

106TH CONGRESS
1ST SESSION

S. 1105

To assist local governments and States in assessing and remediating brownfield sites, increase fairness and reduce litigation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 24, 1999

Mr. BAUCUS (for himself, Mr. LAUTENBERG, Mrs. LINCOLN, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To assist local governments and States in assessing and remediating brownfield sites, increase fairness and reduce litigation, and for other purposes.

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—BROWNFIELDS LIABILITY RELIEF

- Sec. 101. Finality for buyers.
- Sec. 102. Finality for owners and sellers.
- Sec. 103. Regulatory authority.

TITLE II—SMALL BUSINESS LIABILITY RELIEF

- Sec. 201. Liability exemptions.
- Sec. 202. Expedited settlement for de minimis contributions and limited ability to pay.
- Sec. 203. Small business ombudsman.

TITLE III—SETTLEMENTS FOR MUNICIPALITIES AND CONTRIBUTORS OF MUNICIPAL WASTE

- Sec. 301. Municipal owners and operators.
- Sec. 302. Expedited settlements with contributors of municipal waste.

TITLE IV—CLARIFICATION OF LIABILITY FOR RECYCLING TRANSACTIONS

- Sec. 401. Recycling transactions.

TITLE V—BROWNFIELDS CLEANUP

- Sec. 501. Brownfields funding.
- Sec. 502. Research, development, demonstration, and training.
- Sec. 503. State voluntary cleanup programs.
- Sec. 504. Audits.

TITLE VI—SETTLEMENT INCENTIVES

- Sec. 601. Fairness in settlements.

TITLE VII—FUNDING

- Sec. 701. Authorization of appropriations.
- Sec. 702. Funding for cleanup settlements.
- Sec. 703. Agency for Toxic Substances and Disease Registry.
- Sec. 704. Brownfields.
- Sec. 705. Authorization of appropriations from general revenues.
- Sec. 706. Worker training and education grants.

TITLE VIII—DEFINITIONS

- Sec. 801. Definitions.

1 **TITLE I—BROWNFIELDS**
 2 **LIABILITY RELIEF**

3 **SEC. 101. FINALITY FOR BUYERS.**

4 (a) LIMITATIONS ON LIABILITY.—Section 107 of the
 5 Comprehensive Environmental Response, Compensation,

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

3 “(o) LIMITATION ON LIABILITY FOR PROSPECTIVE
4 PURCHASERS.—Notwithstanding paragraphs (1) through
5 (4) of subsection (a), to the extent the liability of a person,
6 with respect to a release or the threat of a release from
7 a facility, is based solely on subsection (a)(1), the person
8 shall not be liable under this Act if the person—

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

11 “(2) does not impede the performance of any
12 response action or natural resource restoration at a
13 facility.”.

14 (b) PROSPECTIVE PURCHASER AND WINDFALL
15 LIEN.—Section 107 of the Comprehensive Environmental
16 Response, Compensation, and Liability Act of 1980 (as
17 amended by subsection (a)) is amended by adding at the
18 end the following:

19 “(p) PROSPECTIVE PURCHASER AND WINDFALL
20 LIEN.—

21 “(1) IN GENERAL.—In any case in which the
22 United States has incurred unrecovered response
23 costs at a facility for which an owner of the facility
24 is not liable by reason of subsection (o), and the con-

1 ditions described in paragraph (3) are met, the
2 United States shall—

3 “(A) have a lien on the facility; or

4 “(B) may obtain, from the appropriate re-
5 sponsible party or parties, a lien on other prop-
6 erty or other assurances of payment satisfac-
7 tory to the Administrator, for the unrecovered
8 costs.

9 “(2) AMOUNT; DURATION.—The lien shall—

10 “(A) be for an amount not to exceed the
11 lesser of the amount of—

12 “(i) the response costs of the United
13 States; or

14 “(ii) the increase in fair market value
15 of the property attributable to the response
16 action at the time of a subsequent sale or
17 other disposition of the property;

18 “(B) arise at the time costs are first in-
19 curred by the United States with respect to a
20 response action at the facility;

21 “(C) be subject to the requirements for no-
22 tice and validity specified in subsection (1)(3);
23 and

24 “(D) continue until the earlier of satisfac-
25 tion of the lien or recovery of all response costs

1 incurred at the facility, notwithstanding any
2 statute of limitations under section 113.

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

5 “(A) RESPONSE ACTION.—A response ac-
6 tion for which the United States has incurred
7 unrecovered costs of a response not inconsistent
8 with the National Contingency Plan is carried
9 out at the facility.

10 “(B) FAIR MARKET VALUE.—The response
11 action increases the fair market value of the fa-
12 cility above the fair market value of the facility
13 that existed before the response action was
14 commenced.

15 “(4) SETTLEMENT.—Nothing in this subsection
16 prevents the United States and the purchaser from
17 entering into a settlement at any time that extin-
18 guishes a lien of the United States.”.

19 (c) DEFINITION OF BONA FIDE PROSPECTIVE PUR-
20 CHASER.—Section 101 of the Comprehensive Environ-
21 mental Response, Compensation, and Liability Act of
22 1980 (42 U.S.C. 9601) is amended by adding at the end
23 the following:

24 “(39) BONA FIDE PROSPECTIVE PURCHASER.—
25 The term ‘bona fide prospective purchaser’ means a

1 person or a tenant of a person that acquires owner-
2 ship of a facility after the date of enactment of this
3 paragraph that can establish each of the following
4 by a preponderance of the evidence:

5 “(A) DISPOSAL PRIOR TO ACQUISITION.—

6 All active disposal of hazardous substances at
7 the facility occurred before the person acquired
8 the facility.

9 “(B) INQUIRY.—

10 “(i) IN GENERAL.—The person made
11 all appropriate inquiry into the previous
12 ownership and uses of the facility in ac-
13 cordance with generally accepted good
14 commercial and customary standards and
15 practices.

16 “(ii) STANDARDS.—The standards
17 and practices referred to in clause (ii) of
18 paragraph (35)(B) or those issued or des-
19 ignated by the Administrator under that
20 clause shall satisfy the requirements of this
21 subparagraph.

22 “(iii) RESIDENTIAL PROPERTY.—In
23 the case of property in residential or other
24 similar use at the time of purchase by a
25 nongovernmental or noncommercial entity,

1 a site inspection and title search that re-
2 veal no basis for further investigation shall
3 satisfy the requirements of this subpara-
4 graph.

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

9 “(D) CARE.—The person exercised appro-
10 priate care with respect to hazardous sub-
11 stances found at the facility by taking reason-
12 able steps to—

13 “(i) stop ongoing releases;

14 “(ii) prevent threatened future re-
15 leases of hazardous substances; and

16 “(iii) prevent or limit human, environ-
17 mental, or natural resource exposure to
18 hazardous substances previously released
19 into the environment.

20 “(E) COOPERATION, ASSISTANCE, AND AC-
21 CESS.—The person—

22 “(i) provides full cooperation, assist-
23 ance, and access to the persons that are
24 authorized to conduct the response and
25 restoration actions at the facility, including

1 the cooperation and access necessary for
2 the assessment of contamination, installa-
3 tion, preservation of integrity, operation,
4 and maintenance of any complete or par-
5 tial response action at the facility; and

6 “(ii) has fully complied and is in full
7 compliance with any land use or activity
8 restrictions on the property established or
9 relied on in connection with a response ac-
10 tion at the facility, including informing any
11 other party that the person allows to oc-
12 cupy or use the property of the restrictions
13 and taking prompt action to correct any
14 noncompliance by the party.

15 “(F) RELATIONSHIP.—

16 “(i) IN GENERAL.—The person is not
17 liable or affiliated with any other person
18 that is potentially liable for response costs
19 at the facility through any direct or indi-
20 rect familial relationship, or any contrac-
21 tual, corporate, or financial relationship
22 other than that created by the instruments
23 by which title to the facility is conveyed or
24 financed.

1 “(ii) REORGANIZATION.—An entity
2 that results from the reorganization of a
3 business entity that is potentially liable
4 does not qualify as a bona fide prospective
5 purchaser with respect to a purchase or
6 transfer of property directly or indirectly
7 from the potentially liable entity.”.

8 **SEC. 102. FINALITY FOR OWNERS AND SELLERS.**

9 (a) KNOWLEDGE OF INQUIRY REQUIREMENT FOR IN-
10 NOCENT LANDOWNERS.—Section 101(35) of the Com-
11 prehensive Environmental Response, Compensation, and
12 Liability Act of 1980 (42 U.S.C. 9601(35)) is amended—

13 (1) in subparagraph (A), by striking “, unless”
14 and inserting “. An owner or operator of a facility
15 may only assert under section 107(b)(3) that an act
16 or omission of a previous owner or operator of that
17 facility did not occur in connection with a contrac-
18 tual relationship if”; and

19 (2) by striking subparagraph (B) and inserting
20 the following:

21 “(B) KNOWLEDGE OF INQUIRY REQUIRE-
22 MENT.—

23 “(i) DEFINITION OF CONTAMINA-
24 TION.—In this subparagraph, the term
25 ‘contamination’ means an existing release,

1 a past release, or the threat of a release of
2 a hazardous substance.

3 “(ii) REQUIREMENT.—

4 “(I) INQUIRY.—To establish that
5 the defendant had no reason to know
6 (under subparagraph (A)(i)), the de-
7 fendant must have made, at the time
8 of the acquisition, all appropriate in-
9 quiry (as well as comply with clause
10 (vii)) into the previous ownership and
11 uses of the facility, consistent with
12 good commercial or customary prac-
13 tice in an effort to minimize liability.

14 “(II) CONSIDERATIONS.—For the
15 purpose of subclause (I) and until the
16 President issues or designates stand-
17 ards as provided in clause (iv), the
18 court shall take into account—

19 “(aa) any specialized knowl-
20 edge or experience on the part of
21 the defendant;

22 “(bb) the relationship of the
23 purchase price to the value of the
24 property if uncontaminated;

1 “(cc) commonly known or
2 reasonably ascertainable informa-
3 tion about the property;

4 “(dd) the obviousness of the
5 presence or likely presence of
6 contamination at the property;
7 and

8 “(ee) the ability to detect
9 the contamination by appropriate
10 investigation.

11 “(iii) CONDUCT OF SITE ASSESS-
12 MENT.—A person who has acquired real
13 property shall be considered to have made
14 all appropriate inquiry within the meaning
15 of clause (ii)(I) if—

16 “(I) the person establishes that,
17 not later than 180 days before the
18 date of acquisition, a site assessment
19 of the real property was conducted
20 that meets the requirements of clause
21 (iv); and

22 “(II) the person complies with
23 clause (vii).

24 “(iv) SITE ASSESSMENT STAND-
25 ARDS.—

1 “(I) IN GENERAL.—A site assess-
2 ment meets the requirements of this
3 clause if the assessment is conducted
4 in accordance with the standards set
5 forth in the American Society for
6 Testing and Materials (ASTM) Stand-
7 ard E1527–94, entitled ‘Standard
8 Practice for Environmental Site As-
9 sessments: Phase I Environmental
10 Site Assessment Process’ or with any
11 alternative standards issued by regu-
12 lation by the President or issued or
13 developed by other entities and des-
14 ignated by regulation by the Presi-
15 dent.

16 “(II) STUDY OF PRACTICES.—
17 Before issuing or designating alter-
18 native standards under subclause (I),
19 the President shall conduct a study of
20 commercial and industrial practices
21 concerning site assessments in the
22 transfer of real property in the United
23 States.

24 “(v) CONSIDERATIONS IN ISSUING
25 STANDARDS.—In issuing or designating

1 any standards under clause (iv), the Presi-
2 dent shall consider requirements governing
3 each of the following:

4 “(I) Conduct of an inquiry by an
5 environmental professional.

6 “(II) Interviews of each owner,
7 operator, and occupant of the prop-
8 erty to determine information regard-
9 ing the potential for contamination.

10 “(III) Review of historical
11 sources as necessary to determine
12 each previous use and occupancy of
13 the property since the property was
14 first developed. In this subclause, the
15 term ‘historical sources’ means any of
16 the following, if reasonably ascertain-
17 able: each recorded chain of title doc-
18 ument regarding the real property, in-
19 cluding each deed, easement, lease, re-
20 striction, and covenant, any aerial
21 photograph, fire insurance map, prop-
22 erty tax file, United States Geological
23 Survey 7.5 minutes topographic map,
24 local street directory, building depart-
25 ment record, and zoning/land use

1 record, and any other source that
2 identifies a past use or occupancy of
3 the property.

4 “(IV) Determination of the exist-
5 ence of any recorded environmental
6 cleanup lien against the real property
7 that has arisen under any Federal,
8 State, or local law.

9 “(V) Review of reasonably ascer-
10 tainable Federal, State, and local gov-
11 ernment records of any facility that is
12 likely to cause or contribute to con-
13 tamination at the real property, in-
14 cluding, as appropriate—

15 “(aa) any investigation re-
16 port for the facility;

17 “(bb) any record of activities
18 likely to cause or contribute to
19 contamination at the real prop-
20 erty, including any landfill or
21 other disposal location record,
22 underground storage tank record,
23 hazardous waste handler and
24 generator record, and spill re-
25 porting record; and

1 “(cc) any other reasonably
2 ascertainable Federal, State, and
3 local government environmental
4 record that could reflect an inci-
5 dent or activity that is likely to
6 cause or contribute to contamina-
7 tion at the real property.

8 “(VI) A visual site inspection of
9 the real property and each facility and
10 improvement on the real property and
11 a visual site inspection of each imme-
12 diately adjacent property, including an
13 investigation of any hazardous sub-
14 stance use, storage, treatment, or dis-
15 posal practice on the property.

16 “(VII) Any specialized knowledge
17 or experience on the part of the per-
18 son that acquired the property.

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

22 “(IX) Commonly known or rea-
23 sonably ascertainable information
24 about the property.

1 “(X) The obviousness of the
2 presence or likely presence of contami-
3 nation at the property, and the ability
4 to detect the contamination by appro-
5 priate investigation.

6 “(vi) REASONABLY ASCERTAIN-
7 ABLE.—A record shall be considered to be
8 reasonably ascertainable for purposes of
9 clause (v) if a copy or reasonable facsimile
10 of the record is publicly available by re-
11 quest (within reasonable time and cost con-
12 straints) and the record is practicably re-
13 viewable.

14 “(vii) APPROPRIATE INQUIRY.—A per-
15 son shall not be treated as having made all
16 appropriate inquiry under clause (ii)(I)
17 unless—

18 “(I) the person has maintained a
19 compilation of the information re-
20 viewed and gathered in the course of
21 any site assessment;

22 “(II) with respect to hazardous
23 substances found at the facility, the
24 person, at a minimum, takes reason-
25 able steps to—

1 “(aa) stop ongoing releases
2 of hazardous substances;

3 “(bb) prevent threatened fu-
4 ture releases of hazardous sub-
5 stances; and

6 “(cc) prevent or limit
7 human, environmental, or natural
8 resource exposure to hazardous
9 substances previously released
10 into the environment;

11 “(III) the person provides full co-
12 operation, assistance, and facility ac-
13 cess to such persons as are authorized
14 to conduct response actions at the fa-
15 cility, including the cooperation and
16 access necessary for the installation,
17 integrity, operation, and maintenance
18 of any complete or partial response
19 action at the facility; and

20 “(IV) the person has fully com-
21 plied with and is in full compliance
22 with any land use or activity restric-
23 tions on the property established or
24 relied on in connection with a re-
25 sponse action at the facility, including

1 informing any other party that the
2 person allows to occupy or use the
3 property of such restrictions and tak-
4 ing prompt action to correct any non-
5 compliance by such parties.

6 “(viii) SITE INSPECTION AND TITLE
7 SEARCH.—In the case of property for resi-
8 dential use or other similar use purchased
9 by a nongovernmental or noncommercial
10 entity, a site inspection and title search
11 that reveal no basis for further investiga-
12 tion shall satisfy the requirements of
13 clause (ii).”.

14 (b) LIMITATION ON LIABILITY FOR CONTIGUOUS
15 PROPERTY OWNERS.—Section 107 of the Comprehensive
16 Environmental Response, Compensation, and Liability Act
17 of 1980 (42 U.S.C. 9607) (as amended by section 101(b))
18 is amended by adding at the end the following:

19 “(q) CONTIGUOUS PROPERTIES.—

20 “(1) IN GENERAL.—A person that owns or op-
21 erates real property that is contiguous to or other-
22 wise similarly situated with respect to other real
23 property that is not owned or operated by that per-
24 son and that is or may be contaminated by a release
25 or threatened release of a hazardous substance from

1 the other real property shall not be considered to be
2 an owner or operator of a vessel or facility under
3 paragraph (1) or (2) of subsection (a) solely by rea-
4 son of the contamination if such person establishes
5 by a preponderance of the evidence that—

6 “(A) the person did not cause, contribute,
7 or consent to the release or threatened release;

8 “(B) the person is not affiliated with any
9 other person that is liable or potentially liable
10 for any response costs at the facility;

11 “(C) with respect to hazardous substances
12 on or under the person’s property, the person,
13 at a minimum, takes reasonable steps to—

14 “(i) stop ongoing releases;

15 “(ii) prevent threatened future re-
16 leases of hazardous substances; and

17 “(iii) prevent or limit human, environ-
18 mental, or natural resource exposure to
19 hazardous substances previously released
20 into the environment;

21 “(D) the person provides full cooperation,
22 assistance, and access to the persons that are
23 authorized to conduct the response and restora-
24 tion actions at the facility, including the co-
25 operation and access necessary for the assess-

1 ment of contamination, or installation, preser-
2 vation of integrity, operation, and maintenance
3 of any complete or partial response action at
4 the facility;

5 “(E) the person has fully complied and is
6 in full compliance with any land use or activity
7 restrictions on the property established or relied
8 on in connection with a response action at the
9 facility, including informing any other party
10 that the person allows to occupy or use the
11 property of the restrictions and taking prompt
12 action to correct any noncompliance by the
13 party;

14 “(F) the person provided all legally re-
15 quired notices with respect to the discovery of
16 the release; and

17 “(G) at the time the person acquired the
18 property, the person—

19 “(i) conducted all appropriate inquiry
20 within the meaning of subparagraph (B) of
21 section 101(35); and

22 “(ii) did not know or have reason to
23 know that the property was or could be
24 contaminated by a release or threatened
25 release of hazardous substances from other

1 real property not owned or operated by
2 that person.

3 “(2) ASSURANCES.—The President may issue
4 an assurance that no enforcement action under this
5 Act shall be initiated against a person described in
6 paragraph (1).

7 “(3) GROUNDWATER.—With respect to haz-
8 ardous substances in groundwater beneath the per-
9 son’s property solely as a result of subsurface migra-
10 tion in an aquifer from a source or sources outside
11 the property, paragraph (1)(C) shall not require that
12 the person conduct groundwater investigations or in-
13 stall groundwater remediation systems, except in ac-
14 cordance with the policy of the Environmental Pro-
15 tection Agency on owners of property containing
16 contaminated aquifers, dated May 24, 1995.

17 “(4) BONA FIDE PROSPECTIVE PURCHASER.—
18 Any person that does not qualify as a person de-
19 scribed in paragraph (1) because the person had the
20 knowledge specified paragraph (1)(G) at the time of
21 acquisition of the real property may qualify as a
22 bona fide prospective purchaser under section
23 101(39) if the person is otherwise described in that
24 section.

1 “(5) NO LIMITATION ON DEFENSES.—Nothing
2 in this subsection—

3 “(A) limits defenses to liability that other-
4 wise may be available to persons described in
5 this subsection; or

6 “(B) imposes liability not otherwise im-
7 posed by section 107(a) on such persons.”.

8 **SEC. 103. REGULATORY AUTHORITY.**

9 (a) IN GENERAL.—The Administrator may—

10 (1) issue such regulations as the Administrator
11 considers necessary to carry out the amendments
12 made by this title; and

13 (2) assign any duties or powers imposed on or
14 assigned to the Administrator by the amendments
15 made by this title.

16 (b) AUTHORITY TO CLARIFY AND IMPLEMENT.—The
17 authority under subsection (a) includes authority to clarify
18 or interpret all terms, including the terms used in this
19 title, and to implement any provision of the amendments
20 made by this title.

21 **TITLE II—SMALL BUSINESS**

22 **LIABILITY RELIEF**

23 **SEC. 201. LIABILITY EXEMPTIONS.**

24 Section 107 of the Comprehensive Environmental Re-
25 sponse, Compensation, and Liability Act of 1980 (42

1 U.S.C. 9607) (as amended by section 102(b)) is amended
2 by adding at the end the following:

3 “(r) DE MICROMIS EXEMPTION.—

4 “(1) IN GENERAL.—Notwithstanding para-
5 graphs (1) through (4) of subsection (a), and except
6 as provided in paragraph (2), a person shall not be
7 liable under this Act to the United States or any
8 other person (including liability for contribution) for
9 any response costs incurred with respect to a facility
10 if—

11 “(A) liability is based solely on paragraph
12 (3) or (4) of subsection (a);

13 “(B) the total of materials containing a
14 hazardous substance that the person arranged
15 for disposal or treatment of, arranged with a
16 transporter for transport for disposal or treat-
17 ment of, or accepted for transport for disposal
18 or treatment, at the facility, was less than 110
19 gallons of liquid materials or less than 200
20 pounds of solid material, or such greater quan-
21 tity as the Administrator may determine by reg-
22 ulation; and

23 “(C) the acts on which liability is based
24 took place before May 1, 1999.

1 “(2) EXCEPTION.—Paragraph (1) shall not
2 apply in a case in which the Administrator deter-
3 mines that—

4 “(A) the material containing a hazardous
5 substance referred to in paragraph (1) contrib-
6 uted or could contribute significantly, individ-
7 ually or in the aggregate, to the cost of the re-
8 sponse action with respect to the facility; or

9 “(B) the person has failed to comply with
10 any request for information or administrative
11 subpoena issued by the President under this
12 Act or has impeded or is impeding the perform-
13 ance of a response action with respect to the fa-
14 cility.

15 “(s) MUNICIPAL SOLID WASTE EXEMPTION.—

16 “(1) IN GENERAL.—Notwithstanding para-
17 graphs (1) through (4) of subsection (a), and except
18 as provided in paragraph (2), a person shall not be
19 liable under this Act to the United States or any
20 other person (including liability for contribution) for
21 response costs incurred with respect to a facility to
22 the extent that—

23 “(A) liability is based on paragraph (3) or
24 (4) of subsection (a);

1 “(B) liability is based on an arrangement
2 for disposal or treatment of, an arrangement
3 with a transporter for transport for disposal or
4 treatment of, or an acceptance for transport for
5 disposal or treatment at a facility of, municipal
6 solid waste; and

7 “(C) the person is—

8 “(i) an owner, operator, or lessee of
9 residential property from which all of the
10 person’s municipal solid waste was gen-
11 erated with respect to the facility;

12 “(ii) a business entity (including any
13 parent, subsidiary, or other affiliate of the
14 entity) that, during the taxable year pre-
15 ceding the date of transmittal of written
16 notification that the business is potentially
17 liable, employed not more than 100 indi-
18 viduals, and from which was generated all
19 of the entity’s municipal solid waste with
20 respect to the facility; or

21 “(iii) a small nonprofit organization
22 that, during the taxable year preceding the
23 date of transmittal of written notification
24 that the organization is potentially liable,
25 employed not more than 100 individuals, if

1 the particular chapter, office, or depart-
2 ment employing fewer than 100 individuals
3 was the location from which was generated
4 all of the municipal solid waste attributable
5 to the organization with respect to the fa-
6 cility.

7 “(2) EXCEPTION.—Paragraph (1) shall not
8 apply in a case in which the President determines
9 that the person has failed to comply with any re-
10 quest for information or administrative subpoena
11 issued by the President under this Act or has im-
12 peded or is impeding the performance of a response
13 action with respect to the facility.”.

14 **SEC. 202. EXPEDITED SETTLEMENT FOR DE MINIMIS CON-**
15 **TRIBUTIONS AND LIMITED ABILITY TO PAY.**

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

19 (1) in paragraph (1), by redesignating subpara-
20 graph (B) as subparagraph (E);

21 (2) by striking “(g)” and all that follows
22 through the end of paragraph (1)(A) and inserting
23 the following:

24 “(g) EXPEDITED FINAL SETTLEMENT.—

25 “(1) PARTIES ELIGIBLE.—

1 “(A) IN GENERAL.—The President shall,
2 as expeditiously as practicable, notify of eligi-
3 bility for a settlement, and offer to reach a final
4 administrative or judicial settlement with, each
5 potentially responsible party that, in the judg-
6 ment of the President, meets 1 or more of the
7 conditions stated in subparagraphs (B), (C),
8 (F), and (G).

9 “(B) DE MINIMIS CONTRIBUTION.—The
10 condition stated in this subparagraph is that
11 the liability of the potentially responsible party
12 is for response costs based on paragraph (3) or
13 (4) of subsection (a) and the potentially respon-
14 sible party’s contribution of hazardous sub-
15 stances at a facility is de minimis. For the pur-
16 poses of this subparagraph, a potentially re-
17 sponsible party’s contribution shall be consid-
18 ered to be de minimis only if the President de-
19 termines that both of the following criteria are
20 met:

21 “(i) The quantity of material con-
22 taining a hazardous substance contributed
23 by the potentially responsible party to the
24 facility is minimal relative to the total
25 quantity of material containing hazardous

1 substances at the facility. The quantity of
2 a potentially responsible party's contribu-
3 tion shall be presumed to be minimal if the
4 quantity is 1 percent or less of the total
5 quantity of materials containing hazardous
6 substances at the facility, unless the Ad-
7 ministrator identifies a different threshold
8 based on site-specific factors.

9 “(ii) The material containing a haz-
10 ardous substance contributed by the poten-
11 tially responsible party does not present
12 toxic or other hazardous effects that are
13 significantly greater than the toxic or other
14 hazardous effects of other material con-
15 taining hazardous substances at the facil-
16 ity.

17 “(C) REDUCTION IN SETTLEMENT
18 AMOUNT BASED ON LIMITED ABILITY TO PAY.—

19 “(i) IN GENERAL.—The conditions
20 stated in this subparagraph are that the
21 potentially responsible party—

22 “(I) is—

23 “(aa) a natural person; or

24 “(bb) a small business; and

1 “(II) demonstrates to the Presi-
2 dent an inability or a limited ability to
3 pay response costs.

4 “(ii) SMALL BUSINESSES.—

5 “(I) DEFINITION OF SMALL
6 BUSINESS.—In this subparagraph, the
7 term ‘small business’ means a busi-
8 ness entity that, together with its par-
9 ents, subsidiaries, and other affiliates,
10 had an average of not more than 75
11 full-time equivalent employees and an
12 average of not more than \$3,000,000
13 in annual gross revenues, as reported
14 to the Internal Revenue Service, dur-
15 ing the 3 years preceding the date on
16 which the business entity first re-
17 ceived notice from the President of its
18 potential liability under this Act.

19 “(II) OTHER BUSINESSES.—A
20 business shall be eligible for a settle-
21 ment under this subparagraph if the
22 business—

23 “(aa) has an average of not
24 more than 75 employees or an
25 average of not more than

1 \$3,000,000 in annual gross rev-
2 enue; and

3 “(bb) meets all other re-
4 quirements for a settlement
5 under this subparagraph.

6 “(III) CONSIDERATIONS.—At the
7 request of a small business, the Presi-
8 dent shall take into consideration the
9 ability of the small business to pay re-
10 sponse costs and still maintain its
11 basic business operations, including
12 consideration of the overall financial
13 condition of the small business and
14 demonstrable constraints on the abil-
15 ity of the small business to raise reve-
16 nues.

17 “(IV) INFORMATION.—A small
18 business requesting settlement under
19 this paragraph shall promptly provide
20 the President with all relevant infor-
21 mation needed to determine the ability
22 of the small business to pay response
23 costs.

24 “(V) DETERMINATION.—To be
25 eligible to be covered by this subpara-

1 graph, the business shall demonstrate
2 to the President the inability of the
3 small business to pay response costs.
4 If the small business employs fewer
5 than 25 full-time equivalent employees
6 and has average gross income reve-
7 nues of less than \$2,000,000, the
8 President shall, on request, perform
9 any analysis that the President deter-
10 mines may assist in demonstrating the
11 impact of a settlement on the small
12 business' ability to maintain its basic
13 operations. The President may per-
14 form such analysis for any other party
15 or request such other party to per-
16 form the analysis.

17 “(VI) ALTERNATIVE PAYMENT
18 METHODS.—If the President deter-
19 mines that a small business is unable
20 to pay its total settlement quantity
21 immediately, the President shall con-
22 sider such alternative payment meth-
23 ods as may be necessary or appro-
24 priate.

1 “(D) ADDITIONAL CONDITIONS FOR EXPE-
2 DITED SETTLEMENTS.—

3 “(i) WAIVER OF CLAIMS.—The Presi-
4 dent shall require, as a condition of settle-
5 ment under this paragraph, that a poten-
6 tially responsible party waive some or all of
7 the claims (including a claim for contribu-
8 tion under section 113) that the party may
9 have against other potentially responsible
10 parties for response costs incurred with re-
11 spect to the facility, unless the President
12 determines that requiring a waiver would
13 be unjust.

14 “(ii) EXCEPTION.—The President
15 may decline to offer a settlement to a po-
16 tentially responsible party under this para-
17 graph if the President determines that the
18 potentially responsible party has failed to
19 comply with any request for access or in-
20 formation or an administrative subpoena
21 issued by the President under this Act or
22 has impeded or is impeding the perform-
23 ance of a response action with respect to
24 the facility.

1 “(iii) RESPONSIBILITY TO PROVIDE
2 INFORMATION AND ACCESS.—A potentially
3 responsible party that enters into a settle-
4 ment under this paragraph shall not be re-
5 lieved of the responsibility to provide any
6 information or access requested by the
7 President in accordance with subsection
8 (e)(3)(B) or section 104(e).

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

17 “(v) NO JUDICIAL REVIEW.—A deter-
18 mination by the President under this para-
19 graph shall not be subject to judicial re-
20 view.”; and

21 (3) in subparagraph (E) of paragraph (1) (as
22 redesignated by paragraph (1))—

23 (A) by redesignating clauses (i) through
24 (iii) as subclauses (I) through (III), respec-
25 tively, and adjusting the margins appropriately;

1 (B) by striking “(E) The potentially re-
2 sponsible party” and inserting the following:

3 “(E) OWNERS OF REAL PROPERTY.—

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

7 (C) by striking “This subparagraph (B)”
8 and inserting the following:

9 “(ii) APPLICABILITY.—Clause (i)”.

10 (b) SETTLEMENT OFFERS.—Section 122(g) of the
11 Comprehensive Environment Response, Liability, and
12 Compensation Act of 1980 (42 U.S.C. 9622(g)) is
13 amended—

14 (1) by redesignating paragraph (6) as para-
15 graph (9); and

16 (2) by inserting after paragraph (5) the fol-
17 lowing:

18 “(6) SETTLEMENT OFFERS.—

19 “(A) NOTIFICATION.—As soon as prac-
20 ticable after receipt of sufficient information to
21 make a determination, the Administrator shall
22 notify any person that the Administrator deter-
23 mines is eligible under paragraph (1) of the
24 person’s eligibility for the expedited final settle-
25 ment.

1 “(B) OFFERS.—As soon as practicable
2 after receipt of sufficient information, the Ad-
3 ministrator shall submit a written settlement
4 offer to each person that the Administrator de-
5 termines, based on information available to the
6 Administrator at the time at which the deter-
7 mination is made, to be eligible for a settlement
8 under paragraph (1).

9 “(C) INFORMATION.—At the time at which
10 the Administrator submits an offer under para-
11 graph (1), the Administrator shall, at the re-
12 quest of the recipient of the offer, make avail-
13 able to the recipient any information available
14 under section 552 of title 5, United States
15 Code, on which the Administrator bases the set-
16 tlement offer, and if the settlement offer is
17 based in whole or in part on information not
18 available under that section, so inform the re-
19 cipient.

20 “(7) LITIGATION MORATORIUM.—

21 “(A) IN GENERAL.—No person that has
22 received notification from the Administrator
23 under paragraph (6) that the person is eligible
24 for an expedited settlement under paragraph
25 (1) shall be named as a defendant in any action

1 under this Act for recovery of response costs
2 (including an action for contribution) during
3 the period—

4 “(i) beginning on the date on which
5 the person receives from the President
6 written notice of the person’s potential li-
7 ability and notice that the person is a
8 party that may qualify for an expedited
9 settlement; and

10 “(ii) ending on the earlier of—

11 “(I) the date that is 90 days
12 after the date on which the President
13 tenders a written settlement offer to
14 the person; or

15 “(II) the date that is 1 year after
16 receipt of notice from the President
17 that the person may qualify for an ex-
18 pedited settlement.

19 “(B) SUSPENSION OF PERIOD OF LIMITA-
20 TION.—The period of limitation under section
21 113(g) applicable to a claim against a person
22 described in subparagraph (A) for response
23 costs, natural resource damages, or contribution
24 shall be suspended during the period described
25 in subparagraph (A).

1 “(8) NOTICE OF SETTLEMENT.—After a settle-
2 ment under this subsection becomes final with re-
3 spect to a facility, the President shall promptly no-
4 tify potentially responsible parties at the facility that
5 have not resolved their liability to the United States
6 of the settlement.”.

7 **SEC. 203. SMALL BUSINESS OMBUDSMAN.**

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

12 “(f) SMALL BUSINESS OMBUDSMAN.—

13 “(1) ESTABLISHMENT.—The Administrator
14 shall establish a small business Superfund assistance
15 section within the small business ombudsman office
16 of the Environmental Protection Agency.

17 “(2) FUNCTIONS.—The small business Super-
18 fund assistance section shall—

19 “(A) act as a clearinghouse for the provi-
20 sion to small businesses of information, in a
21 form that is comprehensible to a layperson, re-
22 garding this Act, including information
23 regarding—

1 “(i) requirements and procedures for
2 expedited settlements under section
3 122(g); and

4 “(ii) ability-to-pay procedures under
5 section 122(g);

6 “(B) provide general advice and assistance
7 to small businesses regarding questions and
8 problems concerning the settlement processes
9 (not including legal advice as to liability or any
10 other legal representation); and

11 “(C) develop proposals and make rec-
12 ommendations for changes in policies and ac-
13 tivities of the Environmental Protection Agency
14 that would better fulfill the goals of this title
15 and the amendments made by this title in en-
16 suring equitable, simplified, and expedited set-
17 tlements for small businesses.”.

18 **TITLE III—SETTLEMENTS FOR**
19 **MUNICIPALITIES AND CON-**
20 **TRIBUTORS OF MUNICIPAL**
21 **WASTE**

22 **SEC. 301. MUNICIPAL OWNERS AND OPERATORS.**

23 Section 107 of the Comprehensive Environment Re-
24 sponse, Liability, and Compensation Act of 1980 (42

1 U.S.C. 9607) (as amended by section 201) is amended by
2 adding at the end the following:

3 “(t) MUNICIPAL OWNERS AND OPERATORS.—

4 “(1) IN GENERAL.—A municipality that is lia-
5 ble for response costs under paragraph (1) or (2) of
6 subsection (a) on the basis of ownership or operation
7 of a municipal landfill that was listed on the Na-
8 tional Priority List on or before May 1, 1999, shall
9 be eligible for a settlement of that liability.

10 “(2) SETTLEMENT AMOUNT.—

11 “(A) MUNICIPALITIES WITH A POPU-
12 LATION OF 100,000 OR MORE.—

13 “(i) IN GENERAL.—Subject to clauses
14 (ii) and (iii), the President shall offer a
15 settlement to a municipality with a popu-
16 lation of 100,000 (as measured by the
17 1990 census) or more with respect to li-
18 ability described in paragraph (1) on the
19 basis of a payment or other obligation
20 equivalent in value to not more than 20
21 percent of the total response costs incurred
22 with respect to a facility.

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

1 pality to not less than 10 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 “(iii) INCREASED AMOUNT.—The
8 President may increase the percentage
9 under clause (i) to not more than 35 per-
10 cent if the President determines that—

11 “(I) the municipality committed
12 specific acts that exacerbated environ-
13 mental contamination or exposure
14 with respect to the facility; or

15 “(II) the municipality, during the
16 period of ownership or operation of
17 the facility, received operating reve-
18 nues substantially in excess of the
19 sum of the waste system operating
20 costs plus 20 percent of total esti-
21 mated response costs incurred with
22 respect to the facility.

23 “(B) MUNICIPALITIES WITH A POPU-
24 LATION OF LESS THAN 100,000.—The President
25 shall offer a settlement to a municipality with

1 a population of less than 100,000 (as measured
2 by the 1990 census) with respect to liability de-
3 scribed in paragraph (1) in an amount that
4 does not exceed 10 percent of the total response
5 costs incurred with respect to the facility.

6 “(3) PERFORMANCE OF RESPONSE ACTIONS.—
7 As a condition of a settlement with a municipality
8 under this subsection, the President may require
9 that the municipality perform or participate in the
10 performance of the response actions at the facility.

11 “(4) OWNERSHIP OR OPERATION BY 2 OR MORE
12 MUNICIPALITIES.—A combination of 2 or more mu-
13 nicipalities that jointly own or operate (or owned or
14 operated) a facility at the same time or during con-
15 tinuous operations under municipal control shall be
16 considered to be a single owner or operator for the
17 purpose of calculating a settlement offer under this
18 subsection.

19 “(5) WAIVER OF CLAIMS.—The President shall
20 require, as a condition of a settlement under this
21 subsection, that a municipality or combination of 2
22 or more municipalities waive some or all of the
23 claims (including a claim for contribution under sec-
24 tion 113) that the party may have against other po-
25 tentially responsible parties for response costs in-

1 curred with respect to the facility, unless the Presi-
2 dent determines that requiring a waiver would be
3 unjust.

4 “(6) EXCEPTIONS.—The President may decline
5 to offer a settlement under this subsection with re-
6 spect to a facility if the President determines that
7 the municipal owner or operator has failed to comply
8 with any request for information or administrative
9 subpoena issued by the United States under this
10 Act, has failed to provide facility access to persons
11 authorized to conduct response actions at the facil-
12 ity, or has impeded or is impeding the performance
13 of a response action with respect to the facility.”.

14 **SEC. 302. EXPEDITED SETTLEMENTS WITH CONTRIBUTORS**
15 **OF MUNICIPAL WASTE.**

16 Section 122(g)(1) of the Comprehensive Environ-
17 mental Response, Compensation, and Liability Act of
18 1980 (42 U.S.C. 9622(g)(1)) (as amended by section
19 202(a)) is amended by adding at the end the following:

20 “(F) CONTRIBUTION OF MUNICIPAL SOLID
21 WASTE AND MUNICIPAL SEWAGE SLUDGE.—

22 “(i) IN GENERAL.—The condition
23 stated in this subparagraph is that the li-
24 ability of the potentially responsible party
25 is for response costs based on paragraph

1 (3) or (4) of section 107(a) and the poten-
2 tially responsible party arranged for dis-
3 posal or treatment of, arranged with a
4 transporter for transport for disposal or
5 treatment of, or accepted for transport for
6 disposal or treatment, at a facility listed on
7 the National Priorities List—

8 “(I) municipal solid waste; or

9 “(II) municipal sewage sludge.

10 “(ii) SETTLEMENT AMOUNT.—

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

20 “(II) REVISION.—

21 “(aa) IN GENERAL.—The
22 President, after consulting with
23 local government officials, may
24 revise the per-ton rate by regula-
25 tion.

1 “(bb) BASIS.—A revised set-
2 tlement amount under item (aa)
3 shall reflect the estimated per-ton
4 cost of closure and post-closure
5 activities at a representative fa-
6 cility containing only municipal
7 solid waste or municipal sewage
8 sludge.

9 “(iii) ADJUSTMENT FOR INFLA-
10 TION.—The Administrator may by guid-
11 ance periodically adjust the settlement
12 amounts under clause (ii) to reflect
13 changes in the Consumer Price Index (or
14 other appropriate index, as determined by
15 the Administrator).

16 “(iv) OTHER MATERIAL.—

17 “(I) IN GENERAL.—Notwith-
18 standing clause (i), a potentially re-
19 sponsible party that arranged for dis-
20 posal or treatment of, arranged with a
21 transporter for transport for disposal
22 or treatment of, or accepted for trans-
23 port for disposal or treatment, munic-
24 ipal solid waste or municipal sewage
25 sludge and other material containing

1 hazardous substances shall be eligible
2 for the per-ton settlement rate pro-
3 vided in this subparagraph as to the
4 municipal solid waste or municipal
5 sewage sludge only, if the potentially
6 responsible party demonstrates to the
7 President's satisfaction the quantity
8 of the municipal solid waste and mu-
9 nicipal sewage sludge contributed by
10 the party and the quantity and com-
11 position of the other material con-
12 taining hazardous substances contrib-
13 uted by the party.

14 “(II) PARTIES ELIGIBLE FOR DE
15 MICROMIS EXEMPTION.—If a poten-
16 tially responsible party demonstrates
17 to the President's satisfaction that,
18 with respect to the material other
19 than municipal solid waste or munic-
20 ipal sewage sludge contributed by the
21 party, the party qualifies for the de
22 micromis exemption under section
23 107(r), the party shall qualify for the
24 per-ton settlement rate under clause
25 (ii) with respect to its municipal solid

1 waste and municipal sewage sludge in
2 an expedited settlement under this
3 paragraph.

4 “(III) PARTIES ELIGIBLE FOR
5 EXPEDITED DE MINIMIS SETTLE-
6 MENT.—If a potentially responsible
7 party demonstrates to the satisfaction
8 of the President that, with respect to
9 the material other than a municipal
10 solid waste or municipal sewage
11 sludge contributed by the party, the
12 party qualifies for a de minimis settle-
13 ment under subparagraph (B), the
14 party shall qualify for the per-ton set-
15 tlement rate under clause (ii) with re-
16 spect to its municipal solid waste and
17 municipal sewage sludge at the time
18 that the party agrees to an expedited
19 settlement under this paragraph with
20 respect to its de minimis contribution
21 of other material containing haz-
22 ardous substances.

23 “(IV) OTHER PARTIES.—If a
24 party does not make the demonstra-
25 tion under subclauses (II) and (III),

1 the President shall offer to resolve the
2 party's liability with respect to the
3 municipal solid waste or municipal
4 sewage sludge at the per-ton settle-
5 ment rate under clause (ii) at such
6 time as the party agrees to a settle-
7 ment with respect to other material
8 containing hazardous substances on
9 terms and conditions acceptable to the
10 President.

11 “(G) MUNICIPALITY WITH LIMITED ABIL-
12 ITY TO PAY.—

13 “(i) IN GENERAL.—The conditions
14 stated in this subparagraph are that the
15 potentially responsible party is a munici-
16 pality and demonstrates to the President
17 an inability or a limited ability to pay re-
18 sponse costs.

19 “(ii) FACTORS.—The President shall
20 consider the inability or limited ability to
21 pay of a municipality to the extent that the
22 municipality provides necessary informa-
23 tion with respect to—

24 “(I) the general obligation bond
25 rating and information about the most

1 recent bond issue for which the rating
2 was prepared;

3 “(II) the amount of total avail-
4 able funds (other than dedicated
5 funds or State assistance payments
6 for remediation of inactive hazardous
7 waste sites);

8 “(III) the amount of total oper-
9 ating revenues (other than obligated
10 or encumbered revenues);

11 “(IV) the amount of total ex-
12 penses;

13 “(V) the amount of total debt
14 and debt service;

15 “(VI) per capita income and cost
16 of living;

17 “(VII) real property values;

18 “(VIII) unemployment informa-
19 tion; and

20 “(IX) population information.

21 “(iii) EVALUATION OF IMPACT.—A
22 municipality may also submit for consider-
23 ation by the President an evaluation of the
24 potential impact of the settlement on the
25 provision of municipal services and the fea-

1 sibility of making delayed payments or
2 payments over a certain period of time.

3 “(iv) RISK OF DEFAULT OR VIOLA-
4 TION.—A municipality may establish an in-
5 ability to pay for purposes of this subpara-
6 graph through an affirmative showing that
7 payment of its liability under this Act
8 would—

9 “(I) create a substantial demon-
10 strable risk that the municipality
11 would default on debt obligations ex-
12 isting as of the time of the showing,
13 be forced into bankruptcy, be forced
14 to dissolve, or be forced to make
15 budgetary cutbacks that would sub-
16 stantially reduce the level of protec-
17 tion of public health and safety; or

18 “(II) necessitate a violation of
19 legal requirements or limitations of
20 general applicability concerning the
21 assumption and maintenance of fiscal
22 municipal obligations.

23 “(v) OTHER FACTORS RELEVANT TO
24 SETTLEMENTS WITH MUNICIPALITIES.—In
25 determining an appropriate settlement

1 amount with a municipality under this sub-
 2 paragraph, the President may consider
 3 other relevant factors, including the fair
 4 market value of any in-kind services that
 5 the municipality may provide to support
 6 the response action at the facility.

7 “(H) APPLICABILITY OF EXPEDITED SET-
 8 TLEMENT REQUIREMENTS.—

9 “(i) IN GENERAL.—The requirements
 10 set forth in subparagraph (D) shall apply
 11 to settlements described in subparagraphs
 12 (F) and (G).

13 “(ii) OTHER REQUIREMENTS.—The
 14 requirements set forth in subparagraph
 15 (B)(ii) shall apply to settlements described
 16 in subparagraph (F)(i)(II).”.

17 **TITLE IV—CLARIFICATION OF LI-**
 18 **ABILITY FOR RECYCLING**
 19 **TRANSACTIONS**

20 **SEC. 401. RECYCLING TRANSACTIONS.**

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

1 **“SEC. 127. RECYCLING TRANSACTIONS.**

2 “(a) **LIABILITY CLARIFICATION.**—A person who ar-
3 ranged for recycling of recyclable material in accordance
4 with this section shall not be liable under paragraph (3)
5 or (4) of section 107(a) with respect to the material.

6 “(b) **DEFINITION OF RECYCLABLE MATERIAL.**—

7 “(1) **IN GENERAL.**—In this section, the term
8 ‘recyclable material’ means scrap paper, scrap plas-
9 tic, scrap glass, scrap textile, scrap rubber (other
10 than whole tires), scrap metal, or spent lead-acid,
11 spent nickel-cadmium, and other spent battery, as
12 well as minor quantities of material incident to or
13 adhering to the scrap material as a result of its nor-
14 mal and customary use prior to becoming scrap.

15 “(2) **EXCLUSIONS.**—The term ‘recyclable mate-
16 rial’ does not include shipping containers of a capac-
17 ity from 30 liters to 3,000 liters, whether intact or
18 not, having any hazardous substance (but not metal
19 bits and pieces or hazardous substances that form
20 an integral part of the container) contained in or ad-
21 hering to the containers.

22 “(c) **TRANSACTIONS INVOLVING SCRAP PAPER,**
23 **PLASTIC, GLASS, TEXTILES, OR RUBBER.**—A transaction
24 involving scrap paper, scrap plastic, scrap glass, scrap tex-
25 tile, or scrap rubber (other than whole tires) shall be con-
26 sidered to be arranging for recycling if the person who

1 arranged for the transaction (by selling recyclable material
2 or otherwise arranging for the recycling of recyclable ma-
3 terial) demonstrates by a preponderance of the evidence
4 that all of the following criteria were met at the time of
5 the transaction:

6 “(1) The recyclable material met a commercial
7 specification grade.

8 “(2) A market existed for the recyclable mate-
9 rial.

10 “(3) A substantial portion of the recyclable ma-
11 terial was made available for use as feedstock for the
12 manufacture of a new saleable product.

13 “(4) The recyclable material is a replacement or
14 substitute for a virgin raw material, or the product
15 to be made from the recyclable material is a replace-
16 ment or substitute for a product made, in whole or
17 in part, from a virgin raw material.

18 “(5) In the case of a transaction occurring 90
19 days or more after the date of enactment of this sec-
20 tion, the person exercised reasonable care to deter-
21 mine that the facility where the recyclable material
22 was handled, processed, reclaimed, or otherwise
23 managed by another person (referred to in this sec-
24 tion as a ‘consuming facility’) was in compliance
25 with substantive provisions of any Federal, State, or

1 local environmental law (including a regulation, com-
2 pliance order, or decree issued pursuant to the law)
3 applicable to the handling, processing, reclamation,
4 storage, or other management activities associated
5 with recyclable material.

6 “(6) For purposes of this subsection, reasonable
7 care shall be determined using criteria that include
8 the following:

9 “(A) The price paid in the recycling trans-
10 action.

11 “(B) The ability of the person to detect
12 the nature of the consuming facility’s oper-
13 ations concerning its handling, processing, rec-
14 lamation, or other management activities asso-
15 ciated with recyclable material.

16 “(C) The result of inquiries made to ap-
17 propriate Federal, State, or local environmental
18 agencies regarding the consuming facility’s past
19 and current compliance with substantive provi-
20 sions of any Federal, State, or local environ-
21 mental law (including a regulation, compliance
22 order, or decree issued pursuant to the law) ap-
23 plicable to the handling, processing, reclama-
24 tion, storage, or other management activities
25 associated with the recyclable material. For the

1 purposes of this paragraph, a requirement to
2 obtain a permit applicable to the handling,
3 processing, reclamation, or other management
4 activity associated with the recyclable materials
5 shall be considered to be a substantive provi-
6 sion.

7 “(d) TRANSACTIONS INVOLVING SCRAP METAL.—

8 “(1) IN GENERAL.—A transaction involving
9 scrap metal shall be considered to be arranging for
10 recycling if the person who arranged for the trans-
11 action (by selling recyclable material or otherwise ar-
12 ranging for the recycling of recyclable material)
13 demonstrates by a preponderance of the evidence
14 that (at the time of the transaction) the person—

15 “(A) met the criteria set forth in sub-
16 section (c) with respect to the scrap metal;

17 “(B) was in compliance with any applicable
18 regulations or standards regarding the storage,
19 transport, management, or other activities asso-
20 ciated with the recycling of scrap metal that the
21 Administrator promulgates under the Solid
22 Waste Disposal Act (42 U.S.C. 6901 et seq.)
23 subsequent to the date of enactment of this sec-
24 tion and with regard to transactions occurring

1 after the effective date of the regulations or
2 standards; and

3 “(C) did not melt the scrap metal prior to
4 the transaction.

5 “(2) THERMAL SEPARATION.—For purposes of
6 paragraph (1)(C), melting of scrap metal does not
7 include the thermal separation of 2 or more mate-
8 rials due to differences in their melting points.

9 “(3) DEFINITION OF SCRAP METAL.—In this
10 subsection, the term ‘scrap metal’ means bits and
11 pieces of a metal part (such as a bar, a turning, a
12 rod, a sheet, and a wire) or a metal piece that may
13 be combined together with bolts or soldering (result-
14 ing in items such as a radiator, scrap automobile, or
15 railroad box car), which when worn or superfluous
16 can be recycled, other than scrap metals that the
17 Administrator excludes from this paragraph by regu-
18 lation.

19 “(e) TRANSACTIONS INVOLVING BATTERIES.—A
20 transaction involving a spent lead-acid battery, a spent
21 nickel-cadmium battery, or other spent battery shall be
22 considered to be arranging for recycling if the person who
23 arranged for the transaction (by selling recyclable material
24 or otherwise arranging for the recycling of recyclable ma-

1 terial) demonstrates by a preponderance of the evidence
2 that at the time of the transaction—

3 “(1) the person met the criteria set forth in
4 subsection (c) with respect to the spent lead-acid
5 battery, spent nickel-cadmium battery, or other
6 spent battery, but the person did not recover the val-
7 uable components of such battery; and

8 “(2)(A) with respect to a transaction involving
9 a lead-acid battery, the person was in compliance
10 with applicable Federal environmental law (including
11 regulations and standards), regarding the storage,
12 transport, management, or other activities associated
13 with the recycling of the battery;

14 “(B) with respect to a transaction involving a
15 nickel-cadmium battery, the person was in compli-
16 ance with applicable Federal environmental law (in-
17 cluding regulations and standards) regarding the
18 storage, transport, management, or other activities
19 associated with the recycling of the battery; or

20 “(C) with respect to a transaction involving any
21 other spent battery, the person was in compliance
22 with applicable Federal environmental law (including
23 regulations and standards) regarding the storage,
24 transport, management, or other activities associated
25 with the recycling of the battery.

1 “(f) EXCLUSIONS.—

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

4 “(A) the person had an objectively reason-
5 able basis to believe at the time of the recycling
6 transaction that—

7 “(i) the recyclable material would not
8 be recycled;

9 “(ii) the recyclable material would be
10 burned as fuel, or for energy recovery or
11 incineration; or

12 “(iii) for a transaction occurring be-
13 fore the date that is 90 days after the date
14 of the enactment of this section, the con-
15 suming facility was not in compliance with
16 a substantive provision of any Federal,
17 State, or local environmental law (includ-
18 ing a regulation, compliance order, or de-
19 cree issued pursuant to the law), applicable
20 to the handling, processing, reclamation, or
21 other management activities associated
22 with the recyclable material;

23 “(B) the person had reason to believe that
24 hazardous substances had been added to the re-

1 cyclable material for purposes other than proc-
2 essing for recycling;

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

11 “(D) with respect to any item of a recycla-
12 ble material, the item contained polychlorinated
13 biphenyls at a concentration in excess of 50
14 parts per million or any new standard promul-
15 gated pursuant to applicable Federal law.

16 “(2) OBJECTIVELY REASONABLE BASIS.—For
17 purposes of this subsection, an objectively reasonable
18 basis for belief shall be determined using criteria
19 that include—

20 “(A) the size of the person’s business;

21 “(B) customary industry practices (includ-
22 ing customary industry practices current at the
23 time of the recycling transaction designed to
24 minimize, through source control, contamina-

1 tion of the recyclable material by hazardous
2 substances);

3 “(C) the price paid in the recycling trans-
4 action; and

5 “(D) the ability of the person to detect the
6 nature of the consuming facility’s operations
7 concerning its handling, processing, reclama-
8 tion, or other management activities associated
9 with the recyclable material.

10 “(3) PERMIT.—For purposes of this subsection,
11 a requirement to obtain a permit applicable to the
12 handling, processing, reclamation, or other manage-
13 ment activities associated with recyclable material
14 shall be considered to be a substantive provision.

15 “(g) EFFECT ON OTHER LIABILITY.—Nothing in
16 this section affects the liability of a person with respect
17 to materials that are not recyclable materials (as defined
18 in subsection (b)) under paragraph (1), (2), (3), or (4).

19 “(h) REGULATIONS.—The Administrator has the au-
20 thority, under section 115, to promulgate additional regu-
21 lations concerning this section.

22 “(i) EFFECT ON PENDING OR CONCLUDED AC-
23 TIONS.—The exemptions provided under this section shall
24 not affect any concluded judicial or administrative action

1 or any pending judicial action initiated by the United
2 States prior to the date of enactment of this section.

3 “(j) LIABILITY FOR ATTORNEY’S FEES FOR CERTAIN
4 ACTIONS.—Any person who commences an action in con-
5 tribution against a person who is not liable by operation
6 of this section shall be liable to that person for all reason-
7 able costs of defending that action, including all reason-
8 able attorneys and expert witness fees.

9 “(k) RELATIONSHIP TO LIABILITY UNDER OTHER
10 LAWS.—Nothing in this section affects—

11 “(1) liability under any other Federal, State, or
12 local law (including a regulation), including any re-
13 quirements promulgated by the Administrator under
14 the Solid Waste Disposal Act (42 U.S.C. 6901 et
15 seq.); or

16 “(2) the ability of the Administrator to promul-
17 gate regulations under any other law, including the
18 Solid Waste Disposal Act.”.

19 **TITLE V—BROWNFIELDS** 20 **CLEANUP**

21 **SEC. 501. BROWNFIELDS FUNDING.**

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

1 **“SEC. 128. BROWNFIELDS FUNDING FOR STATE AND LOCAL**
2 **GOVERNMENTS.**

3 “(a) BROWNFIELDS INVENTORY AND ASSESSMENT
4 GRANT PROGRAM.—

5 “(1) ESTABLISHMENT.—The Administrator
6 shall establish a program to award grants to States
7 or local governments to inventory brownfield sites
8 and to conduct site assessments of brownfield sites.

9 “(2) SCOPE OF PROGRAM.—

10 “(A) GRANT AWARDS.—To carry out this
11 subsection, the Administrator may, on approval
12 of an application, provide financial assistance to
13 a State or local government.

14 “(B) GRANT APPLICATION PROCEDURE.—

15 “(i) IN GENERAL.—The Administrator
16 shall establish a grant application proce-
17 dure for this section.

18 “(ii) NATIONAL CONTINGENCY
19 PLAN.—The Administrator may include in
20 the procedure established under clause (i)
21 requirements of the National Contingency
22 Plan, to the extent that those requirements
23 are relevant and appropriate to the pro-
24 gram under this subsection.

25 “(C) GRANT APPLICATION.—An applica-
26 tion for a grant under this subsection shall in-

1 clude, to the extent practicable, each of the fol-
2 lowing:

3 “(i) An identification of the
4 brownfield sites for which assistance is
5 sought and a description of the effect of
6 the brownfield sites on the community, in-
7 cluding a description of the nature and ex-
8 tent of any known or suspected environ-
9 mental contamination within the areas in
10 which eligible brownfield sites are situated.

11 “(ii) A description of the need of the
12 applicant for financial assistance to inven-
13 tory brownfield sites and conduct site as-
14 sessments.

15 “(iii) A demonstration of the potential
16 of the grant assistance to stimulate eco-
17 nomic development, including the extent to
18 which the assistance would stimulate the
19 availability of other funds for site assess-
20 ment, site identification, or environmental
21 remediation and subsequent redevelopment
22 of the areas in which eligible brownfield
23 sites are situated.

24 “(iv) A description of the local com-
25 mitment as of the date of the application,

1 which shall include a community involve-
2 ment plan that demonstrates meaningful
3 community involvement.

4 “(v) A plan that demonstrates how
5 the site assessment, site identification, or
6 environmental remediation and subsequent
7 development will be implemented,
8 including—

9 “(I) an environmental plan that
10 ensures the use of sound environ-
11 mental procedures;

12 “(II) an explanation of the ap-
13 propriate government authority and
14 support for the project as in existence
15 on the date of the application;

16 “(III) proposed funding mecha-
17 nisms for any additional work; and

18 “(IV) a proposed land ownership
19 plan.

20 “(vi) A statement describing the long-
21 term benefits and the sustainability of the
22 proposed project that includes—

23 “(I) the ability of the project to
24 be replicated nationally and measures
25 of success of the project; and

1 “(II) to the extent known, the
2 potential of the plan for each area in
3 which an eligible brownfield site is sit-
4 uated to stimulate economic develop-
5 ment of the area on completion of the
6 environmental remediation.

7 “(vii) Such other factors as the Ad-
8 ministrators considers relevant to carry out
9 this title.

10 “(D) APPROVAL OF APPLICATION.—

11 “(i) IN GENERAL.—In making a deci-
12 sion on whether to approve an application
13 under subparagraph (A), the Adminis-
14 trator shall—

15 “(I) consider the need of the
16 State or local government for financial
17 assistance to carry out this sub-
18 section;

19 “(II) consider the ability of the
20 applicant to carry out an inventory
21 and site assessment under this sub-
22 section;

23 “(III) ensure a fair distribution
24 of grant funds between urban and
25 nonurban areas; and

1 “(IV) consider such other factors
2 as the Administrator considers rel-
3 evant to carry out this subsection.

4 “(ii) GRANT CONDITIONS.—As a con-
5 dition of awarding a grant under this sub-
6 section, the Administrator may, on the
7 basis of the criteria considered under
8 clause (i), attach such conditions to the
9 grant as the Administrator determines ap-
10 propriate.

11 “(E) GRANT AMOUNT.—Subject to sub-
12 paragraph (E), the amount of a grant awarded
13 to any State or local government under this
14 subsection for inventory and site assessment of
15 1 or more brownfield sites shall not exceed
16 \$200,000.

17 “(F) WAIVER.—The Administrator may
18 waive the limitation on the amount of a grant
19 under subparagraph (E) on the basis of the an-
20 ticipated level of contamination, size, status of
21 ownership, number of brownfield sites, or any
22 other factor relating to the facility that the Ad-
23 ministrator considers appropriate, taking into
24 consideration the impact of the increase on the

1 Administrator's ability to provide grants at
2 other facilities.

3 “(G) TERMINATION OF GRANTS.—If the
4 Administrator determines that a State or local
5 government that receives a grant under this
6 subsection is in violation of a condition of a
7 grant referred to in subparagraph (D)(ii), the
8 Administrator may terminate the grant made to
9 the State or local government and require full
10 or partial repayment of the grant.

11 “(b) GRANTS AND LOANS FOR CLEANUP OF
12 BROWNFIELD SITES.—

13 “(1) ESTABLISHMENT.—The Administrator
14 shall establish a program to award grants to—

15 “(A) State or local governments to cap-
16 italize revolving loan funds for the cleanup of
17 brownfield sites; and

18 “(B) local governments that are not liable
19 under section 107, in accordance with para-
20 graph (3), for the purpose of cleaning up
21 brownfield sites.

22 “(2) LOANS.—The loans may be provided by
23 the State or local government to finance cleanups of
24 brownfield sites by the State or local government, or
25 by an owner or operator or a prospective purchaser

1 of a brownfield site (including a local government) at
2 which a cleanup is being conducted or is proposed to
3 be conducted.

4 “(3) DETERMINATION.—In determining wheth-
5 er to award a grant under paragraph (1)(B), the
6 Administrator shall consider, in addition to other re-
7 quirements of this subsection—

8 “(A) the demonstrated financial need of
9 the applicant for a grant, including whether the
10 applicant would be financially able to repay a
11 loan;

12 “(B) the extent to which the funds from
13 the grant would be used for the creation or
14 preservation of undeveloped space or for other
15 nonprofit purposes; and

16 “(C) the benefits of a revolving loan pro-
17 gram described in paragraph (1)(A) in pro-
18 moting the long-term availability of funding for
19 brownfields cleanups.

20 “(4) SCOPE OF PROGRAM.—

21 “(A) IN GENERAL.—

22 “(i) GRANTS.—In carrying out this
23 subsection, the Administrator may award a
24 grant to a State or local government that
25 submits an application to the Adminis-

1 trator that is approved by the Adminis-
2 trator.

3 “(ii) USE OF GRANT.—The grant
4 shall be used—

5 “(I) by the State or local govern-
6 ment to capitalize a revolving loan
7 fund to be used for cleanup of 1 or
8 more brownfield sites; or

9 “(II) in the case of a grant under
10 paragraph (1)(B), by the local govern-
11 ment for cleanup of brownfield sites.

12 “(B) GRANT APPLICATION PROCEDURE.—

13 “(i) IN GENERAL.—The Administrator
14 shall establish a grant application proce-
15 dure for this subsection.

16 “(ii) INCLUSIONS.—The procedure es-
17 tablished under clause (i)—

18 “(I) shall include criteria for
19 grants under paragraph (1)(B); and

20 “(II) may include requirements
21 of the National Contingency Plan, to
22 the extent that those requirements are
23 relevant and appropriate to the pro-
24 gram under this subsection.

1 “(C) GRANT APPLICATION FOR REVOLVING
2 LOAN FUNDS.—An application for a grant
3 under this subsection to establish a revolving
4 loan fund, shall be in such form as the Admin-
5 istrator determines appropriate, and shall in-
6 clude, at a minimum, the following:

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

11 “(ii) Provisions that—

12 “(I) ensure that the grant appli-
13 cant has the ability to monitor the use
14 of funds provided to loan recipients
15 under this subsection; and

16 “(II) ensure that any cleanup
17 conducted by the applicant is protec-
18 tive of human health and the environ-
19 ment.

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

1 provisions to be used to ensure repayment
2 of the loan funds.

3 “(iv) A complete description of the fi-
4 nancial standing of the applicant that in-
5 cludes a description of the assets, cash
6 flow, and liabilities of the applicant.

7 “(v) A written statement that attests
8 that the cleanup of the site would not
9 occur without access to the revolving loan
10 fund.

11 “(vi) The proposed method, and an-
12 ticipated period of time required, to clean
13 up the environmental contamination at the
14 brownfield site.

15 “(vii) An estimate of the proposed
16 total cost of the cleanup to be conducted at
17 the brownfield site.

18 “(viii) An analysis that demonstrates
19 the potential of the brownfield site for
20 stimulating economic development or other
21 beneficial use on completion of the cleanup
22 of the brownfield site.

23 “(5) GRANT APPROVAL.—In determining
24 whether to award a grant under this subsection, the
25 Administrator shall consider, as applicable—

1 “(A) the need of the State or local govern-
2 ment for financial assistance to clean up
3 brownfield sites that are the subject of the ap-
4 plication, taking into consideration the financial
5 resources available to the State or local govern-
6 ment;

7 “(B) the ability of the State or local gov-
8 ernment to ensure that the applicants repay the
9 loans in a timely manner;

10 “(C) the extent to which the cleanup of the
11 brownfield site or sites would reduce health and
12 environmental risks caused by the release of
13 contaminants at, or from, the brownfield site or
14 sites;

15 “(D) the demonstrable potential of the
16 brownfield site or sites for stimulating economic
17 development on completion of the cleanup;

18 “(E) the demonstrated ability of the State
19 or local government to administer such a loan
20 program;

21 “(F) the demonstrated experience of the
22 State or local government regarding brownfield
23 sites and the reuse of contaminated land, in-
24 cluding whether the government has received
25 any grant under this Act to assess brownfield

1 sites, except that applicants who have not pre-
2 viously received such a grant may be considered
3 for awards under this subsection;

4 “(G) the efficiency of having the loan ad-
5 ministered by the level of government rep-
6 resented by the applicant entity;

7 “(H) the experience of administering any
8 loan programs by the entity, including the loan
9 repayment rates;

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

15 “(J) such other factors as the Adminis-
16 trator considers relevant to carry out this sub-
17 section.

18 “(6) GRANT AMOUNT TO CAPITALIZE REVOLV-
19 ING LOAN FUNDS.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B), the amount of a grant to capitalize
22 a revolving loan fund made to a State or local
23 applicant under this subsection shall not exceed
24 \$500,000.

1 “(B) WAIVER.—The Administrator may
2 waive the limitation on the amount of a grant
3 under subparagraph (A) on the basis of the an-
4 ticipated level of contamination, size, status of
5 ownership, number of brownfield sites, or any
6 other factor relating to the facility that the Ad-
7 ministrator considers appropriate, taking into
8 consideration the impact of the increase on the
9 Administrator’s ability to provide grants at
10 other facilities.

11 “(7) CLEANUP GRANT AMOUNT.—The amount
12 of a grant made to a local applicant under para-
13 graph (1)(B) shall not exceed \$200,000.

14 “(8) GRANT APPROVAL.—Each application for
15 a grant to capitalize a revolving loan fund under this
16 subsection shall, as a condition of approval by the
17 Administrator, include a written statement by the
18 State or local government that cleanups to be funded
19 under this subsection shall be conducted under the
20 auspices of, and in compliance with—

21 “(A) the State voluntary cleanup program;

22 “(B) the State Superfund program; or

23 “(C) Federal law.

24 “(9) GRANT AGREEMENTS.—Each grant under
25 this subsection shall be made under a grant agree-

1 ment that shall include, at a minimum, provisions
2 that ensure the following:

3 “(A) COMPLIANCE WITH LAW.—The grant
4 recipient shall include in all loan agreements a
5 requirement that the loan recipient shall comply
6 with all laws applicable to the cleanup and shall
7 ensure that the cleanup is protective of human
8 health and the environment.

9 “(B) REPAYMENT.—For grants made
10 under paragraph (1)(A), the State or local gov-
11 ernment shall require repayment of the loan
12 consistent with this subsection.

13 “(C) USE OF FUNDS.—

14 “(i) REVOLVING GRANTS.—For grants
15 made under paragraph (1)(A), the State or
16 local government shall use the funds, in-
17 cluding repayment of the principal and in-
18 terest, solely for purposes of establishing
19 and capitalizing a loan program in accord-
20 ance with this subsection and of cleaning
21 up the environmental contamination at the
22 brownfield site or sites.

23 “(ii) CLEANUP GRANTS.—For grants
24 made under paragraph (1)(B), the local
25 government shall use the funds solely for

1 the purpose of cleaning up the environ-
2 mental contamination at the brownfield
3 site or sites.

4 “(D) REPAYMENT OF FUNDS.—For grants
5 made under paragraph (1)(A), the State or
6 local government shall require in each loan
7 agreement, and take necessary steps to ensure,
8 that the loan recipient shall use the loan funds
9 solely for the purposes stated in subparagraph
10 (C), and shall require the return of any excess
11 funds immediately on a determination by the
12 appropriate State or local official that the
13 cleanup has been completed.

14 “(E) NONTRANSFERABILITY.—For grants
15 under paragraph (1)(A) or (1)(B), the loan
16 funds shall not be transferable, unless the Ad-
17 ministrator agrees to the transfer in writing.

18 “(F) LIENS.—

19 “(i) DEFINITIONS.—In this subpara-
20 graph, the terms ‘security interest’ and
21 ‘purchaser’ have the meanings given the
22 terms in section 6323(h) of the Internal
23 Revenue Code of 1986.

24 “(ii) LIENS.—A lien in favor of the
25 grant recipient shall arise on the contami-

1 nated property subject to a loan under this
2 subsection.

3 “(iii) COVERAGE.—The lien shall
4 cover all real property included in the legal
5 description of the property at the time the
6 loan agreement provided for in this sub-
7 section is signed, and all rights to the
8 property, and shall continue until the
9 terms and conditions of the loan agreement
10 have been fully satisfied.

11 “(iv) TIMING.—The lien shall—

12 “(I) arise at the time a security
13 interest is appropriately recorded in
14 the real property records of the appro-
15 priate office of the State, county, or
16 other governmental subdivision, as
17 designated by State law, in which the
18 real property subject to the lien is lo-
19 cated; and

20 “(II) be subject to the rights of
21 any purchaser, holder of a security in-
22 terest, or judgment lien creditor
23 whose interest is or has been per-
24 fected under applicable State law be-
25 fore the notice has been filed in the

1 appropriate office of the State, coun-
2 ty, or other governmental subdivision,
3 as designated by State law, in which
4 the real property subject to the lien is
5 located.

6 “(G) OTHER CONDITIONS.—The State or
7 local government shall comply with such other
8 terms and conditions as the Administrator de-
9 termines are necessary to protect the financial
10 interests of the United States and to protect
11 human health and the environment.

12 “(c) REPORTS.—

13 “(1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this Act, and not later than
15 January 31 of each of the 3 calendar years there-
16 after, the Administrator shall prepare and submit a
17 report describing the results of each program estab-
18 lished under this title to—

19 “(A) the Committee on Environment and
20 Public Works of the Senate; and

21 “(B) the Committee on Commerce of the
22 House of Representatives.

23 “(2) CONTENTS OF REPORT.—Each report
24 shall, with respect to each of the programs estab-
25 lished under this title, include a description of—

1 “(A) the number of applications received
2 by the Administrator during the preceding cal-
3 endar year;

4 “(B) the number of applications approved
5 by the Administrator during the preceding cal-
6 endar year; and

7 “(C) the allocation of assistance under
8 subsections (a) and (b) among the States and
9 local governments.

10 “(d) LIMITATIONS ON USE OF FUNDS.—

11 “(1) EXCLUDED FACILITIES.—A grant for site
12 inventory and assessment under subsection (a) or to
13 capitalize a revolving loan fund or conduct a cleanup
14 under subsection (b) may not be used for any activ-
15 ity involving—

16 “(A) a facility that is the subject of a
17 planned or an ongoing response action under
18 this Act, except for a facility for which a pre-
19 liminary assessment, site investigation, or re-
20 moval action has been completed and with re-
21 spect to which the Administrator has decided
22 not to take further response action, including
23 cost recovery action;

1 “(B) a facility included, or proposed for in-
2 clusion, on the National Priorities List main-
3 tained by the Administrator under this Act;

4 “(C) a facility with respect to which a
5 record of decision, other than a no-action record
6 of decision, has been issued by the President
7 under section 104 with respect to the facility;

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

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

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

24 “(G) a facility with respect to which an ad-
25 ministrative or judicial order or a consent de-

1 cree requiring cleanup has been issued or en-
2 tered into by the President and is in effect
3 under—

4 “(i) this Act;

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

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

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

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

13 “(H) a facility at which assistance for re-
14 sponse activities may be obtained under subtitle
15 I of the Solid Waste Disposal Act (42 U.S.C.
16 6991 et seq.) from the Leaking Underground
17 Storage Tank Trust Fund established by sec-
18 tion 9508 of the Internal Revenue Code of
19 1986; and

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

24 “(2) FACILITY GRANTS.—Notwithstanding
25 paragraph (1), the President may, on a facility-by-

1 facility basis, allow a grant under subsection (a) or
2 (b) to be used for an activity involving any facility
3 or portion of a facility listed in subparagraph (D),
4 (E), (F), (G)(ii), (G)(iii), (G)(iv), (G)(v), or (H) of
5 paragraph (1).

6 “(3) FINES AND COST-SHARING.—A grant
7 made under this title may not be used to pay any
8 fine or penalty owed to a State or the Federal Gov-
9 ernment, or to meet any Federal cost-sharing re-
10 quirement.

11 “(4) OTHER LIMITATIONS.—

12 “(A) IN GENERAL.—Funds made available
13 to a State or local government under the grant
14 programs established under subsections (a) and
15 (b) shall be used only to inventory and assess
16 brownfield sites as authorized by this title and
17 for capitalizing a revolving loan fund or cleanup
18 of a brownfield site as authorized by this title,
19 respectively.

20 “(B) RESPONSIBILITY FOR CLEANUP AC-
21 TION.—Funds made available under this title
22 may not be used to relieve a local government
23 or State of the commitment or responsibilities
24 of the local government or State under State

1 law to assist or carry out cleanup actions at
2 brownfield sites.

3 “(e) REGULATIONS.—

4 “(1) IN GENERAL.—The Administrator may
5 issue such regulations as are necessary to carry out
6 this section.

7 “(2) PROCEDURES AND STANDARDS.—The reg-
8 ulations shall include such procedures and standards
9 as the Administrator considers necessary, including
10 procedures and standards for evaluating an applica-
11 tion for a grant or loan submitted under this sec-
12 tion.

13 “(f) EFFECT ON OTHER LAWS.—Nothing in this title
14 affects the liability or response authorities for environ-
15 mental contamination under any other law (including any
16 regulation), including—

17 “(1) this Act;

18 “(2) the Solid Waste Disposal Act (42 U.S.C.
19 6901 et seq.);

20 “(3) the Federal Water Pollution Control Act
21 (33 U.S.C. 1251 et seq.);

22 “(4) the Toxic Substances Control Act (15
23 U.S.C. 2601 et seq.); and

24 “(5) the Safe Drinking Water Act (42 U.S.C.
25 300f et seq.).”.

1 **SEC. 502. RESEARCH, DEVELOPMENT, DEMONSTRATION,**
2 **AND TRAINING.**

3 (a) RESEARCH, DEVELOPMENT, DEMONSTRATION,
4 AND TRAINING.—Section 311 of the Comprehensive Envi-
5 ronmental Response, Compensation, and Liability Act of
6 1980 (42 U.S.C. 9660) is amended by striking subsection
7 (c) and inserting the following:

8 “(c) HAZARDOUS SUBSTANCE RESEARCH, DEVELOP-
9 MENT, DEMONSTRATION, AND TRAINING.—

10 “(1) IN GENERAL.—The Administrator may
11 conduct and, through grants, cooperative agree-
12 ments, contracts, and the provision of technical as-
13 sistance, may support, research, development, dem-
14 onstration, and training relating to the detection, as-
15 sessment, remediation, and evaluation of the effects
16 on and risks to human health and the environment
17 from hazardous substances.

18 “(2) ELIGIBILITY.—The Administrator may
19 award grants and cooperative agreements, or con-
20 tracts or provide technical assistance under this sub-
21 section to a State, Indian tribe, consortium of In-
22 dian tribes, interstate agency, political subdivision of
23 a State, educational institution, or other agency or
24 organization for the development and implementa-
25 tion of training, technology transfer, and informa-
26 tion dissemination programs to strengthen environ-

1 mental response activities, including enforcement, at
2 the Federal, State, tribal and local levels.

3 “(3) REQUIREMENTS.—The Administrator may
4 establish such requirements for grants and coopera-
5 tive agreements under this subsection as the Admin-
6 istrator considers to be appropriate.”.

7 (b) TRAINING AND TECHNICAL ASSISTANCE.—Sec-
8 tion 117 of the Comprehensive Environmental Response,
9 Compensation, and Liability Act of 1980 (42 U.S.C.
10 9617) (as amended by section 203) is amended by adding
11 at the end the following:

12 “(g) FINANCIAL ASSISTANCE FOR TRAINING.—The
13 Administrator may provide training and technical assist-
14 ance to individuals and organizations, as appropriate to—

15 “(1) inventory and conduct assessments and
16 cleanups of brownfield sites; and

17 “(2) conduct response actions under this Act.”.

18 **SEC. 503. STATE VOLUNTARY CLEANUP PROGRAMS.**

19 Title I of the Comprehensive Environmental Re-
20 sponse, Compensation, and Liability Act of 1980 (42
21 U.S.C. 9601 et seq.) (as amended by section 501) is
22 amended by adding at the end the following:

1 **“SEC. 129. SUPPORT FOR STATE VOLUNTARY CLEANUP**
2 **PROGRAMS.**

3 “(a) EPA ASSISTANCE FOR STATES FOR STATE VOL-
4 UNTARY RESPONSE PROGRAMS.—The Administrator shall
5 assist States to establish and administer State voluntary
6 response programs that provide—

7 “(1) voluntary response actions that ensure
8 adequate site assessment and are protective of
9 human health and the environment;

10 “(2) opportunities for technical assistance (in-
11 cluding grants) for voluntary response actions;

12 “(3) meaningful opportunities for public partici-
13 pation on issues that affect the community, which
14 shall include prior notice and opportunity for com-
15 ment in the selection of response actions and which
16 may include involvement of State and local health
17 officials during site assessment;

18 “(4) streamlined procedures to ensure expedi-
19 tious voluntary response actions;

20 “(5) adequate oversight, enforcement authori-
21 ties, resources, and practices to—

22 “(A) ensure that voluntary response ac-
23 tions are protective of human health and the
24 environment, as provided in paragraph (1), and
25 are conducted in a timely manner in accordance
26 with a State-approved response action plan; and

1 “(B) ensure completion of response actions
2 if the person conducting the response action
3 fails or refuses to complete the necessary re-
4 sponse activities that are protective of human
5 health and the environment, including operation
6 and maintenance or long-term monitoring ac-
7 tivities;

8 “(6) mechanisms for the approval of a response
9 action plan; and

10 “(7) mechanisms for a certification or similar
11 documentation to the person that conducted the re-
12 sponse action indicating that the response is com-
13 plete.

14 “(b) GRANTS FOR DEVELOPMENT AND ENHANCE-
15 MENT OF STATE VOLUNTARY RESPONSE PROGRAMS AND
16 REPORTING REQUIREMENT.—

17 “(1) GRANTS TO STATES.—The Administrator
18 shall provide grants to States to develop or enhance
19 State voluntary response programs described in sub-
20 section (a).

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

1 planned to be addressed under a State voluntary re-
2 sponse program.

3 “(3) REPORTING REQUIREMENT.—Not later
4 than the end of the first calendar year after the date
5 of enactment of this section, and annually there-
6 after, each State that receives financial assistance
7 under this section shall submit to the Administrator
8 a report describing the progress of the voluntary re-
9 sponse program of the State, including information,
10 with respect to that calendar year, on—

11 “(A) the number of sites, if any, under-
12 going voluntary cleanup, including a separate
13 description of the number of sites in each stage
14 of voluntary cleanup;

15 “(B) the number of sites, if any, entering
16 voluntary cleanup; and

17 “(C) the number of sites, if any, that re-
18 ceived a certification from the State indicating
19 that a response action is complete.”.

20 **SEC. 504. AUDITS.**

21 Section 111 of the Comprehensive Environmental Re-
22 sponse, Compensation, and Liability Act of 1980 (42
23 U.S.C. 9611) is amended by adding at the end the fol-
24 lowing:

25 “(q) AUDITS.—

1 “(1) IN GENERAL.—The Inspector General of
2 the Environmental Protection Agency shall audit a
3 portion of the grants awarded under section 129 to
4 ensure that all funds are used in a manner that is
5 consistent with that section.

6 “(2) FUTURE GRANTS.—The result of the audit
7 shall be taken into account in awarding any future
8 grants to the State or local government under that
9 section.”.

10 **TITLE VI—SETTLEMENT** 11 **INCENTIVES**

12 **SEC. 601. FAIRNESS IN SETTLEMENTS.**

13 Section 122 of the Comprehensive Environmental Re-
14 sponse, Compensation, and Liability Act of 1980 (42
15 U.S.C. 9622) is amended by adding at the end the fol-
16 lowing:

17 “(n) FAIRNESS IN SETTLEMENTS.—

18 “(1) ASSISTANCE FOR CLEANUP SETTLE-
19 MENTS.—An agreement under subsection (a) may,
20 in the discretion of the President, provide for pay-
21 ment of sums appropriated under section 111(s) to
22 pay a portion of the response costs at a facility in
23 accordance with section 122(b) where the President
24 determines there are parties that are insolvent,

1 defunct, or otherwise have a limited ability to pay,
2 or based on other equitable considerations.

3 “(2) APPLICATION TOWARD CLEANUP SETTLE-
4 MENT OF SUMS RECOVERED IN OTHER SETTLE-
5 MENTS.—The President may enter into settlements
6 under paragraphs (3), subparagraphs (B), (C), (F),
7 and (G) of section 122(g)(1), and section 107(t)
8 that include terms providing for the disposition of
9 the proceeds of the settlements in a manner that is
10 fair and reasonable, including, as appropriate, the
11 placement of settlement proceeds in interest-bearing
12 accounts to conduct or enable other persons to con-
13 duct response actions at the facility.

14 “(3) ADDITIONAL SETTLEMENTS BASED ON
15 ABILITY TO PAY.—The President shall have the au-
16 thority to evaluate the ability to pay of any poten-
17 tially responsible party, and to enter into a settle-
18 ment with the party based on that party’s ability to
19 pay.”.

20 **TITLE VII—FUNDING**

21 **SEC. 701. AUTHORIZATION OF APPROPRIATIONS.**

22 Section 111(a) of the Comprehensive Environmental
23 Response, Compensation, and Liability Act of 1980 (42
24 U.S.C. 9611(a)) is amended in the first sentence by strik-
25 ing “\$8,500,000,000 for the 5-year period beginning on

1 the date of enactment of the Superfund Amendments and
2 Reauthorization Act of 1986, and not more than
3 \$5,100,000,000 for the period commencing October 1,
4 1991, and ending September 30, 1994” and inserting
5 “\$7,500,000,000 for the period beginning October 1,
6 1999, and ending September 30, 2004”.

7 **SEC. 702. FUNDING FOR CLEANUP SETTLEMENTS.**

8 Section 111 of the Comprehensive Environmental Re-
9 sponse, Compensation, and Liability Act of 1980 (42
10 U.S.C. 9611) is amended—

11 (1) in subsection (a), by inserting after para-
12 graph (6) the following:

13 “(7) FUNDING FOR CLEANUP SETTLEMENTS.—
14 Payments toward cleanup settlements under sub-
15 section (r) and section 122(n)(1).”; and

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

17 “(r) MANDATORY FUNDING.—

18 “(1) IN GENERAL.—Subject to paragraph (4),
19 for the purpose of contributing under section
20 122(n)(1) to a cleanup settlement, there is made
21 available for obligation from amounts in the Haz-
22 arduous Substance Superfund for each of fiscal years
23 2000 through 2004, \$200,000,000, to remain avail-
24 able until expended

1 “(2) EFFECT ON AUTHORITY.—Nothing in this
2 paragraph affects the authority of the Administrator
3 to forego recovery of past costs.

4 “(3) FISCAL YEAR FUNDS.—Except in fiscal
5 year 2000, if the amounts made available under
6 paragraph (1) available for a fiscal year have been
7 obligated, up to ½ of the amounts made available
8 under paragraph (1) for the next fiscal year may be
9 obligated.

10 “(4) CONDITION ON AVAILABILITY.—An
11 amount under paragraph (1) may be made available
12 for obligation for a fiscal year only if the total
13 amount appropriated for the fiscal year under sec-
14 tion 111(a) equals or exceeds \$1,500,000,000.”.

15 **SEC. 703. AGENCY FOR TOXIC SUBSTANCES AND DISEASE**
16 **REGISTRY.**

17 Section 111 of the Comprehensive Environmental Re-
18 sponse, Compensation, and Liability Act of 1980 (42
19 U.S.C. 9611) is amended by striking subsection (m) and
20 inserting the following:

21 “(m) AGENCY FOR TOXIC SUBSTANCES AND DIS-
22 EASE REGISTRY.—There shall be directly available to the
23 Agency for Toxic Substances and Disease Registry to be
24 used for the purpose of carrying out activities described

1 in subsection (c)(4) and section 104(i) not less than
2 \$75,000,000 for each of fiscal years 2000 through 2004.”.

3 **SEC. 704. BROWNFIELDS.**

4 Section 111 of the Comprehensive Environmental Re-
5 sponse, Compensation, and Liability Act of 1980 (42
6 U.S.C. 9611) (as amended by section 702) is amended by
7 adding at the end the following:

8 “(s) AUTHORIZATION OF APPROPRIATIONS.—

9 “(1) INVENTORY AND ASSESSMENT PRO-
10 GRAM.—There is authorized to be appropriated to
11 carry out section 128(a) \$35,000,000 for each of fis-
12 cal years 2000 through 2004.

13 “(2) GRANTS FOR CLEANUP.—There is author-
14 ized to be appropriated to carry out section 128(b)
15 \$60,000,000 for each of fiscal years 2000 through
16 2004.

17 “(3) VOLUNTARY RESPONSE PROGRAMS.—
18 There is authorized to be appropriated for assistance
19 to States for voluntary response programs under
20 section 129(b) \$15,000,000 for each of the first 5
21 fiscal years beginning after the date of enactment of
22 this section.

23 “(4) AVAILABILITY OF FUNDS.—The amounts
24 appropriated under this subsection shall remain
25 available until expended.”.

1 **SEC. 705. AUTHORIZATION OF APPROPRIATIONS FROM**
2 **GENERAL REVENUES.**

3 Section 111(p) of the Comprehensive Environmental
4 Response, Compensation, and Liability Act of 1980 (42
5 U.S.C. 9611(p)) is amended by striking paragraph (1) and
6 inserting the following:

7 “(1) IN GENERAL.—

8 “(A) AUTHORIZATION.—There are author-
9 ized to be appropriated, out of any money in
10 the Treasury not otherwise appropriated, to the
11 Hazardous Substance Superfund, \$250,000,000
12 for each of fiscal years 2000 through 2004.

13 “(B) APPROPRIATION IN SUBSEQUENT
14 YEARS.—In addition to funds appropriated
15 under subparagraph (A), there is authorized to
16 be appropriated to the Hazardous Substance
17 Superfund for each fiscal year described in sub-
18 paragraph (A) an amount equal to so much of
19 the aggregate amount authorized to be appro-
20 priated under subparagraph (A) as has not
21 been appropriated for any previous fiscal
22 year.”.

23 **SEC. 706. WORKER TRAINING AND EDUCATION GRANTS.**

24 Section 111(c)(12) of the Comprehensive Environ-
25 mental Response, Compensation, and Liability Act of
26 1980 (42 U.S.C. 9611(c)(12)) is amended—

1 (1) by striking “\$10,000,000” and inserting
2 “\$40,000,000”; and

3 (2) by striking “each of fiscal years 1987,” and
4 all that follows through “1994” and inserting “each
5 of fiscal years 2000 through 2004”.

6 **TITLE VIII—DEFINITIONS**

7 **SEC. 801. DEFINITIONS.**

8 Section 101 of the Comprehensive Environmental Re-
9 sponse, Compensation, and Liability Act of 1980 (42
10 U.S.C. 9601) (as amended by section 101(c)) is amended
11 by adding at the end the following:

12 “(40) BROWNFIELD SITE.—The term
13 ‘brownfield site’ means a facility that has or is sus-
14 pected of having environmental contamination
15 that—

16 “(A) could prevent the timely use, develop-
17 ment, reuse, or redevelopment of the facility;
18 and

19 “(B) is relatively limited in scope or sever-
20 ity and can be comprehensively assessed and
21 readily analyzed.

22 “(41) CONTAMINANT.—The term “contami-
23 nant”, for purposes of section 128 and paragraph
24 (44), includes any hazardous substance.

1 “(42) GRANT.—The term “grant” includes a
2 cooperative agreement.

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

9 “(44) SITE ASSESSMENT.—

10 “(A) IN GENERAL.—The term “site assess-
11 ment”, for purposes of sections 128 and 129
12 and paragraph (35) means an investigation that
13 determines the nature and extent of a release or
14 potential release of a hazardous substance at a
15 brownfield site and meets the requirements of
16 subparagraph (B).

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

20 “(i) shall include—

21 “(I) an onsite evaluation; and

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

1 and the threats to human health and
2 the environment posed by the release
3 of contaminants at the brownfield
4 site; and

5 “(ii) may include—

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

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

12 “(45) MUNICIPAL SOLID WASTE.—

13 “(A) IN GENERAL.—The term ‘municipal
14 solid waste’ means—

15 “(i) waste material generated by a
16 household (including a single or multi-
17 family residence); and

18 “(ii) waste material generated by a
19 commercial, institutional, or industrial
20 source, to the extent that the waste
21 material—

22 “(I) is essentially the same as
23 waste normally generated by a house-
24 hold; or

1 “(II) is collected and disposed of
2 with other municipal solid waste or
3 municipal sewage sludge as part of
4 normal municipal solid waste collec-
5 tion services, and, with respect to
6 each source from which the waste ma-
7 terial is collected, qualifies for a de-
8 micromis exemption under section
9 107(r).

10 “(B) EXAMPLES.—Examples of municipal
11 solid waste under subparagraph (A) include
12 food and yard waste, paper, clothing, appli-
13 ances, consumer product packaging, disposable
14 diapers, office supplies, cosmetics, glass and
15 metal food containers, elementary or secondary
16 school science laboratory waste, and household
17 hazardous waste.

18 “(C) EXCLUSIONS.—The term ‘municipal
19 solid waste’ does not include—

20 “(i) combustion ash generated by re-
21 source recovery facilities or municipal in-
22 cinerators; or

23 “(ii) waste material from manufac-
24 turing or processing (including pollution
25 control) operations that is not essentially

1 the same as waste normally generated by
2 households.

3 “(46) MUNICIPALITY.—

4 “(A) IN GENERAL.—The term ‘municipi-
5 pality’ means a political subdivision of a State.

6 “(B) INCLUSIONS.—The term ‘municipi-
7 pality’ includes—

8 “(i) a city, county, village, town,
9 township, borough, parish, school, school
10 district, sanitation district, water district,
11 or other public entity performing local gov-
12 ernmental functions; and

13 “(ii) a natural person acting in the
14 capacity of an official, employee, or agent
15 of a political subdivision of a State or an
16 entity described in clause (i) in the per-
17 formance of governmental functions.

18 “(47) OWNER, OPERATOR, OR LESSEE OF RESI-
19 DENTIAL PROPERTY.—

20 “(A) IN GENERAL.—The term ‘owner, op-
21 erator, or lessee of residential property’ means
22 a person that—

23 “(i) owns, operates, manages, or
24 leases residential property; and

1 “(ii) uses or allows the use of the resi-
2 dential property exclusively for residential
3 purposes.

4 “(B) RESIDENTIAL PROPERTY.—For the
5 purposes of subparagraph (A) the term ‘resi-
6 dential property’ means a single or multifamily
7 residence (including incidental accessory land,
8 buildings, or improvements) that is used exclu-
9 sively for residential purposes.

10 “(48) SMALL NONPROFIT ORGANIZATION.—The
11 term ‘small nonprofit organization’ means an organi-
12 zation that, at the time of disposal—

13 “(A) did not distribute any part of its in-
14 come or profit to its members, directors, or offi-
15 cers;

16 “(B) employed not more than 100 paid in-
17 dividuals at the chapter, office, or department
18 disposing of the waste; and

19 “(C) was an organization described in sec-
20 tion 501(c) of the Internal Revenue Code of
21 1986 that is exempt from taxation under sec-
22 tion 501(a) of the Internal Revenue Code of
23 1986.

24 “(49) AFFILIATE; AFFILIATED.—The terms ‘af-
25 filiate’ and ‘affiliated’ have the meanings that those

1 terms have in section 121.103 of title 13, Code of
2 Federal Regulations (or any successor regulation).

3 “(50) MUNICIPAL SEWAGE SLUDGE.—The term
4 ‘municipal sewage sludge’ means solid, semisolid, or
5 liquid residue removed during the treatment of mu-
6 nicipal wastewater, domestic sewage, or other waste-
7 water at or by publicly owned or federally owned
8 treatment works.”.

○