

106TH CONGRESS
1ST SESSION

S. 1090

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

IN THE SENATE OF THE UNITED STATES

MAY 20, 1999

Mr. CHAFEE (for himself, Mr. SMITH of New Hampshire, and Mr. LOTT) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

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

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Superfund Program Completion Act of 1999”.

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

Sec. 1. Short title; table of contents.

TITLE I—BROWNFIELDS REVITALIZATION

Sec. 101. Brownfields.

Sec. 102. Contiguous properties.

- Sec. 103. Prospective purchasers and windfall liens.
 Sec. 104. Safe harbor innocent landholders.

TITLE II—STATE RESPONSE PROGRAMS

- Sec. 201. State response programs.
 Sec. 202. National priorities list completion.
 Sec. 203. Federal emergency removal authority.
 Sec. 204. State cost share.

TITLE III—FAIR SHARE LIABILITY ALLOCATIONS AND PROTECTIONS

- Sec. 301. Liability exemptions and limitations.
 Sec. 302. Expedited settlement for certain parties.
 Sec. 303. Fair share settlements and statutory orphan shares.

TITLE IV—FUNDING

- Sec. 401. Uses of Hazardous Substance Superfund.

1 **TITLE I—BROWNFIELDS** 2 **REVITALIZATION**

3 **SEC. 101. BROWNFIELDS.**

4 Title I of the Comprehensive Environmental Re-
 5 sponse, Compensation, and Liability Act of 1980 (42
 6 U.S.C. 9601 et seq.) is amended by adding at the end
 7 the following:

8 **“SEC. 127. BROWNFIELDS.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) BROWNFIELD FACILITY.—

11 “(A) IN GENERAL.—The term ‘brownfield
 12 facility’ means real property, the expansion or
 13 redevelopment of which is complicated by the
 14 presence or potential presence of a hazardous
 15 substance.

16 “(B) EXCLUSIONS.—The term ‘brownfield
 17 facility’ does not include—

1 “(i) any portion of real property that,
2 as of the date of submission of an applica-
3 tion for assistance under this section, is
4 the subject of an ongoing removal under
5 title I;

6 “(ii) any portion of real property that
7 has been listed on the National Priorities
8 List or is proposed for listing as of the
9 date of the submission of an application
10 for assistance under this section;

11 “(iii) any portion of real property with
12 respect to which cleanup work is pro-
13 ceeding in substantial compliance with the
14 requirements of an administrative order on
15 consent, or judicial consent decree that has
16 been entered into, or a permit issued by,
17 the United States or a duly authorized
18 State under this Act, the Solid Waste Dis-
19 posal Act (42 U.S.C. 6901 et seq.), section
20 311 of the Federal Water Pollution Con-
21 trol Act (33 U.S.C. 1321), the Toxic Sub-
22 stances Control Act (15 U.S.C. 2601 et
23 seq.), or the Safe Drinking Water Act (42
24 U.S.C. 300f et seq.);

1 “(iv) a land disposal unit with respect
2 to which—

3 “(I) a closure notification under
4 subtitle C of the Solid Waste Disposal
5 Act (42 U.S.C. 6921 et seq.) has been
6 submitted; and

7 “(II) closure requirements have
8 been specified in a closure plan or
9 permit;

10 “(v) a facility that is owned or oper-
11 ated by a department, agency, or instru-
12 mentality of the United States; or

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

21 “(C) FACILITIES OTHER THAN
22 BROWNFIELD FACILITIES.—That a facility may
23 not be a brownfield facility within the meaning
24 of subparagraph (A) has no effect on the eligi-

1 bility of the facility for assistance under any
2 provision of Federal law other than this section.

3 “(2) ELIGIBLE ENTITY.—

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

6 “(i) a general purpose unit of local
7 government;

8 “(ii) a land clearance authority or
9 other quasi-governmental entity that oper-
10 ates under the supervision and control of
11 or as an agent of a general purpose unit
12 of local government;

13 “(iii) a government entity created by
14 a State legislature;

15 “(iv) a regional council or group of
16 general purpose units of local government;

17 “(v) a redevelopment agency that is
18 chartered or otherwise sanctioned by a
19 State;

20 “(vi) a State; and

21 “(vii) an Indian Tribe.

22 “(B) EXCLUSION.—The term ‘eligible enti-
23 ty’ does not include any entity that is not in
24 substantial compliance with the requirements of
25 an administrative order on consent, judicial

1 consent decree that has been entered into, or a
2 permit issued by, the United States or a duly
3 authorized State under this Act, the Solid
4 Waste Disposal Act (42 U.S.C. 6901 et seq.),
5 the Federal Water Pollution Control Act (33
6 U.S.C. 1251 et seq.), the Toxic Substances
7 Control Act (15 U.S.C. 2601 et seq.), or the
8 Safe Drinking Water Act (42 U.S.C. 300f et
9 seq.) with respect to any portion of real prop-
10 erty that is the subject of the administrative
11 order on consent, judicial consent decree, or
12 permit.

13 “(3) SECRETARY.—The term ‘Secretary’ means
14 the Secretary of Housing and Urban Development.

15 “(b) BROWNFIELD SITE CHARACTERIZATION AND
16 ASSESSMENT GRANT PROGRAM.—

17 “(1) ESTABLISHMENT OF PROGRAM.—The Ad-
18 ministrator shall establish a program to provide
19 grants for the site characterization and assessment
20 of brownfield facilities.

21 “(2) ASSISTANCE FOR SITE CHARACTERIZATION
22 AND ASSESSMENT AND RESPONSE ACTIONS.—

23 “(A) IN GENERAL.—On approval of an ap-
24 plication made by an eligible entity, the Admin-
25 istrator may make grants to the eligible entity

1 to be used for the site characterization and as-
2 sessment of 1 or more brownfield facilities.

3 “(B) SITE CHARACTERIZATION AND AS-
4 SESSMENT.—A site characterization and assess-
5 ment carried out with the use of a grant under
6 subparagraph (A)—

7 “(i) shall be performed in accordance
8 with section 101(35)(B); and

9 “(ii) may include a process to identify
10 and inventory potential brownfield facili-
11 ties.

12 “(c) BROWNFIELD REMEDIATION GRANT PRO-
13 GRAM.—

14 “(1) ESTABLISHMENT OF PROGRAM.—In con-
15 sultation with the Secretary, the Administrator shall
16 establish a program to provide grants to be used for
17 response actions (excluding site characterization and
18 assessment) at 1 or more brownfield facilities.

19 “(2) ASSISTANCE FOR RESPONSE ACTIONS.—
20 On approval of an application made by an eligible
21 entity, the Administrator, in consultation with the
22 Secretary, may make grants to the eligible entity to
23 be used for response actions (excluding site charac-
24 terization and assessment) at 1 or more brownfield
25 facilities.

1 “(d) GENERAL PROVISIONS.—

2 “(1) MAXIMUM GRANT AMOUNT.—

3 “(A) IN GENERAL.—The total of all grants
4 under subsections (b) and (c) shall not exceed,
5 with respect to any individual brownfield facility
6 covered by the grants, \$350,000.

7 “(B) WAIVER.—The Administrator may
8 waive the \$350,000 limitation under subpara-
9 graph (A) based on the anticipated level of con-
10 tamination, size, or status of ownership of the
11 facility.

12 “(2) PROHIBITION.—

13 “(A) IN GENERAL.—No part of a grant
14 under this section may be used for payment of
15 penalties, fines, or administrative costs.

16 “(B) EXCLUSIONS.—For the purposes of
17 subparagraph (A), the term ‘administrative
18 cost’ does not include the cost of—

19 “(i) investigation and identification of
20 the extent of contamination;

21 “(ii) design and performance of a re-
22 sponse action; or

23 “(iii) monitoring of natural resources.

24 “(3) AUDITS.—The Inspector General of the
25 Environmental Protection Agency shall conduct such

1 reviews or audits of grants under this section as the
2 Inspector General considers necessary to carry out
3 the objectives of this section. Audits shall be con-
4 ducted in accordance with the auditing procedures of
5 the General Accounting Office, including chapter 75
6 of title 31, United States Code.

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

13 “(5) AGREEMENTS.—Each grant made under
14 this section shall be subject to an agreement that—

15 “(A) requires the eligible entity to comply
16 with all applicable State laws (including regula-
17 tions);

18 “(B) requires that the eligible entity shall
19 use the grant exclusively for purposes specified
20 in subsection (b) or (c);

21 “(C) in the case of an application by an el-
22 igible entity under subsection (c), requires pay-
23 ment by the eligible entity of a matching share
24 (which may be in the form of a contribution of
25 labor, material, or services) of at least 20 per-

1 cent of the costs of the response action for
2 which the grant is made, is from non-Federal
3 sources of funding.

4 “(D) contains such other terms and condi-
5 tions as the Administrator determines to be
6 necessary to carry out this section.

7 “(e) GRANT APPLICATIONS.—

8 “(1) SUBMISSION.—

9 “(A) IN GENERAL.—Any eligible entity
10 may submit an application to the Adminis-
11 trator, through a regional office of the Environ-
12 mental Protection Agency and in such form as
13 the Administrator may require, for a grant
14 under this section for 1 or more brownfield
15 facilities.

16 “(B) COORDINATION.—In developing ap-
17 plication requirements, the Administrator shall
18 coordinate with the Secretary and other Federal
19 agencies and departments, such that eligible en-
20 tities under this section are made aware of
21 other available Federal resources.

22 “(C) GUIDANCE.—The Administrator shall
23 publish guidance to assist eligible entities in ob-
24 taining grants under this section.

1 “(2) APPROVAL.—The Administrator, in con-
2 sultation with the Secretary, shall make an annual
3 evaluation of each application received during the
4 prior fiscal year and make grants under this section
5 to eligible entities that submit applications during
6 the prior year and that the Administrator, in con-
7 sultation with the Secretary, determines have the
8 highest rankings under the ranking criteria estab-
9 lished under paragraph (3).

10 “(3) RANKING CRITERIA.—The Administrator,
11 in consultation with the Secretary, shall establish a
12 system for ranking grant applications that includes
13 the following criteria:

14 “(A) The extent to which a grant will stim-
15 ulate the availability of other funds for environ-
16 mental remediation and subsequent redevelop-
17 ment of the area in which the brownfield facili-
18 ties are located.

19 “(B) The potential of the development plan
20 for the area in which the brownfield facilities
21 are located to stimulate economic development
22 of the area on completion of the cleanup, such
23 as the following:

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

4 “(ii) The demonstration by applicants
5 of the intent and ability to create new or
6 expand existing business, employment,
7 recreation, or conservation opportunities
8 on completion of any necessary response
9 action.

10 “(iii) If commercial redevelopment is
11 planned, the estimated additional full-time
12 employment opportunities and tax revenues
13 expected to be generated by economic rede-
14 velopment in the area in which a
15 brownfield facility is located.

16 “(iv) The estimated extent to which a
17 grant would facilitate the identification of
18 or facilitate a reduction of health and envi-
19 ronmental risks.

20 “(v) The financial involvement of the
21 State and local government in any re-
22 sponse action planned for a brownfield fa-
23 cility and the extent to which the response
24 action and the proposed redevelopment is
25 consistent with any applicable State or

1 local community economic development
2 plan.

3 “(vi) The extent to which the site
4 characterization and assessment or re-
5 sponse action and subsequent development
6 of a brownfield facility involves the active
7 participation and support of the local com-
8 munity.

9 “(vii) Such other factors as the Ad-
10 ministrator considers appropriate to carry
11 out the purposes of this section.

12 “(C) The extent to which a grant will en-
13 able the creation of or addition to parks, green-
14 ways, or other recreational property.

15 “(D) The extent to which a grant will meet
16 the needs of a community that has an inability
17 to draw on other sources of funding for environ-
18 mental remediation and subsequent redevelop-
19 ment of the area in which a brownfield facility
20 is located because of the small population or
21 low income of the community.”.

22 **SEC. 102. CONTIGUOUS PROPERTIES.**

23 (a) IN GENERAL.—Section 107 of the Comprehensive
24 Environmental Response, Compensation, and Liability Act

1 of 1980 (42 U.S.C. 9607(a)) is amended by adding at the
2 end the following:

3 “(o) CONTIGUOUS PROPERTIES.—

4 “(1) NOT CONSIDERED TO BE AN OWNER OR
5 OPERATOR.—

6 “(A) IN GENERAL.—A person that owns or
7 operates real property that is contiguous to or
8 otherwise similarly situated with respect to real
9 property on which there has been a release or
10 threatened release of a hazardous substance
11 and that is or may be contaminated by the re-
12 lease shall not be considered to be an owner or
13 operator of a vessel or facility under paragraph
14 (1) or (2) of subsection (a) solely by reason of
15 the contamination if—

16 “(i) the person did not cause, con-
17 tribute, or consent to the release or threat-
18 ened release;

19 “(ii) the person is not affiliated
20 through any familial or corporate relation-
21 ship with any person that is or was a party
22 potentially responsible for response costs at
23 the facility; and

24 “(iii) the person exercised appropriate
25 care with respect to each hazardous sub-

1 stance found at the facility by taking rea-
2 sonable steps to stop any continuing re-
3 lease, prevent any threatened future re-
4 lease and prevent or limit human or nat-
5 ural resource exposure to any previously
6 released hazardous substance.

7 “(B) GROUND WATER.—With respect to
8 hazardous substances in ground water beneath
9 a person’s property solely as a result of sub-
10 surface migration in an aquifer from a source
11 or sources outside the property, appropriate
12 care shall not require the person to conduct
13 ground water investigations or to install ground
14 water remediation systems.

15 “(2) COOPERATION, ASSISTANCE, AND AC-
16 CESS.—A party described in paragraph (1) may be
17 considered an owner or operator of a vessel or facil-
18 ity under paragraph (1) or (2) of subsection (a) if
19 the party has failed to substantially comply with the
20 requirement stated in section 122(p)(2)(H) with re-
21 spect to the facility.

22 “(3) ASSURANCES.—The Administrator may—
23 “(A) issue an assurance that no enforce-
24 ment action under this Act will be initiated

1 against a person described in paragraph (1);
2 and

3 “(B) grant a person described in para-
4 graph (1) protection against a cost recovery or
5 contribution action under section 113(f).”.

6 (b) NATIONAL PRIORITIES LIST.—

7 (1) IN GENERAL.—Section 105 of the Com-
8 prehensive Environmental Response, Compensation,
9 and Liability Act of 1980 (42 U.S.C. 9605) is
10 amended—

11 (A) in subsection (a)(8)—

12 (i) in subparagraph (B), by inserting
13 “and” after the semicolon at the end; and

14 (ii) by adding at the end the fol-
15 lowing:

16 “(C) provision that in listing a facility on the
17 National Priorities List, the Administrator shall not
18 include any parcel of real property at which no re-
19 lease has actually occurred, but to which a released
20 hazardous substance, pollutant, or contaminant has
21 migrated in ground water that has moved through
22 subsurface strata from another parcel of real estate
23 at which the release actually occurred, unless—

1 “(i) the ground water is in use as a public
2 drinking water supply or was in such use at the
3 time of the release; and

4 “(ii) the owner or operator of the facility
5 is liable, or is affiliated with any other person
6 that is liable, for any response costs at the fa-
7 cility, through any direct or indirect familial re-
8 lationship, or any contractual, corporate, or fi-
9 nancial relationship other than that created by
10 the instruments by which title to the facility is
11 conveyed or financed.”; and

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

13 “(h) LISTING OF PARTICULAR PARCELS.—

14 “(1) DEFINITION.—In subsection (a)(8)(C) and
15 paragraph (2) of this subsection, the term ‘parcel of
16 real property’ means a parcel, lot, or tract of land
17 that has a separate legal description from that of
18 any other parcel, lot, or tract of land the legal de-
19 scription and ownership of which has been recorded
20 in accordance with the law of the State in which it
21 is located.

22 “(2) STATUTORY CONSTRUCTION.—Nothing in
23 subsection (a)(8)(C) limits the Administrator’s au-
24 thority under section 104 to obtain access to and
25 undertake response actions at any parcel of real

1 property to which a released hazardous substance,
 2 pollutant, or contaminant has migrated in the
 3 ground water.”.

4 (2) REVISION OF NATIONAL PRIORITIES LIST.—
 5 Not later than 180 days after the date of enactment
 6 of this Act, the President shall revise the National
 7 Priorities List to conform with the amendments
 8 made by paragraph (1).

9 (c) CONFORMING AMENDMENT.—Section 107(a) of
 10 the Comprehensive Environmental Response, Compensa-
 11 tion, and Liability Act of 1980 (42 U.S.C. 9607) is
 12 amended by striking “of this section” and inserting “and
 13 the exemptions and limitations stated in this section”.

14 **SEC. 103. PROSPECTIVE PURCHASERS AND WINDFALL**
 15 **LIENS.**

16 (a) DEFINITION OF BONA FIDE PROSPECTIVE PUR-
 17 CHASER.—Section 101 of the Comprehensive Environ-
 18 mental Response, Compensation, and Liability Act of
 19 1980 (42 U.S.C. 9601) is amended by adding at the end
 20 the following:

21 “(39) BONA FIDE PROSPECTIVE PURCHASER.—
 22 The term ‘bona fide prospective purchaser’ means a
 23 person that acquires ownership of a facility after the
 24 date of enactment of this paragraph, or a tenant of

1 such a person, that establishes each of the following
2 by a preponderance of the evidence:

3 “(A) DISPOSAL PRIOR TO ACQUISITION.—

4 All deposition of hazardous substances at the
5 facility occurred before the person acquired the
6 facility.

7 “(B) INQUIRIES.—

8 “(i) IN GENERAL.—The person made
9 all appropriate inquiries into the previous
10 ownership and uses of the facility and the
11 facility’s real property in accordance with
12 generally accepted good commercial and
13 customary standards and practices.

14 “(ii) STANDARDS AND PRACTICES.—

15 The standards and practices referred to in
16 paragraph (35)(B)(ii) or those issued or
17 adopted by the Administrator under that
18 paragraph shall be considered to satisfy
19 the requirements of this subparagraph.

20 “(iii) RESIDENTIAL USE.—In the case

21 of property for residential or other similar
22 use purchased by a nongovernmental or
23 noncommercial entity, a facility inspection
24 and title search that reveal no basis for
25 further investigation shall be considered to

1 satisfy the requirements of this subpara-
2 graph.

3 “(C) NOTICES.—The person provided all
4 legally required notices with respect to the dis-
5 covery or release of any hazardous substances
6 at the facility.

7 “(D) CARE.—The person exercised appro-
8 priate care with respect to each hazardous sub-
9 stance found at the facility by taking reasonable
10 steps to stop any continuing release, prevent
11 any threatened future release and prevent or
12 limit human or natural resource exposure to
13 any previously released hazardous substance.

14 “(E) COOPERATION, ASSISTANCE, AND AC-
15 CESS.—The person has not failed to substan-
16 tially comply with the requirement stated in
17 section 122(p)(2)(H) with respect to the facil-
18 ity.

19 “(F) NO AFFILIATION.—The person is not
20 affiliated through any familial or corporate rela-
21 tionship with any person that is or was a party
22 potentially responsible for response costs at the
23 facility.”.

24 (b) AMENDMENT.—Section 107 of the Comprehen-
25 sive Environmental Response, Compensation, and Liabil-

1 ity Act of 1980 (42 U.S.C. 9607) (as amended by section
2 102) is amended by adding at the end the following:

3 “(p) PROSPECTIVE PURCHASER AND WINDFALL
4 LIEN.—

5 “(1) LIMITATION ON LIABILITY.—Notwith-
6 standing subsection (a), a bona fide prospective pur-
7 chaser whose potential liability for a release or
8 threatened release is based solely on the purchaser’s
9 being considered to be an owner or operator of a fa-
10 cility shall not be liable as long as the bona fide pro-
11 spective purchaser does not impede the performance
12 of a response action or natural resource restoration.

13 “(2) LIEN.—If there are unrecovered response
14 costs at a facility for which an owner of the facility
15 is not liable by reason of subsection (n)(1) and each
16 of the conditions described in paragraph (3) is met,
17 the United States shall have a lien on the facility,
18 or may obtain from appropriate responsible party a
19 lien on any other property or other assurances of
20 payment satisfactory to the Administrator, for such
21 unrecovered costs.

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

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

4 “(B) FAIR MARKET VALUE.—The response
5 action increases the fair market value of the fa-
6 cility above the fair market value of the facility
7 that existed 180 days before the response action
8 was initiated.

9 “(C) SALE.—A sale or other disposition of
10 all or a portion of the facility has occurred.

11 “(4) AMOUNT.—A lien under paragraph (2)—

12 “(A) shall not exceed the increase in fair
13 market value of the property attributable to the
14 response action at the time of a subsequent sale
15 or other disposition of the property;

16 “(B) shall arise at the time at which costs
17 are first incurred by the United States with re-
18 spect to a response action at the facility;

19 “(C) shall be subject to the requirements
20 of subsection (1)(3); and

21 “(D) shall continue until the earlier of sat-
22 isfaction of the lien or recovery of all response
23 costs incurred at the facility.”.

1 **SEC. 104. SAFE HARBOR INNOCENT LANDHOLDERS.**

2 (a) AMENDMENT.—Section 101(35) of the Com-
3 prehensive Environmental Response, Compensation, and
4 Liability Act of 1980 (42 U.S.C. 9601(35)) is amended—

5 (1) in subparagraph (A)—

6 (A) in the matter that precedes clause (i),
7 by striking “deeds or” and inserting “deeds,
8 easements, leases, or”; and

9 (B) in the matter that follows clause (iii)—

10 (i) by striking “he” and inserting “the
11 defendant”; and

12 (ii) by striking the period at the end
13 and inserting “, has provided full coopera-
14 tion, assistance, and facility access to the
15 persons that are responsible for response
16 actions at the facility, including the co-
17 operation and access necessary for the in-
18 stallation, integrity, operation, and mainte-
19 nance of any complete or partial response
20 action at the facility, and has taken no ac-
21 tion that impeded the effectiveness or in-
22 tegrity of any institutional control em-
23 ployed under section 121 at the facility.”;
24 and

25 (2) by striking subparagraph (B) and inserting
26 the following:

1 “(B) REASON TO KNOW.—

2 “(i) ALL APPROPRIATE INQUIRIES.—

3 To establish that the defendant had no
4 reason to know of the matter described in
5 subparagraph (A)(i), the defendant must
6 show that—

7 “(I) at or prior to the date on
8 which the defendant acquired the fa-
9 cility, the defendant undertook all ap-
10 propriate inquiries into the previous
11 ownership and uses of the facility in
12 accordance with generally accepted
13 good commercial and customary
14 standards and practices; and

15 “(II) the defendant exercised ap-
16 propriate care with respect to each
17 hazardous substance found at the fa-
18 cility by taking reasonable steps to
19 stop any continuing release, prevent
20 any threatened future release and pre-
21 vent or limit human or natural re-
22 source exposure to any previously re-
23 leased hazardous substance.

24 “(ii) STANDARDS AND PRACTICES.—

25 The Administrator shall by regulation es-

1 tablish as standards and practices for the
2 purpose of clause (i)—

3 “(I) the American Society for
4 Testing and Materials (ASTM) Stand-
5 ard E1527–94, entitled ‘Standard
6 Practice for Environmental Site As-
7 sessments: Phase I Environmental
8 Site Assessment Process’; or

9 “(II) alternative standards and
10 practices under clause (iii).

11 “(iii) ALTERNATIVE STANDARDS AND
12 PRACTICES.—

13 “(I) IN GENERAL.—The Admin-
14 istrator may by regulation issue alter-
15 native standards and practices or des-
16 ignate standards developed by other
17 organizations than the American Soci-
18 ety for Testing and Materials after
19 conducting a study of commercial and
20 industrial practices concerning the
21 transfer of real property in the United
22 States.

23 “(II) CONSIDERATIONS.—In
24 issuing or designating alternative
25 standards and practices under sub-

1 clause (I), the Administrator shall
2 consider including each of the fol-
3 lowing:

4 “(aa) The results of an in-
5 quiry by an environmental pro-
6 fessional.

7 “(bb) Interviews with past
8 and present owners, operators,
9 and occupants of the facility and
10 the facility’s real property for the
11 purpose of gathering information
12 regarding the potential for con-
13 tamination at the facility and the
14 facility’s real property.

15 “(cc) Reviews of historical
16 sources, such as chain of title
17 documents, aerial photographs,
18 building department records, and
19 land use records to determine
20 previous uses and occupancies of
21 the real property since the prop-
22 erty was first developed.

23 “(dd) Searches for recorded
24 environmental cleanup liens, filed
25 under Federal, State, or local

1 law, against the facility or the fa-
2 cility's real property.

3 “(ee) Reviews of Federal,
4 State, and local government
5 records (such as waste disposal
6 records), underground storage
7 tank records, and hazardous
8 waste handling, generation, treat-
9 ment, disposal, and spill records,
10 concerning contamination at or
11 near the facility or the facility's
12 real property.

13 “(ff) Visual inspections of
14 the facility and facility's real
15 property and of adjoining prop-
16 erties.

17 “(gg) Specialized knowledge
18 or experience on the part of the
19 defendant.

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

1 “(ii) Commonly known or
2 reasonably ascertainable informa-
3 tion about the property.

4 “(jj) The degree of obvious-
5 ness of the presence or likely
6 presence of contamination at the
7 property, and the ability to detect
8 such contamination by appro-
9 priate investigation.

10 “(iv) SITE INSPECTION AND TITLE
11 SEARCH.—In the case of property for resi-
12 dential use or other similar use purchased
13 by a nongovernmental or noncommercial
14 entity, a facility inspection and title search
15 that reveal no basis for further investiga-
16 tion shall be considered to satisfy the re-
17 quirements of this subparagraph.”.

18 (b) STANDARDS AND PRACTICES.—

19 (1) ESTABLISHMENT BY REGULATION.—The
20 Administrator of the Environmental Protection
21 Agency shall issue the regulation required by section
22 101(35)(B)(ii) of the Comprehensive Environmental
23 Response, Compensation, and Liability Act of 1980
24 (as added by subsection (a)) not later than 1 year
25 after the date of enactment of this Act.

1 (2) INTERIM STANDARDS AND PRACTICES.—
 2 Until the Administrator issues the regulation de-
 3 scribed in paragraph (1), in making a determination
 4 under section 101(35)(B)(i) of the Comprehensive
 5 Environmental Response, Compensation, and Liabil-
 6 ity Act of 1980 (as added by subsection (a)), there
 7 shall be taken into account—

8 (A) any specialized knowledge or experi-
 9 ence on the part of the defendant;

10 (B) the relationship of the purchase price
 11 to the value of the property if the property was
 12 uncontaminated;

13 (C) commonly known or reasonably ascer-
 14 tainable information about the property;

15 (D) the degree of obviousness of the pres-
 16 ence or likely presence of contamination at the
 17 property; and

18 (E) the ability to detect the contamination
 19 by appropriate investigation.

20 **TITLE II—STATE RESPONSE** 21 **PROGRAMS**

22 **SEC. 201. STATE RESPONSE PROGRAMS.**

23 (a) DEFINITIONS.—Section 101 of the Comprehen-
 24 sive Environmental Response, Compensation, and Liabil-

1 ity Act of 1980 (42 U.S.C. 9601) (as amended by section
2 103(a)) is amended by adding at the end the following:

3 “(40) FACILITY SUBJECT TO STATE CLEAN-
4 UP.—The term ‘facility subject to State cleanup’
5 means a facility that—

6 “(A) is not listed or proposed for listing on
7 the National Priorities List; and

8 “(B)(i) has been archived from the Com-
9 prehensive Environmental Response, Compensa-
10 tion, and Liability Information System;

11 “(ii) was included on the Comprehensive
12 Environmental Response, Compensation, and
13 Liability Information System before the date of
14 enactment of this section and is not listed or
15 proposed for listing on the National Priorities
16 List within 2 years after the date of enactment
17 of this section; or

18 “(iii) is added to the Comprehensive Envi-
19 ronmental Response, Compensation, and Liabil-
20 ity Information System after the date of enact-
21 ment of this section, if at least 2 years have
22 elapsed since the earlier of—

23 “(I) inclusion of the facility on the
24 Comprehensive Environmental Response,

1 Compensation, and Liability Information
2 System; or

3 “(II) issuance at the facility of an
4 order under section 106(a).

5 “(41) QUALIFYING STATE RESPONSE PROGRAM.—
6 The term ‘qualifying State response program’ means
7 a State program that includes the elements de-
8 scribed in section 128(b).”.

9 (b) QUALIFYING STATE RESPONSE PROGRAMS.—
10 Title I of the Comprehensive Environmental Response,
11 Compensation, and Liability Act of 1980 (42 U.S.C. 9601
12 et seq.) (as amended by section 101(a)) is amended by
13 adding at the end the following:

14 **“SEC. 128. QUALIFYING STATE RESPONSE PROGRAMS.**

15 “(a) ASSISTANCE TO STATES.—The Administrator
16 shall provide grants to States to establish and expand
17 qualifying State response programs that include the ele-
18 ments listed in subsection (b).

19 “(b) ELEMENTS.—The elements of a qualifying State
20 response program are the following:

21 “(1) Oversight and enforcement authorities or
22 other mechanisms that are adequate to ensure
23 that—

24 “(A) response actions will protect human
25 health and the environment and be conducted

1 in accordance with applicable Federal and State
2 law; and

3 “(B) in the case of a voluntary response
4 action, if the person conducting the voluntary
5 response action fails to complete the necessary
6 response activities, including operation and
7 maintenance or long-term monitoring activities,
8 the necessary response activities are completed.

9 “(2) Adequate opportunities for public partici-
10 pation, including prior notice and opportunity for
11 comment in appropriate circumstances, in selecting
12 response actions.

13 “(3) Mechanisms for approval of a response ac-
14 tion plan, or a requirement for certification or simi-
15 lar documentation from the State to the person con-
16 ducting a response action indicating that the re-
17 sponse is complete.

18 “(c) ENFORCEMENT IN CASES OF A RELEASE SUB-
19 JECT TO A STATE PLAN.—

20 “(1) ENFORCEMENT.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), in the case of a release or
23 threatened release of a hazardous substance at
24 a facility subject to State cleanup, neither the
25 President nor any other person may use any

1 authority under this Act to take an enforcement
2 action against any person regarding any matter
3 that is within the scope of a response action
4 that is being conducted or has been completed
5 under State law.

6 “(B) EXCEPTIONS.—The President may
7 bring an enforcement action under this Act
8 with respect to a facility described in subpara-
9 graph (A) if—

10 “(i) the enforcement action is author-
11 ized under section 104;

12 “(ii) the State requests that the Presi-
13 dent provide assistance in the performance
14 of a response action and that the enforce-
15 ment bar in subparagraph (A) be lifted;

16 “(iii) at a facility at which response
17 activities are ongoing the Administrator—

18 “(I) makes a written determina-
19 tion that the State is unwilling or un-
20 able to take appropriate action, after
21 the Administrator has provided the
22 Governor notice and an opportunity to
23 cure; and

24 “(II) the Administrator deter-
25 mines that the release or threat of re-

1 lease constitutes a public health or en-
2 vironmental emergency under section
3 104(a)(4);

4 “(iv) the Administrator determines
5 that contamination has migrated across a
6 State line, resulting in the need for further
7 response action to protect human health or
8 the environment; or

9 “(v) in the case of a facility at which
10 all response actions have been completed,
11 the Administrator—

12 “(I) makes a written determina-
13 tion that the State is unwilling or un-
14 able to take appropriate action, after
15 the Administrator has provided the
16 Governor notice and an opportunity to
17 cure; and

18 “(II) makes a written determina-
19 tion that the facility presents a sub-
20 stantial risk that requires further re-
21 mediation to protect human health or
22 the environment, as evidenced by—

23 “(aa) newly discovered infor-
24 mation regarding contamination
25 at the facility;

1 “(bb) the discovery that
2 fraud was committed in dem-
3 onstrating attainment of stand-
4 ards at the facility; or

5 “(cc) a failure of the remedy
6 under the State remedial action
7 plan or a change in land use giv-
8 ing rise to a clear threat of expo-
9 sure.

10 “(C) EPA NOTIFICATION.—

11 “(i) IN GENERAL.—In the case of a
12 facility at which there is a release or
13 threatened release of a hazardous sub-
14 stance, pollutant, or contaminant and for
15 which the Administrator intends to under-
16 take an administrative or enforcement ac-
17 tion, the Administrator, prior to taking the
18 administrative or enforcement action, shall
19 notify the State of the action the Adminis-
20 trator intends to take and wait for an ac-
21 knowledgment from the State under clause
22 (ii).

23 “(ii) STATE RESPONSE.—Not later
24 than 48 hours after receiving a notice from
25 the Administrator under clause (i), the

1 State shall notify the Administrator if the
2 facility is currently or has been subject to
3 a State remedial action plan.

4 “(iii) PUBLIC HEALTH OR ENVIRON-
5 MENTAL EMERGENCY.—If the Adminis-
6 trator finds that a release or threatened
7 release constitutes a public health or envi-
8 ronmental emergency under section
9 104(a)(4), the Administrator may take ap-
10 propriate action immediately after giving
11 notification under clause (i) without wait-
12 ing for State acknowledgment.

13 “(2) COST OR DAMAGE RECOVERY ACTIONS.—
14 Paragraph (1) shall not apply to an action brought
15 by a State, Indian Tribe, or general purpose unit of
16 local government for the recovery of costs or dam-
17 ages under this Act.

18 “(3) SAVINGS PROVISION.—

19 “(A) EXISTING AGREEMENTS.—A memo-
20 randum of agreement, memorandum of under-
21 standing, or similar agreement between the
22 President and a State or Indian tribe defining
23 Federal and State or tribal response action re-
24 sponsibilities that was in effect as of the date
25 of enactment of this section with respect to a

1 facility to which paragraph (1)(C) does not
2 apply shall remain effective until the agreement
3 expires in accordance with the terms of the
4 agreement.

5 “(B) NEW AGREEMENTS.—Nothing in this
6 subsection precludes the President from enter-
7 ing into an agreement with a State or Indian
8 tribe regarding responsibility at a facility to
9 which paragraph (1)(C) does not apply.”.

10 **SEC. 202. NATIONAL PRIORITIES LIST COMPLETION.**

11 Section 105 of the Comprehensive Environmental Re-
12 sponse, Compensation, and Liability Act of 1980 (42
13 U.S.C. 9605) is amended by striking subsection (b) and
14 inserting the following:

15 “(b) NATIONAL PRIORITIES LIST COMPLETION.—

16 “(1) IN GENERAL.—Not later than 2 years
17 after the date of enactment of this paragraph, the
18 President shall complete the evaluation of all facili-
19 ties classified as awaiting a National Priorities List
20 decision to determine the risk or danger to public
21 health or welfare or the environment posed by each
22 facility as compared with the other facilities.

23 “(2) MAXIMUM NUMBER.—For fiscal years
24 2000 through 2004, the President shall add a max-

1 imum of 30 facilities to the National Priorities List
2 on an annual basis.

3 “(3) REQUIREMENT OF REQUEST BY THE GOV-
4 ERNOR OF A STATE.—No facility shall be added to
5 the National Priorities List without the President
6 having first received a written communication from
7 the Governor of the State in which the facility is lo-
8 cated requesting that the facility be added.”.

9 **SEC. 203. FEDERAL EMERGENCY REMOVAL AUTHORITY.**

10 Section 104(c)(1) of the Comprehensive Environ-
11 mental Response, Compensation, and Liability Act of
12 1980 (42 U.S.C. 9604(c)(1)) is amended—

13 (1) in subparagraph (C), by striking “consistent
14 with the remedial action to be taken” and inserting
15 “not inconsistent with any remedial action that has
16 been selected or is anticipated at the time of any re-
17 moval action at a facility,”;

18 (2) by striking “\$2,000,000” and inserting
19 “\$5,000,000”; and

20 (3) by striking “12 months” and inserting “3
21 years”.

22 **SEC. 204. STATE COST SHARE.**

23 Section 104(c) of the Comprehensive Environmental
24 Response, Compensation, and Liability Act of 1980 (42
25 U.S.C. 9604(c)) is amended—

1 (1) by striking “(c)(1) Unless” and inserting
2 the following:

3 “(c) MISCELLANEOUS LIMITATIONS AND REQUIRE-
4 MENTS.—

5 “(1) CONTINUANCE OF OBLIGATIONS FROM
6 FUND.—Unless”;

7 (2) in paragraph (1), by striking “taken obliga-
8 tions” and inserting “taken, obligations”;

9 (3) by striking “(2) The President” and insert-
10 ing the following:

11 “(2) CONSULTATION.—The President”; and

12 (4) by striking paragraph (3) and inserting the
13 following:

14 “(3) STATE COST SHARE.—

15 “(A) IN GENERAL.—The Administrator
16 shall not provide any funding for remedial ac-
17 tion under this section unless the State in
18 which the release occurs first enters into a con-
19 tract or cooperative agreement with the Admin-
20 istrator that provides assurances that the State
21 will pay, in cash or through in-kind contribu-
22 tions, 10 percent of the costs of—

23 “(i) the remedial action; and

24 “(ii) operation and maintenance costs.

1 “(B) ACTIVITIES WITH RESPECT TO
2 WHICH STATE COST SHARE IS REQUIRED.—No
3 State cost share shall be required except for re-
4 medial actions under this section.

5 “(C) INDIAN TRIBES.—The requirements
6 of this paragraph shall not apply in the case of
7 remedial action to be taken on land or water—

8 “(i) held by an Indian Tribe;

9 “(ii) held by the United States in
10 trust for an Indian Tribe;

11 “(iii) held by a member of an Indian
12 Tribe (if the land or water is subject to a
13 trust restriction on alienation); or

14 “(iv) within the borders of an Indian
15 reservation.”.

16 **TITLE III—FAIR SHARE LIABIL-**
17 **ITY ALLOCATIONS AND PRO-**
18 **TECTIONS**

19 **SEC. 301. LIABILITY EXEMPTIONS AND LIMITATIONS.**

20 (a) DEFINITIONS.—Section 101 of the Comprehen-
21 sive Environmental Response, Liability, and Compensa-
22 tion Act of 1980 (42 U.S.C. 9601) (as amended by section
23 201(a)) is amended by adding at the end the following:

24 “(42) CODISPOSAL LANDFILL.—The term ‘co-
25 disposal landfill’ means a landfill that—

1 “(A) was listed on the National Priorities
2 List as of the date of enactment of this para-
3 graph;

4 “(B) received for disposal municipal solid
5 waste or sewage sludge; and

6 “(C) may also have received, before the ef-
7 fective date of requirements under subtitle C of
8 the Solid Waste Disposal Act (42 U.S.C. 6921
9 et seq.), any hazardous waste, if the landfill
10 contains predominantly municipal solid waste or
11 sewage sludge that was transported to the land-
12 fill from outside the facility.

13 “(43) MUNICIPAL SOLID WASTE.—

14 “(A) IN GENERAL.—The term ‘municipal
15 solid waste’ means waste material generated
16 by—

17 “(i) a household (such as a single- or
18 multi-family residence) or a public lodging
19 (such as a hotel or motel); or

20 “(ii) a commercial, institutional, or in-
21 dustrial source, to the extent that—

22 “(I) the waste material is sub-
23 stantially similar to waste normally
24 generated by a household or public

1 lodging (without regard to differences
2 in volume); or

3 “(II) the waste material is col-
4 lected and disposed of with other mu-
5 nicipal solid waste or sewage sludge
6 and, regardless of when generated,
7 would be conditionally exempt small
8 quantity generator waste under the
9 regulation issued under section
10 3001(d) of the Solid Waste Disposal
11 Act (42 U.S.C. 6921(d)).

12 “(B) INCLUSIONS.—The term ‘municipal
13 solid waste’ includes food and yard waste,
14 paper, clothing, appliances, consumer product
15 packaging, disposable diapers, office supplies,
16 cosmetics, glass and metal food containers, ele-
17 mentary or secondary school science laboratory
18 waste, and household hazardous waste.

19 “(C) EXCLUSIONS.—The term ‘municipal
20 solid waste’ does not include combustion ash
21 generated by resource recovery facilities or mu-
22 nicipal incinerators or waste from manufac-
23 turing or processing (including pollution con-
24 trol) operations that is not described in sub-
25 clause (I) or (II).

1 “(44) MUNICIPALITY.—

2 “(A) IN GENERAL.—The term ‘municipi-
3 pality’ means a political subdivision of a State
4 (including a city, county, village, town, town-
5 ship, borough, parish, school district, sanitation
6 district, water district, or other public entity
7 performing local governmental functions).

8 “(B) INCLUSIONS.—The term ‘municipi-
9 pality’ includes a natural person acting in the
10 capacity of an official, employee, or agent of
11 any entity described in subparagraph (A) in the
12 performance of a governmental function.

13 “(45) SEWAGE SLUDGE.—The term ‘sewage
14 sludge’ means solid, semisolid, or liquid residue re-
15 moved during the treatment of municipal waste
16 water, domestic sewage, or other waste water at or
17 by publicly owned treatment works.”.

18 (b) EXEMPTIONS AND LIMITATIONS.—

19 (1) IN GENERAL.—Section 107 of the Com-
20 prehensive Environmental Response, Compensation,
21 and Liability Act of 1980 (42 U.S.C. 9607) (as
22 amended by section 103(b)) is amended by adding at
23 the end the following:

24 “(q) LIABILITY EXEMPTION FOR MUNICIPAL SOLID
25 WASTE AND SEWAGE SLUDGE.—No person shall be liable

1 to the United States or to any other person (including li-
2 ability for contribution) under this section for any re-
3 sponse costs at a facility listed on the National Priorities
4 List to the extent that—

5 “(1) the person is liable solely under paragraph
6 (3) or (4) of subsection (a); and

7 “(2) the person is—

8 “(A) an owner, operator, or lessee of resi-
9 dential property from which all of the person’s
10 municipal solid waste was generated;

11 “(B) a business entity that, during the tax
12 year preceding the date of transmittal of writ-
13 ten notification that the business is potentially
14 liable, employs not more than 100 individuals;
15 or

16 “(C) a nonprofit organization described in
17 section 501(c)(3) of the Internal Revenue Code
18 of 1986 that employs not more than 100 indi-
19 viduals, from which all of the person’s munic-
20 ipal solid waste was generated.

21 “(r) DE MICROMIS CONTRIBUTOR EXEMPTION.—

22 “(1) IN GENERAL.—In the case of a vessel or
23 facility listed on the National Priorities List, no per-
24 son described in paragraph (3) or (4) of subsection
25 (a) shall be liable to the United States or to any

1 other person (including liability for contribution) for
2 any response costs under this section if the activity
3 specifically attributable to the person resulted in the
4 disposal or treatment of not more than 200 pounds
5 or 110 gallons of material containing a hazardous
6 substance at the vessel or facility before the date of
7 enactment of this subsection, or such greater
8 amount as the Administrator may determine by reg-
9 ulation.

10 “(2) EXCEPTION.—Paragraph (1) shall not
11 apply in a case in which the Administrator deter-
12 mines that material described in paragraph (1) has
13 contributed or may contribute significantly, individ-
14 ually, to the amount of response costs at the facility.

15 “(s) SMALL BUSINESS EXEMPTION.—

16 “(1) IN GENERAL.—No person shall be liable to
17 the United States or to any person (including liabil-
18 ity for contribution) under this section for any re-
19 sponse costs at a facility listed on the National Pri-
20 orities List if—

21 “(A) the person is a business that—

22 “(i) during the taxable year preceding
23 the date of transmittal of notification that
24 the business is a potentially responsible
25 party, had full- and part-time employees

1 whose combined time was equivalent to 75
2 or fewer full-time employees; or

3 “(ii) for that taxable year reported
4 \$3,000,000 or less in gross revenue;

5 “(B) the activity specifically attributable to
6 the person resulted in the disposal or treatment
7 of material containing a hazardous substance at
8 the vessel or facility before the date of enact-
9 ment of this subsection; and

10 “(C) the person is not affiliated through
11 any familial or corporate relationship with any
12 person that is or was a party potentially re-
13 sponsible for response costs at the facility.

14 “(2) EXCEPTION.—Paragraph (1) shall not
15 apply in a case in which the material containing a
16 hazardous substance referred to in subparagraph
17 (A) contributed significantly or could contribute sig-
18 nificantly to the cost of the response action with re-
19 spect to the facility.

20 “(t) MUNICIPAL SOLID WASTE AND SEWAGE
21 SLUDGE EXEMPTION AND LIMITATIONS.—

22 “(1) CONTRIBUTION OF MUNICIPAL SOLID
23 WASTE AND MUNICIPAL SEWAGE SLUDGE.—

24 “(A) IN GENERAL.—The condition stated
25 in this subparagraph is that the liability of the

1 potentially responsible party is for response
2 costs based on paragraph (3) or (4) of section
3 107(a) and on the potentially responsible par-
4 ty's having arranged for disposal or treatment
5 of, arranged with a transporter for transport
6 for disposal or treatment of, or accepted for
7 transport for disposal or treatment of, munic-
8 ipal solid waste or municipal sewage sludge at
9 a facility listed on the National Priorities List.

10 “(B) SETTLEMENT AMOUNT.—

11 “(i) IN GENERAL.—The President
12 shall offer a settlement to a party referred
13 to in clause (i) with respect to liability
14 under paragraph (3) or (4) of section
15 107(a) on the basis of a payment of \$5.30
16 per ton of municipal solid waste or munic-
17 ipal sewage sludge that the President esti-
18 mates is attributable to the party.

19 “(ii) REVISION.—

20 “(I) IN GENERAL.—The Presi-
21 dent may revise the settlement
22 amount under clause (i) by regulation.

23 “(II) BASIS.—A revised settle-
24 ment amount under subclause (I)
25 shall reflect the estimated per-ton cost

1 of closure and post-closure activities
2 at a representative facility containing
3 only municipal solid waste.

4 “(C) CONDITIONS.—The provisions for set-
5 tlement described in this subparagraph shall
6 not apply with respect to a facility where there
7 is no waste except municipal solid waste or mu-
8 nicipal sewage sludge.

9 “(D) ADJUSTMENT FOR INFLATION.—The
10 Administrator may by guidance periodically ad-
11 just the settlement amount under subparagraph
12 (B) to reflect changes in the Consumer Price
13 Index (or other appropriate index, as deter-
14 mined by the Administrator).

15 “(2) MUNICIPAL OWNERS AND OPERATORS.—

16 “(A) AGGREGATE LIABILITY OF LARGE
17 MUNICIPALITIES.—

18 “(i) IN GENERAL.—With respect to a
19 codisposal landfill that is owned or oper-
20 ated in whole or in part by municipalities
21 with a population of 100,000 or more (ac-
22 cording to the 1990 census), and that is
23 not subject to the criteria for solid waste
24 landfills published under subtitle D of the
25 Solid Waste Disposal Act (42 U.S.C. 6941

1 et seq.) at part 258 of title 40, Code of
2 Federal Regulations (or a successor regula-
3 tion), the aggregate amount of liability of
4 such municipal owners and operators for
5 response costs under this section shall be
6 not greater than 20 percent of such costs.

7 “(ii) INCREASED AMOUNT.—The
8 President may increase the percentage
9 under clause (i) to not more than 35 per-
10 cent with respect to a municipality if the
11 President determines that the municipality
12 committed specific acts that exacerbated
13 environmental contamination or exposure
14 with respect to the facility.

15 “(iii) DECREASED AMOUNT.—The
16 President may decrease the percentage
17 under clause (i) with respect to a munici-
18 pality to not less than 10 percent if the
19 President determines that the municipality
20 took specific acts of mitigation during the
21 operation of the facility to avoid environ-
22 mental contamination or exposure with re-
23 spect to the facility.

24 “(B) AGGREGATE LIABILITY OF SMALL
25 MUNICIPALITIES.—

1 “(i) IN GENERAL.—With respect to a
2 codisposal landfill that is owned or oper-
3 ated in whole or in part by municipalities
4 with a population of less than 100,000 (ac-
5 cording to the 1990 census), that is not
6 subject to the criteria for solid waste land-
7 fills published under subtitle D of the Solid
8 Waste Disposal Act (42 U.S.C. 6941 et
9 seq.) at part 258 of title 40, Code of Fed-
10 eral Regulations (or a successor regula-
11 tion), the aggregate amount of liability of
12 such municipal owners and operators for
13 response costs under this section shall be
14 not greater than 10 percent of such costs.

15 “(ii) INCREASED AMOUNT.—The
16 President may increase the percentage
17 under clause (i) to not more than 20 per-
18 cent with respect to a municipality if the
19 President determines that the municipality
20 committed specific acts that exacerbated
21 environmental contamination or exposure
22 with respect to the facility.

23 “(iii) DECREASED AMOUNT.—The
24 President may decrease the percentage
25 under clause (i) with respect to a munici-

1 pality to not less than 5 percent if the
2 President determines that the municipality
3 took specific acts of mitigation during the
4 operation of the facility to avoid environ-
5 mental contamination or exposure with re-
6 spect to the facility.

7 “(3) APPLICABILITY.—This subsection shall not
8 apply to—

9 “(A) a person that acted in violation of
10 subtitle C of the Solid Waste Disposal Act (42
11 U.S.C. 6921 et seq.) at a facility that is subject
12 to a response action under this title, if the vio-
13 lation pertains to a hazardous substance the re-
14 lease of threat of release of which caused the
15 incurrence of response costs at the facility;

16 “(B) a person that owned or operated a
17 codisposal landfill in violation of the applicable
18 requirements for municipal solid waste landfill
19 units under subtitle D of the Solid Waste Dis-
20 posal Act (42 U.S.C. 6941 et seq.) after Octo-
21 ber 9, 1991, if the violation pertains to a haz-
22 ardous substance the release of threat of release
23 of which caused the incurrence of response
24 costs at the facility; or

25 “(C) a person under section 122(p)(2)(G).

1 “(4) PERFORMANCE OF RESPONSE ACTIONS.—
2 As a condition of a settlement with a municipality
3 under this subsection, the President may require
4 that the municipality perform or participate in the
5 performance of the response actions at the facility.

6 “(5) NOTICE OF APPLICABILITY.—The Presi-
7 dent shall provide a potentially responsible party
8 with notice of the potential applicability of this sec-
9 tion in each written communication with the party
10 concerning the potential liability of the party.

11 “(u) RECYCLING TRANSACTIONS.—

12 “(1) LIABILITY CLARIFICATION.—As provided
13 in paragraphs (2), (3), (4), and (5), a person who
14 arranged for recycling of recyclable material shall
15 not be liable under paragraph (3) or (4) of sub-
16 section (a) with respect to the material.

17 “(2) RECYCLABLE MATERIAL DEFINED.—For
18 purposes of this subsection, the term ‘recyclable ma-
19 terial’ means scrap paper, scrap plastic, scrap glass,
20 scrap textiles, scrap rubber (other than whole tires),
21 scrap metal, or spent lead-acid, spent nickel-cad-
22 mium, and other spent batteries, as well as minor
23 amounts of material incident to or adhering to the
24 scrap material as a result of its normal and cus-
25 tomary use prior to becoming scrap; except that

1 such term shall not include shipping containers of a
2 capacity from 30 liters to 3,000 liters, whether in-
3 tact or not, having any hazardous substance (but
4 not metal bits and pieces or hazardous substance
5 that form an integral part of the container) con-
6 tained in or adhering thereto.

7 “(3) TRANSACTIONS INVOLVING SCRAP PAPER,
8 PLASTIC, GLASS, TEXTILES, OR RUBBER.—Trans-
9 actions involving scrap paper, scrap plastic, scrap
10 glass, scrap textiles, or scrap rubber (other than
11 whole tires) shall be deemed to be arranging for re-
12 cycling if the person who arranged for the trans-
13 action (by selling recyclable material or otherwise ar-
14 ranging for the recycling of recyclable material) can
15 demonstrate by a preponderance of the evidence that
16 all of the following criteria were met at the time of
17 the transaction:

18 “(A) The recyclable material met a com-
19 mercial specification grade.

20 “(B) A market existed for the recyclable
21 material.

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

1 “(D) The recyclable material could have
2 been a replacement or substitute for a virgin
3 raw material, or the product to be made from
4 the recyclable material could have been a re-
5 placement or substitute for a product made, in
6 whole or in part, from a virgin raw material.

7 “(E) For transactions occurring 90 days
8 or more after the date of enactment of this sub-
9 section, the person exercised reasonable care to
10 determine that the facility where the recyclable
11 material was handled, processed, reclaimed, or
12 otherwise managed by another person (herein-
13 after in this subsection referred to as a ‘con-
14 suming facility’) was in compliance with sub-
15 stantive (not procedural or administrative) pro-
16 visions of any Federal, State, or local environ-
17 mental law or regulation, or compliance order
18 or decree issued pursuant thereto, applicable to
19 the handling, processing, reclamation, storage,
20 or other management activities associated with
21 recyclable material.

22 “(F) For purposes of this paragraph, ‘rea-
23 sonable care’ shall be determined using criteria
24 that include (but are not limited to)—

1 “(i) the price paid in the recycling
2 transaction;

3 “(ii) the ability of the person to detect
4 the nature of the consuming facility’s oper-
5 ations concerning its handling, processing,
6 reclamation, or other management activi-
7 ties associated with recyclable material;
8 and

9 “(iii) the result of inquiries made to
10 the appropriate Federal, State, or local en-
11 vironmental agency (or agencies) regarding
12 the consuming facility’s past and current
13 compliance with substantive (not proce-
14 dural or administrative) provisions of any
15 Federal, State, or local environmental law
16 or regulation, or compliance order or de-
17 cree issued pursuant thereto, applicable to
18 the handling, processing, reclamation, stor-
19 age, or other management activities associ-
20 ated with the recyclable material. For the
21 purposes of this subparagraph, a require-
22 ment to obtain a permit applicable to the
23 handling, processing, reclamation, or other
24 management activity associated with the

1 recyclable materials shall be deemed to be
2 a substantive provision.

3 “(4) TRANSACTIONS INVOLVING SCRAP
4 METAL.—

5 “(A) Transactions involving scrap metal
6 shall be deemed to be arranging for recycling if
7 the person who arranged for the transaction (by
8 selling recyclable material or otherwise arrang-
9 ing for the recycling of recyclable material) can
10 demonstrate by a preponderance of the evidence
11 that at the time of the transaction—

12 “(i) the person met the criteria set
13 forth in paragraph (3) with respect to the
14 scrap metal;

15 “(ii) the person was in compliance
16 with any applicable regulations or stand-
17 ards regarding the storage, transport,
18 management, or other activities associated
19 with the recycling of scrap metal that the
20 Administrator promulgates under the Solid
21 Waste Disposal Act subsequent to the en-
22 actment of this subsection and with regard
23 to transactions occurring after the effective
24 date of such regulations or standards; and

1 “(iii) the person did not melt the
2 scrap metal prior to the transaction.

3 “(B) For purposes of subparagraph
4 (A)(iii), melting of scrap metal does not include
5 the thermal separation of 2 or more materials
6 due to differences in their melting points (re-
7 ferred to as ‘sweating’).

8 “(C) For purposes of this paragraph, the
9 term ‘scrap metal’ means—

10 “(i) bits and pieces of metal parts
11 (e.g., bars, turnings, rods, sheets, wire) or
12 metal pieces that may be combined to-
13 gether with bolts or soldering (e.g., radi-
14 ators, scrap automobiles, railroad box
15 cars), which when worn or superfluous can
16 be recycled; and

17 “(ii) notwithstanding subparagraph
18 (A)(iii), metal byproducts from copper and
19 copper-based alloys that—

20 “(I) are not 1 of the primary
21 products of a secondary production
22 process;

23 “(II) are not solely or separately
24 produced by the production process;

1 “(III) are not stored in a pile or
2 surface impoundment; and

3 “(IV) are sold to another recycler
4 that is not speculatively accumulating
5 such metal byproducts;

6 except for scrap metals that the Administrator
7 excludes from this definition by regulation.

8 “(5) TRANSACTIONS INVOLVING BATTERIES.—

9 Transactions involving spent lead-acid batteries,
10 spent nickel-cadmium batteries, or other spent bat-
11 teries shall be deemed to be arranging for recycling
12 if the person who arranged for the transaction (by
13 selling recyclable material or otherwise arranging for
14 the recycling of recyclable material) can demonstrate
15 by a preponderance of the evidence that at the time
16 of the transaction—

17 “(A) the person met the criteria set forth
18 in paragraph (3) with respect to the spent lead-
19 acid batteries, spent nickel-cadmium batteries,
20 or other spent batteries, but the person did not
21 recover the valuable components of such bat-
22 teries; and

23 “(B)(i) with respect to transactions involv-
24 ing lead-acid batteries, the person was in com-
25 pliance with applicable Federal environmental

1 regulations or standards, and any amendments
2 thereto, regarding the storage, transport, man-
3 agement, or other activities associated with the
4 recycling of spent lead-acid batteries;

5 “(ii) with respect to transactions involving
6 nickel-cadmium batteries, Federal environ-
7 mental regulations or standards are in effect re-
8 garding the storage, transport, management, or
9 other activities associated with the recycling of
10 spent nickel-cadmium batteries, and the person
11 was in compliance with applicable regulations or
12 standards or any amendments thereto; or

13 “(iii) with respect to transactions involving
14 other spent batteries, Federal environmental
15 regulations or standards are in effect regarding
16 the storage, transport, management, or other
17 activities associated with the recycling of such
18 batteries, and the person was in compliance
19 with applicable regulations or standards or any
20 amendments thereto.

21 “(6) EXCLUSIONS.—

22 “(A) The exemptions set forth in para-
23 graphs (3), (4), and (5) shall not apply if—

1 “(i) the person had an objectively rea-
2 sonable basis to believe at the time of the
3 recycling transaction—

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

6 “(II) that the recyclable material
7 would be burned as fuel, or for energy
8 recovery or incineration; or

9 “(III) for transactions occurring
10 before 90 days after the date of the
11 enactment of this subsection, that the
12 consuming facility was not in compli-
13 ance with a substantive (not proce-
14 dural or administrative) provision of
15 any Federal, State, or local environ-
16 mental law or regulation, or compli-
17 ance order or decree issued pursuant
18 thereto, applicable to the handling,
19 processing, reclamation, or other man-
20 agement activities associated with the
21 recyclable material;

22 “(ii) the person had reason to believe
23 that hazardous substances had been added
24 to the recyclable material for purposes
25 other than processing for recycling;

1 “(iii) the person failed to exercise rea-
2 sonable care with respect to the manage-
3 ment and handling of the recyclable mate-
4 rial (including adhering to customary in-
5 dustry practices current at the time of the
6 recycling transaction designed to minimize,
7 through source control, contamination of
8 the recyclable material by hazardous sub-
9 stances); or

10 “(iv) with respect to any item of a re-
11 cyclable material, the item contained poly-
12 chlorinated biphenyls at a concentration in
13 excess of 50 parts per million or any new
14 standard promulgated pursuant to applica-
15 ble Federal laws.

16 “(B) For purposes of this paragraph, an
17 objectively reasonable basis for belief shall be
18 determined using criteria that include (but are
19 not limited to) the size of the person’s business,
20 customary industry practices (including cus-
21 tomary industry practices current at the time of
22 the recycling transaction designed to minimize,
23 through source control, contamination of the re-
24 cyclable material by hazardous substances), the
25 price paid in the recycling transaction, and the

1 ability of the person to detect the nature of the
2 consuming facility's operations concerning its
3 handling, processing, reclamation, or other
4 management activities associated with the recy-
5 clable material.

6 “(C) For purposes of this paragraph, a re-
7 quirement to obtain a permit applicable to the
8 handling, processing, reclamation, or other
9 management activities associated with recycla-
10 ble material shall be deemed to be a substantive
11 provision.”.

12 (2) TRANSITION RULES.—

13 (A) IN GENERAL.—The exemptions under
14 subsections (q), (r), and (s) of section 107 of
15 the Comprehensive Environmental Response,
16 Compensation, and Liability Act of 1980 (42
17 U.S.C. 9607(q), 9607(r), 9607(s)) (as added by
18 paragraph (1)) shall not apply to any settle-
19 ment or judgment approved by a United States
20 Federal District Court—

21 (i) before the date of enactment of
22 this Act; or

23 (ii) not later than 180 days after the
24 date of enactment of this Act.

1 (B) EFFECT ON PENDING OR CONCLUDED
2 ACTIONS.—The exemptions provided in sub-
3 section (u) of the Comprehensive Environ-
4 mental Response, Compensation, and Liability
5 Act of 1980 (42 U.S.C. 9607(u)) (as added by
6 paragraph (1)) shall not affect any concluded
7 judicial or administrative action or any pending
8 judicial action initiated by the United States
9 prior to the date of enactment of this Act.

10 (c) SERVICE STATION DEALERS.—Section 114(c) of
11 the Comprehensive Environmental Response, Compensa-
12 tion, and Liability Act of 1980 (42 U.S.C. 9614(c)) is
13 amended—

14 (1) in paragraph (1)—

15 (A) by striking “No person” and inserting
16 “A person”;

17 (B) by striking “may recover” and insert-
18 ing “may not recover”;

19 (C) by striking “if such recycled oil” and
20 inserting “unless the service station dealer”;
21 and

22 (D) by striking subparagraphs (A) and (B)
23 and inserting the following:

24 “(A) mixed the recycled oil with any other
25 hazardous substance; or

1 “(B) did not store, treat, transport, or oth-
2 erwise manage the recycled oil in compliance
3 with any applicable regulations or standards
4 promulgated under section 3014 of the Solid
5 Waste Disposal Act (42 U.S.C. 6935) and other
6 applicable authorities that were in effect on the
7 date of such activity.”; and

8 (2) by striking paragraph (4).

9 **SEC. 302. EXPEDITED SETTLEMENT FOR CERTAIN PARTIES.**

10 (a) **PARTIES ELIGIBLE.**—Section 122(g) of the Com-
11 prehensive Environmental Response, Compensation, and
12 Liability Act of 1980 (42 U.S.C. 9622(g)) is amended—

13 (1) by striking the subsection heading and in-
14 serting the following:

15 “(g) **EXPEDITED FINAL SETTLEMENT.**—”;

16 (2) in paragraph (1)—

17 (A) by redesignating subparagraph (B) as
18 subparagraph (C);

19 (B) by striking “(1)” and all that follows
20 through subparagraph (A) and inserting the fol-
21 lowing:

22 “(1) **PARTIES ELIGIBLE.**—

23 “(A) **IN GENERAL.**—As expeditiously as
24 practicable, the President shall—

1 “(i) notify each potentially responsible
2 party that meets 1 or more of the condi-
3 tions stated in subparagraphs (B), (C),
4 and (D) of the party’s eligibility for a set-
5 tlement; and

6 “(ii) offer to reach a final administra-
7 tive or judicial settlement with the party.

8 “(B) DE MINIMIS CONTRIBUTION.—The
9 condition stated in this subparagraph is that
10 the liability is for response costs based on para-
11 graph (3) or (4) of section 107(a) and the par-
12 ty’s contribution of a hazardous substance at a
13 facility is de minimis. For the purposes of this
14 subparagraph, a potentially responsible party’s
15 contribution shall be considered to be de mini-
16 mis only if the President determines that both
17 of the following criteria are met:

18 “(i) MINIMAL AMOUNT OF MATE-
19 RIAL.—The amount of material containing
20 a hazardous substance contributed by the
21 potentially responsible party to the facility
22 is minimal relative to the total amount of
23 material containing hazardous substances
24 at the facility. The amount of a potentially
25 responsible party’s contribution shall be

1 presumed to be minimal if the amount is
2 1 percent or less of the total amount of
3 material containing a hazardous substance
4 at the facility, unless the Administrator
5 promptly identifies a greater threshold
6 based on site-specific factors.

7 “(ii) HAZARDOUS EFFECTS.—The ma-
8 terial containing a hazardous substance
9 contributed by the potentially responsible
10 party does not present toxic or other haz-
11 ardous effects that are significantly greater
12 than the toxic or other hazardous effects of
13 other material containing a hazardous sub-
14 stance at the facility.”;

15 (C) in subparagraph (C) (as redesignated
16 by subparagraph (A))—

17 (i) by redesignating clauses (i)
18 through (iii) as subclauses (I) through
19 (III), respectively, and adjusting the mar-
20 gins appropriately;

21 (ii) by striking “(C) The potentially
22 responsible party” and inserting the fol-
23 lowing:

24 “(C) OWNERS OF REAL PROPERTY.—

1 “(i) IN GENERAL.—The condition
2 stated in this subparagraph is that the po-
3 tentially responsible party”; and

4 (iii) by striking “This subparagraph
5 (B)” and inserting the following:

6 “(ii) APPLICABILITY.—Clause (i)”;

7 and

8 (D) by adding at the end the following:

9 “(D) REDUCTION IN SETTLEMENT
10 AMOUNT BASED ON LIMITED ABILITY TO PAY.—

11 “(i) IN GENERAL.—The condition
12 stated in this subparagraph is that—

13 “(I) the potentially responsible
14 party is—

15 “(aa) a natural person;

16 “(bb) a small business; or

17 “(cc) a municipality;

18 “(II) the potentially responsible
19 party demonstrates an inability to pay
20 or has only a limited ability to pay re-
21 sponse costs, as determined by the
22 Administrator under a regulation pro-
23 mulgated by the Administrator,
24 after—

1 “(aa) public notice and op-
2 portunity for comment; and

3 “(bb) consultation with the
4 Administrator of the Small Busi-
5 ness Administration and the Sec-
6 retary of Housing and Urban De-
7 velopment; and

8 “(III) in the case of a potentially
9 responsible party that is a small busi-
10 ness, the potentially responsible party
11 does not qualify for the small business
12 exemption under section 107(s) be-
13 cause of the application of section
14 107(s)(2).

15 “(ii) SMALL BUSINESSES.—

16 “(I) DEFINITION OF SMALL
17 BUSINESS.—In this subparagraph, the
18 term ‘small business’ means a busi-
19 ness entity that—

20 “(aa) during the taxable
21 year preceding the date of trans-
22 mittal of notification that the
23 business is a potentially respon-
24 sible party, had full- and part-
25 time employees whose combined

1 time was equivalent to that of 75
2 or fewer full-time employees or
3 for that taxable year reported
4 \$3,000,000 or less in gross rev-
5 enue; and

6 “(bb) is not affiliated
7 through any familial or corporate
8 relationship with any person that
9 is or was a party potentially re-
10 sponsible for response costs at
11 the facility.

12 “(II) CONSIDERATIONS.—At the
13 request of a small business, the Presi-
14 dent shall take into consideration the
15 ability of the small business to pay re-
16 sponse costs and still maintain its
17 basic business operations, including—

18 “(aa) consideration of the
19 overall financial condition of the
20 small business; and

21 “(bb) demonstrable con-
22 straints on the ability of the
23 small business to raise revenues.

24 “(III) INFORMATION.—A small
25 business requesting settlement under

1 this paragraph shall promptly provide
2 the President with all information
3 needed to determine the ability of the
4 small business to pay response costs.

5 “(IV) DETERMINATION.—A
6 small business shall demonstrate the
7 extent of its ability to pay response
8 costs, and the President shall perform
9 any analysis that the President deter-
10 mines may assist in demonstrating the
11 impact of a settlement on the ability
12 of the small business to maintain its
13 basic operations. The President, in
14 the discretion of the President, may
15 perform such an analysis for any
16 other party or request the other party
17 to perform the analysis.

18 “(V) ALTERNATIVE PAYMENT
19 METHODS.—If the President deter-
20 mines that a small business is unable
21 to pay its total settlement amount im-
22 mediately, the President shall consider
23 such alternative payment methods as
24 may be necessary or appropriate.

25 “(iii) MUNICIPALITIES.—

1 “(I) CONSIDERATIONS.—The
2 President shall consider the inability
3 or limited ability to pay of a municipi-
4 pality to the extent that the municipi-
5 pality provides information with re-
6 spect to—

7 “(aa) the general obligation
8 bond rating and information
9 about the most recent bond issue
10 for which the rating was pre-
11 pared;

12 “(bb) the amount of total
13 available funds (other than dedi-
14 cated funds or State assistance
15 payments for remediation of inac-
16 tive hazardous waste sites);

17 “(cc) the amount of total
18 operating revenues (other than
19 obligated or encumbered reve-
20 nues);

21 “(dd) the amount of total
22 expenses;

23 “(ee) the amounts of total
24 debt and debt service;

1 “(ff) per capita income and
2 cost of living;

3 “(gg) real property values;

4 “(hh) unemployment infor-
5 mation; and

6 “(ii) population information.

7 “(II) EVALUATION OF IMPACT.—

8 A municipality may submit for consid-
9 eration by the President an evaluation
10 of the potential impact of the settle-
11 ment on the provision of municipal
12 services and the feasibility of making
13 delayed payments or payments over
14 time.

15 “(III) RISK OF DEFAULT OR VIO-
16 LATION.—A municipality may estab-
17 lish an inability to pay for purposes of
18 this subparagraph by showing that
19 payment of its liability under this Act
20 would—

21 “(aa) create a substantial
22 demonstrable risk that the mu-
23 nicipality would default on debt
24 obligations existing as of the time
25 of the showing, go into bank-

1 ruptcy, be forced to dissolve, or
2 be forced to make budgetary cut-
3 backs that would substantially re-
4 duce the level of protection of
5 public health and safety; or

6 “(bb) necessitate a violation
7 of legal requirements or limita-
8 tions of general applicability con-
9 cerning the assumption and
10 maintenance of fiscal municipal
11 obligations.

12 “(IV) OTHER FACTORS REL-
13 EVANT TO SETTLEMENTS WITH MU-
14 NICIPALITIES.—In determining an ap-
15 propriate settlement amount with a
16 municipality under this subparagraph,
17 the President may consider other rel-
18 evant factors, including the fair mar-
19 ket value of any in-kind services that
20 the municipality may provide to sup-
21 port the response action at the facil-
22 ity.

23 “(iv) OTHER POTENTIALLY RESPON-
24 SIBLE PARTIES.—This subparagraph does
25 not affect the President’s authority to

1 evaluate the ability to pay of a potentially
2 responsible party other than a natural per-
3 son, small business, or municipality or to
4 enter into a settlement with such other
5 party based on that party's ability to pay.

6 “(E) ADDITIONAL CONDITIONS FOR EXPE-
7 DITED SETTLEMENTS.—

8 “(i) BASIS OF DETERMINATION.—If
9 the President determines that a potentially
10 responsible party is not eligible for settle-
11 ment under this paragraph, the President
12 shall state the reasons for the determina-
13 tion in writing to any potentially respon-
14 sible party that requests a settlement
15 under this paragraph.”.

16 (b) SETTLEMENT OFFERS.—Section 122(g) of the
17 Comprehensive Environment Response, Liability, and
18 Compensation Act of 1980 (42 U.S.C. 9622(g)) is
19 amended—

20 (1) by redesignating paragraph (6) as para-
21 graph (7); and

22 (2) by inserting after paragraph (5) the fol-
23 lowing:

24 “(6) SETTLEMENT OFFERS.—

1 “(A) NOTIFICATION.—As soon as prac-
2 ticable after receipt of sufficient information to
3 make a determination, the Administrator shall
4 notify any person that the Administrator deter-
5 mines is eligible under paragraph (1) of the
6 person’s eligibility for the expedited final settle-
7 ment.

8 “(B) OFFERS.—As soon as practicable
9 after receipt of sufficient information, the Ad-
10 ministrator shall submit a written settlement
11 offer to each person that the Administrator de-
12 termines, based on information available to the
13 Administrator at the time at which the deter-
14 mination is made, to be eligible for a settlement
15 under paragraph (1).

16 “(C) INFORMATION.—At the time at which
17 the Administrator submits an offer under para-
18 graph (1), the Administrator shall, at the re-
19 quest of the recipient of the offer, make avail-
20 able to the recipient any information available
21 under section 552 of title 5, United States
22 Code, on which the Administrator bases the set-
23 tlement offer, and if the settlement offer is
24 based in whole or in part on information not

1 available under that section, so inform the re-
2 cipient.”.

3 **SEC. 303. FAIR SHARE SETTLEMENTS AND STATUTORY OR-**
4 **PHAN SHARES.**

5 (a) IN GENERAL.—Section 122 of the Comprehensive
6 Environmental Response, Compensation, and Liability Act
7 of 1980 (42 U.S.C. 9622) is amended by adding at the
8 end the following:

9 “(n) FAIR SHARE ALLOCATION.—

10 “(1) PROCESS.—The President shall conduct an
11 impartial fair share allocation of response costs at
12 National Priority List facilities.

13 “(2) FACTORS.—In conducting an allocation
14 under this subsection, the President, without regard
15 to any theory of joint and several liability, shall esti-
16 mate the fair share of each potentially responsible
17 party using principles of equity, the best information
18 reasonably available to the President, and the fol-
19 lowing factors:

20 “(A) the quantity of hazardous substances
21 contributed by each party;

22 “(B) the degree of toxicity of hazardous
23 substances contributed by each party;

24 “(C) the mobility of hazardous substances
25 contributed by each party;

1 “(D) the degree of involvement of each
2 party in the generation, transportation, treat-
3 ment, storage, or disposal of hazardous sub-
4 stances;

5 “(E) the degree of care exercised by each
6 party with respect to hazardous substances,
7 taking into account the characteristics of the
8 hazardous substances;

9 “(F) the cooperation of each party in con-
10 tributing to any response action and in pro-
11 viding complete and timely information to the
12 United States or the allocator; and

13 “(G) such other equitable factors as the
14 President considers appropriate.

15 “(3) SCOPE.—A fair share allocation under this
16 subsection shall include any response costs at a Na-
17 tional priorities List facility that are not addressed
18 in a settlement or a judgment approved by a United
19 States Federal District Court—

20 “(A) before the date of enactment of this
21 subsection; or

22 “(B) not later than 180 days after the
23 date of enactment of this subsection.

24 “(4) SETTLEMENTS BASED ON ALLOCATIONS.—

1 “(A) IN GENERAL.—A party may settle
2 any liability to the United States for response
3 costs under this Act for its allocated fair share,
4 including a reasonable risk premium that re-
5 flects uncertainties existing at the time of set-
6 tlement.

7 “(B) COMPLETION OF OBLIGATIONS.—A
8 person that is undertaking a response action
9 under an administrative order issued under sec-
10 tion 106 or has entered into a settlement decree
11 with the United States of a State as of the date
12 of enactment of this subsection shall complete
13 the person’s obligations under the order or set-
14 tlement decree.

15 “(5) UNFUNDED AND UNATTRIBUTABLE
16 SHARES.—Any share attributable to an insolvent,
17 defunct, or bankrupt party, or a share that cannot
18 be attributed to any particular party, shall be allo-
19 cated among any responsible parties not described in
20 subsection (q), (r), (s), (t), or (u) of section 107 or
21 section 122(g).

22 “(o) STATUTORY ORPHAN SHARES.—

23 “(1) IN GENERAL.—For purposes of this sec-
24 tion, the statutory orphan share is the difference
25 between—

1 “(A) the liability of a party described in
2 subsection (q), (s), (t), or (u) of section 107 or
3 section 122(g); and

4 “(B) the President’s estimate of the liabil-
5 ity of the party, notwithstanding any exemption
6 from or limitation on liability in this Act.

7 “(2) DETERMINATION OF STATUTORY ORPHAN
8 SHARES.—

9 “(A) IN GENERAL.—The President shall
10 include an estimate of the statutory orphan
11 share of a party described in section 107(t) or
12 section 122(g), based on the best information
13 reasonably available to the President, at any
14 time at which the President seeks judicial ap-
15 proval of a settlement with the party.

16 “(3) TRANSITION RULE AND SUBSEQUENT SET-
17 TLEMENTS.—

18 “(A) IN GENERAL.—Each settlement pre-
19 sented for judicial approval on or after the date
20 that is 1 year after the date of enactment of
21 this subsection shall include an estimate of the
22 statutory orphan share for each party described
23 in subsection (q), (s), and (u) of section 107
24 that is involved in the settlement.

1 “(B) SUBSEQUENT SETTLEMENTS.—The
2 President shall include in a subsequent settle-
3 ment at the same facility a revised statutory or-
4 phan share estimate if the President—

5 “(i) determines that the subsequent
6 settlement includes a new statutory orphan
7 share; or

8 “(ii) has good cause to revise an ear-
9 lier statutory orphan share estimate.

10 “(4) FINAL SETTLEMENTS.—

11 “(A) IN GENERAL.—A judicially-approved
12 consent decree or settlement shall identify the
13 total statutory orphan share owing for a facility
14 if the consent decree or settlement—

15 “(i) includes remedial project con-
16 struction for the last operable unit at the
17 facility; or

18 “(ii) provides funding for remedial
19 project construction described in clause (i).

20 “(B) FUNDING AND REIMBURSEMENT.—A
21 consent decree or settlement described in sub-
22 paragraph (A) shall include full funding of any
23 statutory orphan shares in accordance with this
24 section.

1 “(5) HAZARDOUS SUBSTANCE SUPERFUND.—A
2 statutory orphan share constitutes an obligation of
3 the Hazardous Substance Superfund.

4 “(p) GENERAL PROVISIONS APPLICABLE TO STATU-
5 TORY ORPHAN SHARES AND FAIR SHARE SETTLE-
6 MENTS.—

7 “(1) IN GENERAL.—A fair share settlement
8 under subsection (g) and a statutory orphan share
9 under subsection (n) shall be subject to paragraph
10 (2).

11 “(2) PROVISIONS APPLICABLE TO STATUTORY
12 ORPHAN SHARES AND FAIR SHARE SETTLEMENTS.—

13 “(A) STAY OF LITIGATION AND ENFORCE-
14 MENT.—

15 “(i) IN GENERAL.—All contribution
16 and cost recovery actions under this Act
17 against each party described in sections
18 107(t) and 122(g) are stayed until the Ad-
19 ministrators offers those parties a settle-
20 ment.

21 “(ii) SUSPENSION OF STATUTE OF
22 LIMITATIONS.—Any statute of limitations
23 applicable to an action described in clause
24 (i) is suspended during the period that a
25 stay under this subparagraph is in effect.

1 “(B) FAILURE OR INABILITY TO COM-
2 PLY.—If the President fails to fund a statutory
3 orphan share, reimburse a party as required by
4 subsection (g), or include a statutory orphan
5 share estimate in any settlement when required
6 to do so under this Act, the President shall
7 not—

8 “(i) issue any new order under section
9 106 at the facility to any non-Federal
10 party; or

11 “(ii) commence or maintain any new
12 or existing action to recover response costs
13 at the facility.

14 “(C) AMOUNTS OWED.—

15 “(i) HAZARDOUS SUBSTANCE SUPER-
16 FUND MANAGEMENT.—The President may
17 provide partial reimbursement payments to
18 a party on a schedule that ensures an equi-
19 table distribution of reimbursement pay-
20 ments to all eligible parties on a timely
21 basis.

22 “(ii) PRIORITY.—The priority for re-
23 imbursement shall be based on the length
24 of time that has passed since the settle-

1 ment between the United States and the
2 party.

3 “(iii) PAYMENT FROM FUNDS MADE
4 AVAILABLE FOR SUBSEQUENT FISCAL
5 YEARS.—Any amounts payable in excess of
6 available appropriations in any fiscal year
7 shall be paid from amounts made available
8 for subsequent fiscal years, along with in-
9 terest on the unpaid balances at the rate
10 equal to that of the current average mar-
11 ket yield on outstanding marketable obliga-
12 tions of the United States with a maturity
13 of 1 year.

14 “(D) CONTRIBUTION PROTECTION.—

15 “(i) IN GENERAL.—A settlement
16 under this subsection, section 107(t), or
17 section 122(g) shall provide complete pro-
18 tection from all claims for contribution or
19 cost recovery for response costs that are
20 addressed in the allocation under sub-
21 section (n).

22 “(ii) COSTS BEYOND SCOPE OF ALLO-
23 CATION.—In the case of response costs at
24 a facility that, as a result of a prior, judi-
25 cially-approved settlement at the facility,

1 are not within the scope of an allocation
2 under subsection (n), a party shall retain
3 the right to seek cost recovery or contribu-
4 tion from any other party in accordance
5 with the prior settlement, except that no
6 party may seek contribution for any re-
7 sponse costs at the facility from—

8 “(I) a party described in sub-
9 section (q), (r), (s), or (u) of section
10 107; or

11 “(II) a party that has settled its
12 liability under section 107(t) or
13 122(g).

14 “(E) LIABILITY FOR ATTORNEY’S FEES
15 FOR CERTAIN ACTIONS.—A person that, after
16 the date of enactment of this subsection, com-
17 mences a civil action for contribution under this
18 Act against a person that is not liable by oper-
19 ation of subsections (q), (r), (s), or (u) of sec-
20 tion 107, or has resolved its liability to the
21 United States under subsection (n), section
22 107(t), or 122(g), shall be liable to that person
23 for all reasonable costs of defending the action,
24 including all reasonable attorney’s fees and ex-
25 pert witness fees.

1 “(F) ILLEGAL ACTIVITIES.—Subsections
2 (q), (r), (s), (t), and (u) of section 107 and sec-
3 tion 122(g) shall not apply to—

4 “(i) any person whose liability for re-
5 sponse costs under section 107(a) is other-
6 wise based on any act, omission, or status
7 that is determined by a court or adminis-
8 trative body of competent jurisdiction,
9 within the applicable statute of limitation,
10 to have been a violation of any Federal or
11 State law pertaining to the treatment,
12 storage, disposal, or handling of hazardous
13 substances if the violation pertains to a
14 hazardous substance, the release or threat
15 of release of which caused the incurrence
16 of response costs at the vessel or facility;

17 “(ii) a person described in section
18 107(o); or

19 “(iii) a bona fide prospective pur-
20 chaser.

21 “(G) EXCEPTION.—

22 “(i) IN GENERAL.—The President
23 may decline to reimburse or offer a settle-
24 ment to a potentially responsible party
25 under subsections (g) and (n) or section

1 122(g) if the President makes a decision
2 concerning a reimbursement or offer of a
3 settlement under clause (ii).

4 “(ii) REQUIREMENTS FOR REIM-
5 BURSEMENT OR OFFER OF A SETTLE-
6 MENT.—A potentially responsible party
7 may be denied a reimbursement or settle-
8 ment under clause (i)—

9 “(I) to the extent that the person
10 or entity has operational control over
11 a vessel or facility, if—

12 “(aa) the person or entity
13 fails to provide full cooperation
14 to, assistance to, and access to
15 the vessel or facility to persons
16 that are responsible for response
17 actions at the vessel or facility
18 (including the cooperation and
19 access necessary for the installa-
20 tion, integrity, operation, and
21 maintenance of any complete or
22 partial response actions at the
23 vessel or facility); or

24 “(bb) the person or entity
25 acts in such a way as to impede

1 the effectiveness or integrity of
2 any institutional control em-
3 ployed at the vessel or facility; or
4 “(II) if the person or entity fails
5 to comply with any request for infor-
6 mation or administrative subpoena
7 issued by the President under this
8 Act.

9 “(H) BASIS OF DETERMINATION.—If the
10 President determines that a potentially respon-
11 sible party is not eligible for settlement under
12 this paragraph, the President shall state the
13 reasons for the determination in writing to any
14 potentially responsible party that requests a
15 settlement under this paragraph.

16 “(I) WAIVER.—

17 “(i) RESPONSE COSTS IN ALLOCA-
18 TION.—A party that settles its liability
19 under this subsection waives the right to
20 seek cost recovery or contribution under
21 this Act for any response costs that are ad-
22 dressed in the allocation.

23 “(ii) RESPONSE COSTS OF FACIL-
24 ITY.—A party that settles its liability
25 under subsection 107(t) or section 122(g)

1 waives its right to seek cost recovery or
2 contribution under this Act for any re-
3 sponse costs at the facility.

4 “(J) PERFORMANCE OF RESPONSE AC-
5 TIONS.—

6 “(i) IN GENERAL.—Except as pro-
7 vided in subparagraph (B), the President
8 may require, as a condition of settlement
9 under subsection (n) and section 107(t),
10 that 1 or more parties conduct a response
11 action at the facility.

12 “(ii) REIMBURSEMENT.—

13 “(I) IN GENERAL.—The Presi-
14 dent shall reimburse a party described
15 in subparagraph (A) for costs in-
16 curred in excess of the party’s allo-
17 cated fair share.

18 “(II) PRO RATA REIMBURSE-
19 MENT.—The President shall provide
20 equitable pro rata reimbursement to
21 such parties on at least an annual
22 basis.

23 “(iii) RESPONSE ACTIONS.—No party
24 described in subsections (q), (r), (s), or (u)
25 of section 107 or 122(g) may be required

1 to perform a response action as a condition
 2 of settlement or ordered to conduct a re-
 3 sponse action under section 106.

4 “(K) JUDICIAL REVIEW.—

5 “(i) IN GENERAL.—A court shall not
 6 approve any settlement under this Act un-
 7 less the settlement includes an estimate of
 8 the statutory orphan share that is fair,
 9 reasonable and consistent with this Act.

10 “(ii) STATUTORY ORPHAN SHARE SET-
 11 TLEMENT.—If a court determines that an
 12 estimate of a statutory orphan share is not
 13 fair, reasonable, or consistent with this
 14 Act, the court may—

15 “(I) approve the settlement; and

16 “(II) disapprove and remand the
 17 estimate of the statutory orphan
 18 share.”.

19 (b) REGULATIONS.—The President shall issue regu-
 20 lations to implement this title not later than 180 days
 21 after the date of enactment of this Act.

22 **TITLE IV—FUNDING**

23 **SEC. 401. USES OF HAZARDOUS SUBSTANCE SUPERFUND.**

24 (a) IN GENERAL.—The Comprehensive Environ-
 25 mental Response Compensation, and Liability Act of 1980

1 is amended by striking sections 111 and 112 (42 U.S.C.
2 9611, 9612) and inserting the following:

3 **“SEC. 111. USES OF HAZARDOUS SUBSTANCE SUPERFUND.**

4 “(a) IN GENERAL.—

5 “(1) AUTHORIZATION OF APPROPRIATIONS.—

6 “(A) IN GENERAL.—There is authorized to
7 be appropriated from the Hazardous Substance
8 Fund for the purposes specified in subpara-
9 graphs (A) and (B) of paragraph (2) not more
10 than \$1,000,000,000 for the 5-year period be-
11 ginning on the date of enactment of the Super-
12 fund Program Completion Act of 1999.

13 “(B) RESPONSE ACTIONS.—There are au-
14 thorized to be appropriated from the Hazardous
15 Substance Superfund for the performance of re-
16 sponse actions the amounts described in para-
17 graph (2)(C).

18 “(2) SPECIFIC USES.—The President shall use
19 amounts appropriated out of the Hazardous Sub-
20 stance Superfund only—

21 “(A) to enter into mixed funding agree-
22 ments in accordance with section 122;

23 “(B) to reimburse a party for response
24 costs incurred in excess of the allocated share

1 of the party as described in a final settlement
2 under section 122; and

3 “(C) for the performance of response ac-
4 tions to the extent that the total amount in the
5 Hazardous Substance Superfund is greater
6 than—

7 “(i) in fiscal year 2000,
8 \$1,000,000,000;

9 “(ii) in fiscal year 2001,
10 \$800,000,000;

11 “(iii) in fiscal year 2002,
12 \$600,000,000;

13 “(iv) in fiscal year 2003,
14 \$400,000,000; and

15 “(v) in fiscal year 2004,
16 \$200,000,000.

17 “(b) CLAIMS AGAINST HAZARDOUS SUBSTANCE
18 SUPERFUND.—

19 “(1) IN GENERAL.—Claims against the Haz-
20 ardous Substance Superfund shall not be valid or
21 paid in excess of the total amount in the Hazardous
22 Substance Superfund at any 1 time.

23 “(2) VALIDITY OF CLAIMS EXCEEDING AMOUNT
24 IN HAZARDOUS SUBSTANCE SUPERFUND.—Claims
25 against the Hazardous Substance Superfund in ex-

1 cess of the total amount in the Hazardous Substance
2 Superfund shall become valid only when additional
3 amounts are collected for, appropriated for, or other-
4 wise added to the Hazardous Substance Superfund.

5 “(3) INSUFFICIENT BALANCE.—

6 “(A) IN GENERAL.—The President shall
7 not issue an order or seek to recover costs for
8 a response action at a facility if the amount in
9 the Hazardous Substance Superfund is insuffi-
10 cient to enable the President to enter into an
11 agreement or reimburse a party at the facility
12 under subsection (a).

13 “(B) AUTHORIZATION OF APPROPRIA-
14 TIONS.—If sufficient funds are unavailable in
15 the Hazardous Substance Superfund to satisfy
16 claims or to enter into agreements, there are
17 authorized to be appropriated such amounts as
18 are necessary to make such payments.

19 “(4) NO LIMITATION OF AUTHORITY.—Nothing
20 in this subsection limits the authority of the Presi-
21 dent to act under section 104.

22 “(c) REGULATIONS.—

23 “(1) OBLIGATION OF FUNDS.—The President
24 may promulgate regulations designating 1 or more
25 Federal officials that may obligate amounts in the

1 Hazardous Substance Superfund in accordance with
2 this section.

3 “(2) NOTICE TO POTENTIAL INJURED PAR-
4 TIES.—

5 “(A) IN GENERAL.—The President shall
6 promulgate regulations with respect to the no-
7 tice that shall be provided to potential injured
8 parties by an owner and operator of any vessel
9 or facility from which a hazardous substance
10 has been released.

11 “(B) SUBSTANCE.—The regulations under
12 subparagraph (A) shall describe the notice that
13 would be appropriate to carry out this title.

14 “(C) COMPLIANCE.—

15 “(i) IN GENERAL.—On promulgation
16 of regulations under subparagraph (A), an
17 owner and operator described in that sub-
18 paragraph shall provide notice in accord-
19 ance with the regulations.

20 “(ii) PRE-PROMULGATION RE-
21 LEASES.—In the case of a release of a haz-
22 ardous substance that occurs before regu-
23 lations under subparagraph (A) are pro-
24 mulgated, an owner and operator described
25 in that subparagraph shall provide reason-

1 able notice of any release to potential in-
2 jured parties by publication in local news-
3 papers serving the affected area.

4 “(iii) RELEASES FROM PUBLIC VES-
5 SELS.—The President shall provide such
6 notification as is appropriate to potential
7 injured parties with respect to releases
8 from public vessels.

9 “(d) NATURAL RESOURCES.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), funds may not be used under this Act for
12 the restoration, rehabilitation, or replacement or ac-
13 quisition of the equivalent of any natural resource
14 until a plan for the use of the funds for those pur-
15 poses has been developed and adopted, after ade-
16 quate public notice and opportunity for hearing and
17 consideration of all public comment, by—

18 “(A) affected Federal agencies;

19 “(B) the Governor of each State that sus-
20 tained damage to natural resources that are
21 within the borders of, belong to, are managed
22 by, or appertain to the State; and

23 “(C) the governing body of any Indian
24 tribe that sustained damage to natural re-
25 sources that—

1 “(i) are within the borders of, belong
2 to, are managed by, appertain to, or are
3 held in trust for the benefit of the tribe; or

4 “(ii) belong to a member of the tribe,
5 if those resources are subject to a trust re-
6 striction on alienation.

7 “(2) EMERGENCY ACTION EXEMPTION.—Funds
8 may be used under this Act for the restoration, re-
9 habilitation, or replacement or acquisition of the
10 equivalent of any natural resource only in cir-
11 cumstances requiring action to—

12 “(A) avoid an irreversible loss of a natural
13 resource;

14 “(B) prevent or reduce any continuing
15 danger to a natural resource; or

16 “(C) prevent the loss of a natural resource
17 in an emergency situation similar to those de-
18 scribed in subparagraphs (A) and (B).

19 “(e) POST-CLOSURE LIABILITY FUND.—The Presi-
20 dent shall use the amounts in the Post-closure Liability
21 Fund for—

22 “(1) any of the purposes specified in subsection
23 (a) with respect to a hazardous waste disposal facil-
24 ity for which liability has been transferred to the

1 Post-closure Liability Fund under section 107(k);
2 and

3 “(2) payment of any claim or appropriate re-
4 quest for costs of a response, damages, or other
5 compensation for injury or loss resulting from a re-
6 lease of a hazardous substance from a facility de-
7 scribed in paragraph (1) under—

8 “(A) section 107; or

9 “(B) any other Federal or State law.

10 “(f) INSPECTOR GENERAL.—

11 “(1) AUDIT.—In each fiscal year, the Inspector
12 General of the Environmental Protection Agency
13 shall conduct an annual audit of—

14 “(A) all agreements and reimbursements
15 under subsection (a); and

16 “(B) all other activities of the Environ-
17 mental Protection Agency under this Act.

18 “(2) REPORT.—The Inspector General of the
19 Environmental Protection Agency shall submit to
20 Congress an annual report that—

21 “(A) describes the results of the audit
22 under paragraph (1); and

23 “(B) contains such recommendations as
24 the Inspector General considers to be appro-
25 priate.

1 “(g) FOREIGN CLAIMS.—To the extent that this Act
2 permits, a foreign claimant may assert a claim to the same
3 extent that a United States claimant may assert a claim
4 if—

5 “(1) the release of a hazardous substance
6 occurred—

7 “(A) in the navigable waters of a foreign
8 country of which the claimant is a resident; or

9 “(B) in or on the territorial sea or adja-
10 cent shoreline of a foreign country described in
11 subparagraph (A);

12 “(2) the claimant is not otherwise compensated
13 for the loss of the claimant;

14 “(3) the hazardous substance was released from
15 a facility or vessel located adjacent to or within the
16 navigable waters under the jurisdiction of, or was
17 discharged in connection with activities conducted
18 under—

19 “(A) section 20(a)(2) of the Outer Conti-
20 nental Shelf Lands Act (43 U.S.C. 1346(a)(2));
21 or

22 “(B) the Deepwater Port Act of 1974 (33
23 U.S.C. 1501 et seq.); and

1 “(4)(A) recovery is authorized by a treaty or an
2 executive agreement between the United States and
3 the foreign country; or

4 “(B) the Secretary of State, in consultation
5 with the Attorney General and other appropriate of-
6 ficials, certifies that the foreign country provides a
7 comparable remedy for United States claimants.

8 “(h) AUTHORIZATION OF APPROPRIATIONS OUT OF
9 THE GENERAL FUND.—

10 “(1) REMOVAL AND RESPONSE ACTIONS.—

11 There are authorized to be appropriated to the Envi-
12 ronmental Protection Agency out of the general fund
13 of the Treasury or from the Hazardous Substance
14 Superfund, in accordance with section 111(a)(2)(C),
15 to conduct removal and response actions under this
16 Act:

17 “(A) For fiscal year 2000, \$900,000,000.

18 “(B) For fiscal year 2001, \$875,000,000.

19 “(C) For fiscal year 2002, \$850,000,000.

20 “(D) For fiscal year 2003, \$825,000,000.

21 “(E) For fiscal year 2004, \$800,000,000.

22 “(2) HEALTH ASSESSMENTS AND HEALTH CON-
23 SULTATIONS.—There are authorized to be appro-
24 priated to the Agency for Toxic Substances and Dis-
25 ease Registry to conduct health assessments and

1 health consultations under this Act, and for epi-
 2 demiologic and laboratory studies, preparation of
 3 toxicologic profiles, development and maintenance of
 4 a registry of persons exposed to hazardous sub-
 5 stances to allow long-term health effects studies, and
 6 diagnostic services not otherwise available to deter-
 7 mine whether persons in populations exposed to haz-
 8 ardous substances in connection with a release or
 9 suspected release are suffering from long-latency dis-
 10 eases:

11 “(A) For fiscal year 2000, \$60,000,000.

12 “(B) For fiscal year 2001, \$55,000,000.

13 “(C) For fiscal year 2002, \$55,000,000.

14 “(D) For fiscal year 2003, \$50,000,000.

15 “(E) For fiscal year 2004, \$50,000,000.

16 “(3) HAZARDOUS SUBSTANCE RESEARCH, DEM-
 17 ONSTRATION, AND TRAINING.—

18 “(A) IN GENERAL.—There are authorized
 19 to be appropriated not more than the following
 20 amounts for the purposes of section 311(a):

21 “(i) For fiscal year 2000,
 22 \$40,000,000.

23 “(ii) For fiscal year 2001,
 24 \$40,000,000.

1 “(iii) For fiscal year 2002,
2 \$40,000,000.

3 “(iv) For each of fiscal years 2003
4 and 2004, \$40,000,000.

5 “(B) TRAINING LIMITATION.—Not more
6 than 15 percent of the amounts appropriated
7 under subparagraph (A) shall be used for train-
8 ing under section 311(a) for any fiscal year.

9 “(C) UNIVERSITY HAZARDOUS SUBSTANCE
10 RESEARCH CENTERS.—Not more than
11 \$5,000,000 of the amounts available in the
12 Hazardous Substance Superfund may be used
13 in any of fiscal years 2000 through 2004 for
14 the purposes of section 311(d).

15 “(4) BROWNFIELD GRANT PROGRAMS.—There
16 are authorized to be appropriated to carry out sec-
17 tion 127 \$100,000,000 for each of fiscal years 2000
18 through 2004.

19 “(5) QUALIFYING STATE RESPONSE PRO-
20 GRAMS.—There are authorized to be appropriated to
21 maintain, establish, and administer qualifying State
22 response programs during the first 5 full fiscal years
23 following the date of enactment of this paragraph
24 under a formula established by the Administrator,

1 \$100,000,000 for each of fiscal years 2000 through
2 2004.

3 “(6) DEPARTMENT OF JUSTICE.—There are au-
4 thorized to be appropriated to the Attorney General
5 for the enforcement of this Act—

6 “(A) for fiscal year 2000, \$30,000,000;

7 “(B) for fiscal year 2001, \$28,000,000;

8 “(C) for fiscal year 2002, \$26,000,000;

9 “(D) for fiscal year 2003, \$24,000,000;

10 and

11 “(E) for fiscal year 2004, \$22,000,000.

12 “(7) PROHIBITION OF TRANSFER.—None of the
13 funds authorized to be appropriated under this sub-
14 section may be transferred to any other Federal
15 agency.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) RESPONSE ACTIONS.—Section 104(c) of the
18 Comprehensive Environmental Response Compensa-
19 tion, and Liability Act of 1980 (42 U.S.C. 9604(c))
20 is amended—

21 (A) in paragraph (1), by striking “obliga-
22 tions from the Fund, other than those author-
23 ized by subsection (b) of this section,” and in-
24 serting “, such response actions”; and

1 (B) in paragraph (7), by striking “shall be
2 from funds received by the Fund from amounts
3 recovered on behalf of such fund under this
4 Act” and inserting “shall be from appropria-
5 tions out of the general fund of the Treasury”.

6 (2) INFORMATION GATHERING AND ANAL-
7 YSIS.—Section 105(g)(4) of the Comprehensive En-
8 vironmental Response Compensation, and Liability
9 Act of 1980 (42 U.S.C. 9605(g)(4)) is amended by
10 striking “expenditure of monies from the Fund for”.

11 (3) PRESIDENT.—Section 107(c)(3) of the
12 Comprehensive Environmental Response Compensa-
13 tion, and Liability Act of 1980 (42 U.S.C.
14 9607(c)(3)) is amended in the first sentence by
15 striking “Fund” and inserting “President”.

16 (4) OTHER LIABILITY.—Section 109(d) of the
17 Comprehensive Environmental Response Compensa-
18 tion, and Liability Act of 1980 (42 U.S.C. 9609(d))
19 is amended by striking the second sentence.

20 (5) SOURCE OF FUNDING.—Section 119(e)(3)
21 of the Comprehensive Environmental Response Com-
22 pensation, and Liability Act of 1980 (42 U.S.C.
23 9619(e)(3)) is amended—

1 (A) in the second sentence, by striking
2 “For purposes of section 111, amounts” and in-
3 serting “Amounts”; and

4 (B) in the third sentence—

5 (i) by striking “If sufficient funds are
6 unavailable in the Hazardous Substance
7 Superfund established under subchapter A
8 of chapter 98 of the Internal Revenue
9 Code of 1954 to make payments pursuant
10 to such indemnification or if the Fund is
11 repealed, there” and inserting “There“;
12 and

13 (ii) by striking “payments” and in-
14 serting “expenditures”.

15 (6) REMEDIAL ACTION USING HAZARDOUS SUB-
16 STANCE SUPERFUND.—Section 121(d)(4)(F) of the
17 Comprehensive Environmental Response Compensa-
18 tion, and Liability Act of 1980 (42 U.S.C.
19 9621(d)(4)(F)) is amended—

20 (A) by striking “ using the Fund”; and

21 (B) by striking “amounts from the Fund”
22 and inserting “funds”.

23 (7) AVAILABILITY OF FUNDING.—Section
24 122(f)(4)(F) of the Comprehensive Environmental
25 Response Compensation, and Liability Act of 1980

1 (42 U.S.C. 9622(f)(4)(F)) is amended by striking
2 “the Fund or other sources of”.

○