained by the President under the Comprehen-
4 sive Environmental Response, Compensation,
5 and Liability Act of 1980 (42 U.S.C. 9601 et
6 seq.);

7 (C) an NPL-caliber facility, as defined in
8 paragraph (2);

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

15 (E) any land disposal unit with respect to
16 which a closure notification under subtitle C of
17 the Solid Waste Disposal Act (42 U.S.C. 6921
18 et seq.) has been submitted and closure require-
19 ments have been specified in a closure plan or
20 permit;

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

1 (G) a facility with respect to which an ad-
2 ministrative or judicial order or decree requir-
3 ing cleanup has been issued or entered into by
4 the President under—

5 (i) the Comprehensive Environmental
6 Response, Compensation, and Liability Act
7 of 1980 (42 U.S.C. 9601 et seq.);

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

10 (iii) the Federal Water Pollution Con-
11 trol Act (33 U.S.C. 1251 et seq.);

12 (iv) the Toxic Substances Control Act
13 (15 U.S.C. 2601 et seq.); or

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

16 (H) the portion of a facility at which as-
17 sistance for response activities may be obtained
18 under subtitle I of the Solid Waste Disposal Act
19 (42 U.S.C. 6991 et seq.) from the Leaking Un-
20 derground Storage Tank Trust Fund estab-
21 lished by section 9508 of the Internal Revenue
22 Code of 1986; or

23 (I) a facility owned or operated by a de-
24 partment, agency, or instrumentality of the

1 United States, except for land held in trust by
2 the United States for an Indian tribe.

3 (2) DEFINITION.—For purposes of paragraph
4 (1), the term “NPL-caliber facility” means a facility
5 for which the President, in consultation with the
6 State concerned, has prepared or is preparing a haz-
7 ardous ranking system scoring package or that satis-
8 fies such other definition as the Administrator may
9 promulgate by regulation. The term does not include
10 a facility for which the President—

11 (A) has obtained a score under the haz-
12 ardous ranking system; and

13 (B) based on that score, has made a deter-
14 mination not to list on the National Priorities
15 List.

16 (3) EXCEPTION.—Notwithstanding paragraph
17 (1), the President may, on a facility-by-facility basis,
18 allow a grant under section 102 to be used for an
19 activity involving any facility listed in subparagraph
20 (D), (E), (F), (G)(ii), (G)(iii), (G)(iv), (G)(v), (H),
21 or (I) of paragraph (1) if the President finds that
22 such use would promote economic development while
23 still protecting human health and the environment.
24 In the case of a facility listed in subparagraph (I),
25 the President may use the authority in the preceding

1 sentence only if the facility is not a facility described
2 in subparagraph (A), (B), (C), or (G)(i).

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

7 (c) RESPONSIBILITY FOR CLEANUP ACTION.—Funds
8 made available under this title may not be used to relieve
9 a local government of the commitment or responsibilities
10 of the local government under State law to assist or carry
11 out cleanup actions at brownfield sites.

12 **SEC. 105. REPORTS.**

13 (a) IN GENERAL.—Not later than one year after the
14 date of enactment of this Act, and not later than January
15 31 of each of the 3 calendar years thereafter, the Adminis-
16 trator shall prepare and submit a report describing the
17 results of each program established under this title to—

18 (1) the Committees on Commerce and on
19 Transportation and Infrastructure of the House of
20 Representatives; and

21 (2) the Committee on Environment and Public
22 Works of the Senate.

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

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

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

6 (3) the allocation of assistance under sections
7 102 and 103 among the local governments.

8 **SEC. 106. EFFECT ON OTHER LAWS.**

9 Nothing in this title changes, modifies, or otherwise
10 affects the liability of any person or the obligations im-
11 posed or authorities provided under any other law or regu-
12 lation, including—

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

16 (2) the Solid Waste Disposal Act (42 U.S.C.
17 6901 et seq.);

18 (3) the Federal Water Pollution Control Act
19 (33 U.S.C. 1251 et seq.);

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

22 (5) the Safe Drinking Water Act (42 U.S.C.
23 300f et seq.).

1 **SEC. 107. REGULATIONS.**

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

4 (b) PROCEDURES AND STANDARDS.—The regulations
5 shall include such procedures and standards as the Admin-
6 istrator considers necessary, including procedures and
7 standards for evaluating an application for a grant sub-
8 mitted under this title or for a loan under a revolving loan
9 program for which a grant is provided under section 103.

10 **SEC. 108. AUTHORIZATIONS OF APPROPRIATIONS.**

11 (a) SITE ASSESSMENT PROGRAM.—To carry out sec-
12 tion 102, there is authorized to be appropriated to the Ad-
13 ministrator \$35,000,000 for each of fiscal years 2000
14 through 2004.

15 (b) GRANTS FOR REVOLVING LOAN PROGRAMS.—To
16 carry out section 103, there is authorized to be appro-
17 priated to the Administrator \$65,000,000 for each of fis-
18 cal years 2000 through 2004.

19 (c) STATE VOLUNTARY RESPONSE PROGRAMS.—For
20 each of the first 5 fiscal years commencing after the date
21 of enactment of this Act, \$15,000,000 is authorized to be
22 appropriated to the Administrator for assistance to States
23 to develop or enhance State voluntary response programs
24 pursuant to title III.

1 (d) AVAILABILITY OF FUNDS.—Amounts appro-
2 priated under this section shall remain available until ex-
3 pended.

4 **TITLE II—INNOCENT LAND-**
5 **OWNER, PROSPECTIVE PUR-**
6 **CHASER, AND CONTIGUOUS**
7 **PROPERTY OWNER LIABILITY**

8 **SEC. 201. INNOCENT LANDOWNERS.**

9 (a) ENVIRONMENTAL SITE ASSESSMENT.—Section
10 107 of the Comprehensive Environmental Response, Com-
11 pensation, and Liability Act of 1980 (42 U.S.C. 9607) is
12 amended by adding at the end the following new sub-
13 section:

14 “(o) INNOCENT LANDOWNERS.—

15 “(1) CONDUCT OF ENVIRONMENTAL ASSESS-
16 MENT.—A person who has acquired real property
17 after April 15, 1994, shall have made all appropriate
18 inquiry within the meaning of subparagraph (B) of
19 section 101(35) only if such person establishes that,
20 within 180 days prior to the time of acquisition, an
21 environmental site assessment of the real property
22 was conducted which meets the requirements of
23 paragraph (2).

24 “(2) DEFINITION OF ENVIRONMENTAL SITE AS-
25 SESSMENT.—For purposes of this subsection, the

1 term ‘environmental site assessment’ means an as-
2 sessment conducted in accordance with the stand-
3 ards set forth in the American Society for Testing
4 and Materials (ASTM) Standard E1527–94, titled
5 ‘Standard Practice for Environmental Site Assess-
6 ments: Phase I Environmental Site Assessment
7 Process’ or with alternative standards issued by rule
8 by the Administrator or promulgated or developed
9 by others and designated by rule by the Adminis-
10 trator. Before issuing or designating alternative
11 standards, the Administrator shall first conduct a
12 study of commercial and industrial practices con-
13 cerning environmental site assessments in the trans-
14 fer of real property in the United States. Any such
15 standards issued or designated by the Administrator
16 shall also be deemed to constitute commercially rea-
17 sonable and generally accepted standards and prac-
18 tices for purposes of this title. In issuing or desig-
19 nating any such standards, the Administrator shall
20 consider requirements governing each of the fol-
21 lowing:

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

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

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

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

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

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

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

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

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

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

5 If a copy or reasonable facsimile of a record is pub-
6 licly available by request (within reasonable time and
7 cost constraints) and the record is practically review-
8 able, the record shall be considered to be reasonably
9 ascertainable for purposes of this paragraph.

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

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

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

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

9 (b) EXCEPTION.—Section 107(b)(3)(a) of the Com-
10 prehensive Environmental Response, Compensation, and
11 Liability Act of 1980 (42 U.S.C. 9606(b)(3)(a)) is amend-
12 ed by inserting “(except as provided in subsection (o))”
13 after “exercised due care”.

14 (c) CONFORMING AMENDMENTS.—Section 101(35)
15 of the Comprehensive Environmental Response, Com-
16 pensation, and Liability Act of 1980 (42 U.S.C. 9601(35))
17 is amended—

18 (1) in subparagraph (A), by striking “, unless
19 the real property” and inserting “. A defendant
20 owner or operator of a facility may only assert under
21 section 107(b)(3) that an act or omission of a pre-
22 vious owner or operator of that facility did not occur
23 in connection with a contractual relationship if the
24 real property”; and

25 (2) in subparagraph (B)—

1 (A) by inserting “(as specified in section
2 107(o))” after “all appropriate inquiry”; and

3 (B) by striking “For purposes of the pre-
4 ceding sentence” and inserting “For purposes
5 of the application of the preceding sentence to
6 acquisitions occurring on or before April 15,
7 1994,”.

8 **SEC. 202. LIMITATIONS ON LIABILITY FOR RESPONSE**
9 **COSTS FOR PROSPECTIVE PURCHASERS.**

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

15 “(p) **LIMITATIONS ON LIABILITY FOR PROSPECTIVE**
16 **PURCHASERS.**—To the extent the liability of a person,
17 with respect to a release or the threat of a release from
18 a facility, is based solely on subsection (a)(1), the person
19 shall not be liable under this Act if the person—

20 “(1) is a bona fide prospective purchaser of the
21 facility or an operator of a facility owned by such a
22 bona fide prospective purchaser;

23 “(2) does not impede the performance of any
24 response action or natural resource restoration at a
25 facility;

1 “(3) provided all legally required notices with
2 respect to the discovery or release of any hazardous
3 substances at the facility;

4 “(4) exercised appropriate care with respect to
5 hazardous substances found at the facility by taking
6 reasonable steps to—

7 “(A) stop ongoing releases;

8 “(B) prevent threatened future releases of
9 hazardous substances; and

10 “(C) prevent or limit human or natural re-
11 source exposure to hazardous substances pre-
12 viously released into the environment;

13 “(5) provides full cooperation, assistance, and
14 facility access to such persons as are authorized to
15 conduct response actions at the facility, including
16 the cooperation and access necessary for the installa-
17 tion, integrity, operation, and maintenance of any
18 complete or partial response action at the facility;
19 and

20 “(6) is not liable, or is not affiliated with any
21 other person that is liable, for response costs at the
22 facility, through any direct or indirect familial rela-
23 tionship, or any contractual, corporate, or financial
24 relationship other than that created by the instru-

1 ments by which title to the facility is conveyed or fi-
2 nanced.”.

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

8 “(q) PROSPECTIVE PURCHASER AND WINDFALL
9 LIEN.—

10 “(1) IN GENERAL.—In any case in which the
11 United States has incurred unrecovered costs of re-
12 sponse not inconsistent with the National Contingency
13 Plan at a facility for which an owner of the
14 facility is not liable by reason of subsection (p), and
15 the conditions described in paragraph (3) are met,
16 the United States shall have a lien on the facility,
17 or may obtain, from the appropriate responsible
18 party or parties, a lien on other property or other
19 assurances of payment satisfactory to the Adminis-
20 trator, for the unrecovered costs.

21 “(2) AMOUNT; DURATION.—The lien—

22 “(A) shall be for an amount not to exceed
23 the lesser of the amount of the United States
24 costs of response not inconsistent with the Na-
25 tional Contingency Plan or the amount of the

1 increase in fair market value of the property at-
2 tributable to the response action at the time of
3 a subsequent sale or other disposition of the
4 property;

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

8 “(C) shall be subject to the requirements
9 for notice and validity specified in subsection
10 (1)(3); and

11 “(D) shall continue until the earlier of sat-
12 isfaction of the lien or recovery of all United
13 States costs of response not inconsistent with
14 the National Contingency Plan incurred at the
15 facility, notwithstanding any statute of limita-
16 tions provided in section 113.

17 Nothing in this subsection prevents the United
18 States and a purchaser from entering into a settle-
19 ment at any time that extinguishes a lien under this
20 subsection.

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

23 “(A) RESPONSE ACTION.—An action for
24 which the United States has incurred unre-
25 covered costs of response not inconsistent with

1 the National Contingency Plan is carried out at
2 the facility.

3 “(B) FAIR MARKET VALUE.—The response
4 action increases the fair market value of the fa-
5 cility.”.

6 (c) DEFINITION OF BONA FIDE PROSPECTIVE PUR-
7 CHASER.—Section 101 of the Comprehensive Environ-
8 mental Response, Compensation, and Liability Act of
9 1980 (42 U.S.C. 9601) is amended by adding at the end
10 the following:

11 “(39) BONA FIDE PROSPECTIVE PURCHASER.—
12 The term ‘bona fide prospective purchaser’ means a
13 person who acquires ownership of a facility after the
14 date of enactment of the Community Revitalization
15 and Brownfield Cleanup Act of 1999 who can estab-
16 lish each of the following by a preponderance of the
17 evidence:

18 “(A) DISPOSAL PRIOR TO ACQUISITION.—
19 All active disposal of hazardous substances at
20 the facility occurred before the person acquired
21 the facility.

22 “(B) INQUIRY.—

23 “(i) IN GENERAL.—The person made
24 all appropriate inquiry as provided in sec-
25 tion 101(35)(B) into the previous owner-

1 ship and uses of the facility in accordance
2 with generally accepted good commercial
3 and customary standards and practices.

4 “(ii) STANDARDS.—The ASTM stand-
5 ards described in section 107(o)(2) or the
6 alternative standards issued or designated
7 by the President pursuant to that section
8 shall satisfy the requirements of this sub-
9 paragraph.

10 “(iii) RESIDENTIAL PROPERTY.—In
11 the case of property in residential or other
12 similar use at the time of purchase by a
13 nongovernmental or noncommercial entity,
14 a site inspection and title search that re-
15 veal no basis for further investigation shall
16 satisfy the requirements of this subpara-
17 graph.”.

18 “(C) NOTICES.—The person provided all
19 legally required notices with respect to the dis-
20 covery or release of any hazardous substances
21 at the facility.

22 “(D) CARE.—The person exercised appro-
23 priate care with respect to hazardous sub-
24 stances found at the facility by taking reason-
25 able steps to—

1 “(i) stop ongoing releases;

2 “(ii) prevent threatened future re-
3 leases of hazardous substances; and

4 “(iii) prevent or limit human or nat-
5 ural resource exposure to hazardous sub-
6 stances previously released into the envi-
7 ronment.

8 “(E) COOPERATION, ASSISTANCE, AND AC-
9 CESS.—The person provides full cooperation,
10 assistance, and facility access to such persons
11 as are authorized to conduct response actions at
12 the facility, including the cooperation and ac-
13 cess necessary for the installation, integrity, op-
14 eration, and maintenance of any complete or
15 partial response action at the facility.

16 “(F) RELATIONSHIP.—The person is not
17 potentially liable, or is not affiliated with any
18 other person that is potentially liable, for re-
19 sponse costs at the facility, through any direct
20 or indirect familial relationship, or any contrac-
21 tual, corporate, or financial relationship other
22 than that created by the instruments by which
23 title to the facility is conveyed or financed.”

1 **SEC. 203. CONTIGUOUS OR NEARBY PROPERTIES.**

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

6 “(r) CONTIGUOUS PROPERTIES.—(1) A person who
7 owns or operates real property, that is contiguous to or
8 otherwise similarly situated with respect to other real
9 property not owned or operated by that person, and that
10 is or may be contaminated by a release or threatened re-
11 lease of hazardous substances from such other real prop-
12 erty, shall not be considered to be an owner or operator
13 of a facility under subsection (a)(1) or (2) solely by reason
14 of such contamination, if such person establishes by a pre-
15 ponderance of the evidence that—

16 “(A) such person exercised appropriate care
17 with respect to those hazardous substances on or
18 under such person’s property by taking reasonable
19 steps to—

20 “(i) stop ongoing releases;

21 “(ii) prevent threatened future releases of
22 hazardous substances; and

23 “(iii) prevent or limit human, environ-
24 mental, or natural resource exposure to haz-
25 ardous substances previously released into the
26 environment;

1 “(B) such person did not cause, contribute to,
2 consent to, or exacerbate the release;

3 “(C) such person provided all legally required
4 notices with respect to the discovery of the release;

5 “(D) such person is not otherwise potentially
6 liable and is not affiliated with any other person
7 that is potentially liable for response costs at the fa-
8 cility, through any direct or indirect familial rela-
9 tionship, or any contractual, corporate, or financial
10 relationship other than that created by the instru-
11 ments by which title to the real property is conveyed
12 or financed;

13 “(E) at the time the person acquired the prop-
14 erty, the person conducted all appropriate inquiry
15 within the meaning of subparagraph (B) of section
16 101(35) and did not know and had no reason to
17 know of the presence of such contamination on the
18 property being acquired; and

19 “(F) such person provides full cooperation, as-
20 sistance, and access to such other persons as are au-
21 thorized to conduct response actions or natural re-
22 source restoration at the real property, including the
23 cooperation and access necessary for the installation,
24 integrity, operation, and maintenance of any com-

1 plete or partial response action or natural resource
2 restoration at the real property.

3 “(2) With respect to hazardous substances in ground-
4 water beneath such person’s property solely as a result
5 of subsurface migration in an aquifer from a source or
6 sources outside the property, appropriate care under para-
7 graph (1)(A) shall not require that such person either con-
8 duct groundwater investigations or install groundwater re-
9 mediation systems, except in accordance with the Environ-
10 mental Protection Agency’s May 24, 1995, “Policy To-
11 ward Owners of Property Containing Contaminated
12 Aquifers”.

13 “(3) Any person who at the time of acquisition of
14 real property had, or had reason to have had, the knowl-
15 edge specified in paragraph (1)(E) may nonetheless qual-
16 ify as a bona fide prospective purchaser under section
17 101(39) if such person otherwise would fall within that
18 definition.

19 “(4) Nothing in this subsection shall limit defenses
20 to liability that otherwise may be available to such persons
21 nor shall be construed to impose liability not otherwise im-
22 posed by section 107(a) on such persons.

23 “(5) The President may issue an assurance of no en-
24 forcement action under this Act to any such person and
25 may grant any such person protection against cost recov-

1 ery, and contribution actions pursuant to section
2 113(f)(2).”.

3 **TITLE III—SELLER LIABILITY**
4 **RELIEF AND STATE VOL-**
5 **UNTARY RESPONSE PRO-**
6 **GRAMS**

7 **SEC. 301. STATE VOLUNTARY RESPONSE PROGRAMS.**

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

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

13 “(a) **PURPOSES AND OBJECTIVES.**—The purposes
14 and objectives of this section are—

15 “(1) to significantly increase the pace of re-
16 sponse activities at contaminated sites by promoting
17 and encouraging the creation, development, and en-
18 hancement of State voluntary response programs;
19 and

20 “(2) to benefit the public health and welfare
21 and the environment by cleaning up and returning
22 contaminated sites to economically productive or
23 other beneficial uses.

24 “(b) **ASSISTANCE TO STATES.**—The Administrator
25 shall provide technical, financial, and other assistance to

1 States to establish and enhance voluntary response pro-
2 grams. The Administrator shall encourage the States to
3 develop risk sharing pools, indemnity pools, or insurance
4 mechanisms to provide financing for response actions
5 under their voluntary response programs.

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

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

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

18 “(d) LIMITATION ON FEDERAL AUTHORITY TO RE-
19 COVER COSTS.—(1) Except as provided in subsection (e),
20 if substantial and continuous voluntary response activities
21 are being conducted at a voluntary response action site
22 in compliance with a response action plan approved under
23 a State program qualified under subsection (i) or if re-
24 sponse activities conducted at such a site in compliance
25 with the plan have been certified by the State as complete,

1 then the Administrator may not bring a claim under sec-
2 tion 107(a) for response costs incurred with respect to a
3 release or substantial threat of release of a hazardous sub-
4 stance addressed by the response action plan unless one
5 or more of the following conditions is met:

6 “(A) The Administrator determines that the re-
7 lease or threat of release may present an imminent
8 and substantial endangerment to the public health
9 or welfare or the environment.

10 “(B) The State requests the Administrator to
11 take action.

12 “(C) Conditions at the site that were unknown
13 to the State at the time the response action plan
14 was approved by the State are discovered, and such
15 conditions indicate, as determined by the Adminis-
16 trator or the State, that the response action does not
17 protect human health or the environment.

18 “(D) The cleanup of the site under the response
19 action plan of the State program no longer protects
20 human health or the environment, as determined by
21 the Administrator or the State, because of a change
22 or a proposed change in the use of the site.

23 “(2) For purposes of this subsection, the term ‘vol-
24 untary response action site’ means a site subject to a re-

1 sponse action plan under a State program qualified under
2 subsection (i).

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

7 “(e) FACILITIES INELIGIBLE FOR LIMITATIONS.—

8 “(1) FACILITIES.—The limitations on Federal
9 authority provided under subsections (c) and (d) do
10 not apply to any of the following facilities:

11 (A) a facility or portion of a facility that
12 is the subject of an order or other action under
13 section 106(a) of this Act, or a response action
14 under section 104 of this Act;

15 “(B) A facility included, or proposed for
16 inclusion, on the National Priorities List main-
17 tained by the President under this Act.

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

20 “(D) A facility that is subject to corrective
21 action under section 3004(u) or 3008(h) of the
22 Solid Waste Disposal Act (42 U.S.C. 6924(u)
23 or 6928(h)) to which a corrective action permit
24 or order has been issued or modified to require
25 the implementation of corrective measures.

1 “(E) Any land disposal unit with respect
2 to which a closure notification under subtitle C
3 of the Solid Waste Disposal Act (42 U.S.C.
4 6921 et seq.) has been submitted and closure
5 requirements have been specified in a closure
6 plan or permit.

7 “(F) A facility at which there has been a
8 release of a polychlorinated biphenyl and that is
9 subject to the Toxic Substances Control Act (15
10 U.S.C. 2601 et seq.).

11 “(G) A facility with respect to which an
12 administrative or judicial order or decree re-
13 quiring cleanup has been issued or entered into
14 by the President under—

15 “(i) this Act;

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

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

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

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

24 “(H) The portion of a facility at which as-
25 sistance for response activities may be obtained

1 under subtitle I of the Solid Waste Disposal Act
2 (42 U.S.C. 6991 et seq.) from the Leaking Un-
3 derground Storage Tank Trust Fund estab-
4 lished by section 9508 of the Internal Revenue
5 Code of 1986.

6 “(I) A facility owned or operated by a de-
7 partment, agency, or instrumentality of the
8 United States, except for land held in trust by
9 the United States for an Indian tribe.

10 “(2) DEFINITION.—For purposes of paragraph
11 (1), the term ‘NPL-caliber facility’ means a facility
12 for which the President, in consultation with the
13 State concerned, has prepared or is preparing a haz-
14 ardous ranking system scoring package or that satis-
15 fies such other definition as the Administrator may
16 promulgate by regulation. The term does not include
17 a facility for which the President—

18 “(A) has obtained a score under the haz-
19 ardous ranking system; and

20 “(B) based on that score, has made a de-
21 termination not to list on the National Prior-
22 ities List.

23 “(3) EXCEPTION.—Notwithstanding paragraph
24 (1), the President may, on a facility-by-facility basis
25 and pursuant to an agreement with the State con-

1 cerned, apply the limitations on authority provided
2 under subsections (c) and (d) to any facility listed
3 in subparagraph (D), (E), (F), (G)(ii), (G)(iii),
4 (G)(iv), (G)(v), (H), or (I) of paragraph (1) if the
5 President finds that such use would promote eco-
6 nomic development while still protecting human
7 health and the environment. In the case of a facility
8 listed in subparagraph (I), the President may use
9 the authority in the preceding sentence only if the
10 facility is not a facility described in subparagraph
11 (A), (B), (C), or (G)(i).

12 “(f) EPA ASSISTANCE TO STATES FOR STATE VOL-
13 UNTARY RESPONSE PROGRAMS.—The Administrator shall
14 assist States to establish and administer State voluntary
15 response programs that—

16 “(1) provide for voluntary response actions that
17 ensure adequate site assessment and protect human
18 health and the environment;

19 “(2) provide opportunities for technical assist-
20 ance with respect to voluntary response actions;

21 “(3) provide meaningful opportunities for public
22 participation on issues that affect the community,
23 which shall include prior notice and opportunity for
24 comment in the selection or significant modification
25 of response actions and which may include involve-

1 ment of State and local health officials during site
2 assessment;

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

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

7 “(A) to ensure that voluntary response ac-
8 tions protect human health and the environ-
9 ment and are conducted in a timely manner in
10 accordance with a State-approved response ac-
11 tion plan or other instrument; and

12 “(B) to ensure completion of voluntary re-
13 sponse actions if the person conducting the vol-
14 untary response action fails or refuses to com-
15 plete the necessary voluntary response actions
16 that protect human health and the environ-
17 ment, including operation and maintenance or
18 long-term monitoring activities;

19 “(6) provide mechanisms for the approval of a
20 response action plan or other instrument; and

21 “(7) provide mechanisms for a certification or
22 similar documentation to the person who conducted
23 the response action indicating that the response is
24 complete.

1 “(g) FINANCIAL ASSISTANCE FOR DEVELOPMENT
2 AND ENHANCEMENT OF STATE VOLUNTARY RESPONSE
3 PROGRAMS AND REPORTING REQUIREMENT.—

4 “(1) PUBLIC RECORD.—To assist the Adminis-
5 trator in determining the needs of States for assist-
6 ance under this section, the Administrator shall en-
7 courage the States to maintain a public record of fa-
8 cilities, by name and location, that have been or are
9 planned to be addressed under a State voluntary re-
10 sponse program.

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

17 “(A) The number of sites, if any, under-
18 going voluntary cleanup, with the number of
19 sites in each stage of such cleanup set forth
20 separately.

21 “(B) The number of sites, if any, entering
22 voluntary cleanup.

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

1 “(h) EPA REVIEW OF STATE PROGRAMS.—At any
2 time after the date of enactment of this section, a State
3 may submit, for review by the Administrator, documenta-
4 tion that the State considers appropriate to describe a
5 State voluntary response program, together with a certifi-
6 cation that the program is consistent with the elements
7 set forth in subsection (f), and, if such program is devel-
8 oped by administrative action, executive order, or regula-
9 tion, documentation of public comment and State response
10 to comment on the adequacy of the State voluntary re-
11 sponse program.

12 “(i) QUALIFICATION OF STATE PROGRAM.—

13 “(1) APPROVAL OR DISAPPROVAL.—(A) The
14 Administrator shall approve a State voluntary re-
15 sponse program submitted under subsection (h)
16 within 180 days after the Administrator receives
17 documentation and certification under subsection (h)
18 if the Administrator determines that the State’s sub-
19 mission is consistent with the elements set forth in
20 subsection (f). A program so approved by the Ad-
21 ministrator shall be considered a qualified program
22 under this section.

23 “(B) The Administrator shall publish in the
24 Federal Register the reasons for the approval or dis-
25 approval of any such program.

1 “(C) If the Administrator needs additional in-
2 formation, the 180-day time period referred to in
3 subparagraph (A) shall be extended until 30 days
4 after the Administrator is satisfied that enough ad-
5 ditional information has been obtained in order to
6 make a determination.

7 “(2) WITHDRAWAL OF QUALIFICATION.—When-
8 ever the Administrator determines that a State is
9 not administering and enforcing a qualified program
10 in accordance with subsection (f), the Administrator
11 shall notify the State in writing of such determina-
12 tion. If appropriate corrective action is not taken by
13 the State within 120 days after receipt of the notice,
14 the Administrator shall propose within 60 days
15 thereafter to withdraw approval of the program and
16 publish a notice of such proposed withdrawal in the
17 Federal Register. The Administrator shall not with-
18 draw approval of any such program unless the Ad-
19 ministrator provides to the State in writing and pub-
20 lishes in the Federal Register the reasons for such
21 withdrawal. If the State subsequently completes the
22 necessary corrective measures as determined by the
23 Administrator, the Administrator shall reinstate the
24 program as a qualified program under this section.

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

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

11 “(l) ANNUAL REPORTING.—

12 “(1) REPORTS BY STATE.—Each State with a
13 qualified program under this section shall submit to
14 the Administrator a report at the end of each cal-
15 endar year describing whether the program con-
16 tinues to be consistent with the elements set forth
17 in subsection (f).

18 “(2) REPORT BY ADMINISTRATOR.—The Ad-
19 ministrator shall report, not later than two years
20 after the enactment of this section, and annually
21 thereafter, to the Congress on the status of State
22 voluntary response programs. The report shall in-
23 clude an analysis of whether qualified State vol-
24 untary response programs continue to be consistent
25 with the elements set forth in subsection (f).

1 “(m) EFFECT ON EXISTING STATE PROGRAMS.—
2 This section is not intended to impose any requirement
3 on any State voluntary response program, including a pro-
4 gram existing on or before the date of the enactment of
5 the Community Revitalization and Brownfield Cleanup
6 Act of 1999. A program shall not be considered to be a
7 qualified program under this section unless the program
8 is approved in accordance with this section.

9 “(n) EFFECT ON AGREEMENTS BETWEEN STATE
10 AND EPA.—This section is not intended to modify or oth-
11 erwise affect a memorandum of agreement, or a coopera-
12 tive agreement, under this Act between a State agency and
13 the Environmental Protection Agency in effect on or be-
14 fore the date of the enactment of the Community Revital-
15 ization and Brownfield Cleanup Act of 1999. Such an
16 agreement shall remain in effect, subject to the terms of
17 the agreement. This section is not intended to restrict or
18 limit the President’s discretionary authority to enter into
19 or modify an agreement with a State or other person relat-
20 ing to the President’s implementation of authorities under
21 this Act, nor to modify or otherwise affect an existing
22 agreement between the President and any person relating
23 to the President’s implementation of those authorities.

24 “(o) EFFECT ON OTHER LAWS.—Except as provided
25 in subsections (c) and (d), this section does not change,

1 modify, or otherwise affect the liability of any person or
2 the obligations imposed or authorities provided under any
3 law or regulation, including this Act, the Solid Waste Dis-
4 posal Act, the Federal Water Pollution and Control Act,
5 the Toxic Substances Control Act, and title XIV of the
6 Public Health Service Act (the Safe Drinking Water Act).

7 “(p) RELATIONSHIP TO INNOCENT LANDOWNER AND
8 PROSPECTIVE PURCHASER.—(1) The successful comple-
9 tion of a response action at a facility pursuant to a re-
10 sponse action plan or other instrument approved under a
11 qualified program under this section shall be evidence to
12 be considered for purposes of section 107(o)(3)(B) and
13 section 101(39)(D).

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

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