

106TH CONGRESS
1ST SESSION

S. 20

To assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. LAUTENBERG (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. LEVIN, Mr. REID, Mr. ROCKEFELLER, Mr. TORRICELLI, Ms. MIKULSKI, Mr. BREAUX, Mrs. MURRAY, Mr. SCHUMER, Mrs. BOXER, Mr. SARBANES, Mr. DURBIN, Mr. LEAHY, Mr. WYDEN, Mr. BRYAN, Mr. MOYNIHAN, Mr. KERRY, Mr. LIEBERMAN, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, 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 “Brownfields and Environmental Cleanup Act of 1999”.

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

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

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL CLEANUP

- Sec. 101. Definitions.
 Sec. 102. Inventory and assessment grant program.
 Sec. 103. Grants for revolving loan programs.
 Sec. 104. Research, development, demonstration, and training.
 Sec. 105. Financial assistance for training.
 Sec. 106. Expenditures from the Superfund.
 Sec. 107. Reports.
 Sec. 108. Limitations on use of funds.
 Sec. 109. Effect on other laws.
 Sec. 110. Regulations.
 Sec. 111. Authorization of appropriations.

TITLE II—PROSPECTIVE PURCHASERS

- Sec. 201. Limitations on liability for response costs for prospective purchasers.

TITLE III—INNOCENT LANDOWNERS

- Sec. 301. Innocent landowners.

TITLE IV—CONTIGUOUS PROPERTIES

- Sec. 401. Contiguous properties.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) past uses of land in the United States for
 4 industrial and commercial purposes have created
 5 many sites throughout the United States that have
 6 environmental contamination;

7 (2) such sites are often abandoned, idled, or
 8 underused commercial or industrial facilities where
 9 expansion or development is complicated by the pres-
 10 ence or potential presence of a contaminant;

11 (3) promoting the assessment, cleanup, and re-
 12 development of contaminated sites could lead to sig-
 13 nificant environmental and economic benefits, par-

1 particularly in any case in which a cleanup can be com-
2 pleted quickly and during a period of time that
3 meets short-term business needs;

4 (4) the private market demand for sites af-
5 fected by environmental contamination frequently is
6 reduced, for reasons that include uncertainties re-
7 garding contamination or potential cleanup costs,
8 which can lead to construction on undeveloped sites
9 and development on greenfields;

10 (5) the abandonment or underuse of brownfield
11 sites threatens the environment, devalues the sur-
12 rounding property, erodes local tax bases, prevents
13 job growth, and limits economic opportunities for the
14 people of the United States, particularly the unem-
15 ployed and economically disadvantaged;

16 (6) cooperation among Federal agencies, de-
17 partments and agencies of States and local govern-
18 ments, local community development organizations,
19 and current owners and prospective purchasers of
20 brownfield sites is important to encourage timely re-
21 sponse actions and the redevelopment or other bene-
22 ficial reuse of brownfield sites;

23 (7) there is a need to provide financial incen-
24 tives and assistance to inventory and assess certain
25 brownfield sites and facilitate the cleanup of the

1 sites so that the sites may be redeveloped for bene-
2 ficial uses; and

3 (8) there is a need for a program to—

4 (A) encourage cleanups of brownfield sites;
5 and

6 (B) facilitate the establishment and en-
7 hancement of programs by States and local gov-
8 ernments to foster cleanups of brownfield sites
9 through capitalization of loan programs.

10 (b) PURPOSES.—The purposes of this Act are to cre-
11 ate new business and employment opportunities through
12 the cleanup, economic redevelopment, and beneficial reuse
13 of brownfield sites, and to stimulate the assessment and
14 cleanup of brownfield sites by—

15 (1) encouraging States and local governments
16 to provide for the assessment and cleanup of
17 brownfield sites that may not be remediated under
18 other environmental laws;

19 (2) encouraging local governments and private
20 parties, including local community development or-
21 ganizations, to participate in programs, such as
22 State cleanup programs, that facilitate expedited re-
23 sponse actions that protect human health and the
24 environment in a way that furthers economic rede-
25 velopment at brownfield sites; and

(3) directing the Administrator of the Environmental Protection Agency to establish programs that provide financial assistance to—

(A) facilitate site assessments of certain brownfield sites;

(B) encourage cleanup of appropriate brownfield sites through capitalization of loan programs; and

(C) encourage workforce development in areas adversely affected by contaminated properties.

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL CLEANUP

SEC. 101. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) BROWNFIELD SITE.—The term “brownfield site” means a facility that has or is suspected of having environmental contamination that—

(A) could prevent the timely use, development, reuse, or redevelopment of the facility; and

1 (B) is relatively limited in scope or severity
2 and can be comprehensively assessed and read-
3 ily analyzed.

4 (3) CONTAMINANT.—The term “contaminant”
5 includes any hazardous substance (as defined in sec-
6 tion 101 of the Comprehensive Environmental Re-
7 sponse, Compensation, and Liability Act of 1980 (42
8 U.S.C. 9601)).

9 (4) DISPOSAL.—The term “disposal” has the
10 meaning given the term in section 1004 of the Solid
11 Waste Disposal Act (42 U.S.C. 6903).

12 (5) ENVIRONMENT.—The term “environment”
13 has the meaning given the term in section 101 of the
14 Comprehensive Environmental Response, Compensa-
15 tion, and Liability Act of 1980 (42 U.S.C. 9601).

16 (6) ENVIRONMENTAL CONTAMINATION.—The
17 term “environmental contamination” means the ex-
18 istence at a facility of 1 or more contaminants that
19 may pose a threat to human health or the environ-
20 ment.

21 (7) FACILITY.—The term “facility” has the
22 meaning given the term in section 101 of the Com-
23 prehensive Environmental Response, Compensation,
24 and Liability Act of 1980 (42 U.S.C. 9601).

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

3 (9) GROUND WATER.—The term “ground
4 water” has the meaning given the term in section
5 101 of the Comprehensive Environmental Response,
6 Compensation, and Liability Act of 1980 (42 U.S.C.
7 9601).

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

12 (11) LOCAL GOVERNMENT.—The term “local
13 government” has the meaning given the term “unit
14 of general local government” in the first sentence of
15 section 102(a)(1) of the Housing and Community
16 Development Act of 1974 (42 U.S.C. 5302(a)(1)),
17 except that the term includes an Indian tribe.

18 (12) NATURAL RESOURCES.—The term “natu-
19 ral resources” has the meaning given the term in
20 section 101 of the Comprehensive Environmental
21 Response, Compensation, and Liability Act of 1980
22 (42 U.S.C. 9601).

23 (13) OWNER.—The term “owner” has the
24 meaning given the term in section 101 of the Com-

1 prehensive Environmental Response, Compensation,
2 and Liability Act of 1980 (42 U.S.C. 9601).

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

7 (15) PROSPECTIVE PURCHASER.—The term
8 “prospective purchaser” means a prospective pur-
9 chaser of a brownfield site.

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

14 (17) RESPONSE ACTION.—The term “response
15 action” has the meaning given the term “response”
16 in section 101 of the Comprehensive Environmental
17 Response, Compensation, and Liability Act of 1980
18 (42 U.S.C. 9601).

19 (18) SITE ASSESSMENT.—

20 (A) IN GENERAL.—The term “site assess-
21 ment” means an investigation that determines
22 the nature and extent of a release or potential
23 release of a hazardous substance at a
24 brownfield site and meets the requirements of
25 subparagraph (B).

1 (B) INVESTIGATION.—For the purposes of
2 this paragraph, an investigation that meets the
3 requirements of this subparagraph—

4 (i) shall include—

5 (I) an onsite evaluation; and

6 (II) sufficient testing, sampling,
7 and other field-data-gathering activi-
8 ties to accurately determine whether
9 the brownfield site is contaminated
10 and the threats to human health and
11 the environment posed by the release
12 of contaminants at the brownfield
13 site; and

14 (ii) may include—

15 (I) review of such information re-
16 garding the brownfield site and pre-
17 vious uses as is available at the time
18 of the review; and

19 (II) an offsite evaluation, if ap-
20 propriate.

21 (19) STATE.—The term “State” has the mean-
22 ing given the term in section 101 of the Comprehen-
23 sive Environmental Response, Compensation, and
24 Liability Act of 1980 (42 U.S.C. 9601).

1 **SEC. 102. INVENTORY AND ASSESSMENT GRANT PROGRAM.**

2 (a) IN GENERAL.—The Administrator shall establish
3 a program to award grants to States or local governments
4 to inventory brownfield sites and to conduct site assess-
5 ments of brownfield sites.

6 (b) SCOPE OF PROGRAM.—

7 (1) GRANT AWARDS.—To carry out subsection
8 (a), the Administrator may, on approval of an appli-
9 cation, provide financial assistance to a State or
10 local government.

11 (2) GRANT APPLICATION.—An application for a
12 grant under this section shall include, to the extent
13 practicable, each of the following:

14 (A) An identification of the brownfield
15 sites for which assistance is sought and a de-
16 scription of the effect of the brownfield sites on
17 the community, including a description of the
18 nature and extent of any known or suspected
19 environmental contamination within the areas.

20 (B) A description of the need of the appli-
21 cant for financial assistance to inventory
22 brownfield sites and conduct site assessments.

23 (C) A demonstration of the potential of the
24 grant assistance to stimulate economic develop-
25 ment, including the extent to which the assist-
26 ance will stimulate the availability of other

1 funds for site assessment, site identification, or
2 environmental remediation and subsequent re-
3 development of the areas in which eligible
4 brownfield sites are situated.

5 (D) A description of the local commitment
6 as of the date of the application, which shall in-
7 clude a community involvement plan that dem-
8 onstrates meaningful community involvement.

9 (E) A plan that shows how the site assess-
10 ment, site identification, or environmental re-
11 mediation and subsequent development will be
12 implemented, including—

13 (i) an environmental plan that ensures
14 the use of sound environmental procedures;

15 (ii) an explanation of the appropriate
16 government authority and support for the
17 project as in existence on the date of the
18 application;

19 (iii) proposed funding mechanisms for
20 any additional work; and

21 (iv) a proposed land ownership plan.

22 (F) A statement on the long-term benefits
23 and the sustainability of the proposed project
24 that includes—

1 (i) the ability of the project to be rep-
 2 licated nationally and measures of success
 3 of the project; and

4 (ii) to the extent known, the potential
 5 of the plan for each area in which an eligi-
 6 ble brownfield site is situated to stimulate
 7 economic development of the area on com-
 8 pletion of the environmental remediation.

9 (G) Such other factors as the Adminis-
 10 trator considers relevant to carry out this title.

11 (3) APPROVAL OF APPLICATION.—

12 (A) IN GENERAL.—In making a decision
 13 whether to approve an application under para-
 14 graph (1), the Administrator shall—

15 (i) consider the need of the State or
 16 local government for financial assistance to
 17 carry out this section;

18 (ii) consider the ability of the appli-
 19 cant to carry out an inventory and site as-
 20 sessment under this section;

21 (iii) ensure a fair distribution of grant
 22 funds between urban and nonurban areas;
 23 and

1 (iv) consider such other factors as the
2 Administrator considers relevant to carry
3 out this section.

4 (B) GRANT CONDITIONS.—As a condition
5 of awarding a grant under this section, the Ad-
6 ministrator may, on the basis of the criteria
7 considered under subparagraph (A), attach
8 such conditions to the grant as the Adminis-
9 trator determines appropriate.

10 (4) GRANT AMOUNT.—The amount of a grant
11 awarded to any State or local government under
12 subsection (a) for inventory and site assessment of
13 1 or more brownfield sites shall not exceed
14 \$200,000.

15 (5) WAIVER.—The Administrator may waive an
16 amount limitation under this paragraph based on
17 the anticipated level of contamination, size, status of
18 ownership, number of brownfield sites, or any other
19 factor relating to the facility that the Administrator
20 considers appropriate, taking into consideration the
21 impact of the increase on the Administrator's ability
22 to provide grants at other facilities.

23 (6) TERMINATION OF GRANTS.—If the Admin-
24 istrator determines that a State or local government
25 that receives a grant under this subsection is in vio-

1 lation of a condition of a grant referred to in para-
2 graph (3)(B), the Administrator may terminate the
3 grant made to the State or local government and re-
4 quire full or partial repayment of the grant.

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

6 (a) IN GENERAL.—

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

11 (2) LOANS.—The loans may be provided by the
12 State or local government to finance cleanups of
13 brownfield sites by the State or local government, or
14 by an owner or a prospective purchaser of a
15 brownfield site (including a local government) at
16 which a cleanup is being conducted or is proposed to
17 be conducted.

18 (b) SCOPE OF PROGRAM.—

19 (1) IN GENERAL.—

20 (A) GRANTS.—In carrying out subsection
21 (a), the Administrator may award a grant to a
22 State or local government that submits an ap-
23 plication to the Administrator that is approved
24 by the Administrator.

1 (B) USE OF GRANT.—The grant shall be
2 used by the State or local government to cap-
3 italize a revolving loan fund to be used for
4 cleanup of 1 or more brownfield sites.

5 (C) GRANT APPLICATION.—An application
6 for a grant under this section shall be in such
7 form as the Administrator determines appro-
8 priate. At a minimum, the application shall in-
9 clude the following:

10 (i) Evidence that the grant applicant
11 has the financial controls and resources to
12 administer a revolving loan fund in accord-
13 ance with this title.

14 (ii) Provisions that—

15 (I) ensure that the grant appli-
16 cant has the ability to monitor the use
17 of funds provided to loan recipients
18 under this title;

19 (II) ensure that any cleanup con-
20 ducted by the applicant is protective
21 of human health and the environment;
22 and

23 (III) ensure that any cleanup
24 funded under this Act will comply

1 with all applicable Federal and State
2 laws that apply to the cleanup.

3 (iii) Identification of the criteria to be
4 used by the State or local government in
5 providing for loans under the program.
6 The criteria shall include the financial
7 standing of the applicants for the loans,
8 the use to which the loans will be put, the
9 provisions to be used to ensure repayment
10 of the loan funds, and the following:

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

16 (II) A written statement that at-
17 tests that the cleanup of the site
18 would not occur without access to the
19 revolving loan fund.

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

1 (IV) An estimate of the proposed
2 total cost of the cleanup to be con-
3 ducted at the brownfield site.

4 (V) An analysis that dem-
5 onstrates the potential of the
6 brownfield site for stimulating eco-
7 nomic development or other beneficial
8 use on completion of the cleanup of
9 the brownfield site.

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

13 (A) the need of the State or local govern-
14 ment for financial assistance to clean up
15 brownfield sites that are the subject of the ap-
16 plication, taking into consideration the financial
17 resources available to the State or local govern-
18 ment;

19 (B) the ability of the State or local govern-
20 ment to ensure that the applicants repay the
21 loans in a timely manner;

22 (C) the extent to which the cleanup of the
23 brownfield site or sites would reduce health and
24 environmental risks caused by the release of

1 contaminants at, or from, the brownfield site or
2 sites;

3 (D) the demonstrable potential of the
4 brownfield site or sites for stimulating economic
5 development on completion of the cleanup;

6 (E) the demonstrated ability of the State
7 or local government to administer such a loan
8 program;

9 (F) the demonstrated experience of the
10 State or local government regarding brownfield
11 sites and the reuse of contaminated land, in-
12 cluding whether the government has received
13 any grant under the Comprehensive Environ-
14 mental Response, Compensation, and Liability
15 Act of 1980 (42 U.S.C. 9601 et seq.) to assess
16 brownfield sites, except that applicants who
17 have not previously received such a grant may
18 be considered for awards under this section;

19 (G) the efficiency of having the loan ad-
20 ministered by the level of government rep-
21 resented by the applicant entity;

22 (H) the experience of administering any
23 loan programs by the entity, including the loan
24 repayment rates;

1 (I) the demonstrations made regarding the
2 ability of the State or local government to en-
3 sure a fair distribution of grant funds among
4 brownfield sites within the jurisdiction of the
5 State or local government; and

6 (J) such other factors as the Administrator
7 considers relevant to carry out this section.

8 (3) GRANT AMOUNT.—The amount of a grant
9 made to a State or local applicant under this section
10 shall not exceed \$500,000.

11 (4) WAIVER.—The Administrator may waive an
12 amount limitation under this paragraph based on
13 the anticipated level of contamination, size, status of
14 ownership, number of brownfield sites, or any other
15 factor relating to the facility that the Administrator
16 considers appropriate, taking into consideration the
17 impact of the increase on the Administrator's ability
18 to provide grants at other facilities.

19 (5) REVOLVING LOAN FUND APPROVAL.—Each
20 application for a grant to capitalize a revolving loan
21 fund under this section shall, as a condition of ap-
22 proval by the Administrator, include a written state-
23 ment by the State or local government that cleanups
24 to be funded under the loan program of the State
25 or local government shall be conducted under the

1 auspices of, and in compliance with, the State vol-
2 untary cleanup program or State Superfund pro-
3 gram or Federal authority.

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

8 (1) COMPLIANCE WITH LAW.—The grant recipi-
9 ent will include in all loan agreements a requirement
10 that the loan recipient shall comply with all Federal
11 and State laws applicable to the cleanup and shall
12 ensure that the cleanup is protective of human
13 health and the environment.

14 (2) REPAYMENT.—The State or local govern-
15 ment will require repayment of the loan consistent
16 with this title.

17 (3) USE OF FUNDS.—The State or local govern-
18 ment will use the funds solely for purposes of estab-
19 lishing and capitalizing a loan program in accord-
20 ance with this title and of cleaning up the environ-
21 mental contamination at the brownfield site or sites.

22 (4) REPAYMENT OF FUNDS.—The State or local
23 government will require in each loan agreement, and
24 take necessary steps to ensure, that the loan recipi-
25 ent will use the loan funds solely for the purposes

1 stated in paragraph (3), and will require the return
2 of any excess funds immediately on a determination
3 by the appropriate State or local official that the
4 cleanup has been completed.

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

8 (6) LIENS.—

9 (A) DEFINITIONS.—In this paragraph, the
10 terms “security interest” and “purchaser” have
11 the meanings given the terms in section
12 6323(h) of the Internal Revenue Code of 1986.

13 (B) LIENS.—A lien in favor of the grant
14 recipient shall arise on the contaminated prop-
15 erty subject to a loan under this section.

16 (C) COVERAGE.—The lien shall cover all
17 real property included in the legal description of
18 the property at the time the loan agreement
19 provided for in this section is signed, and all
20 rights to the property, and shall continue until
21 the terms and conditions of the loan agreement
22 have been fully satisfied.

23 (D) TIMING.—The lien shall—

24 (i) arise at the time a security interest
25 is appropriately recorded in the real prop-

erty records of the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located; and

(ii) be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is or has been perfected under applicable State law before the notice has been filed in the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located.

(7) OTHER CONDITIONS.—The State or local government will comply with such other terms and conditions as the Administrator determines are necessary to protect the financial interests of the United States and to protect human health and the environment.

(d) AUDITS.—

(1) IN GENERAL.—The Inspector General of the Environmental Protection Agency shall audit a portion of the grants awarded under this section to

1 ensure that all funds are used for the purposes set
2 forth in this section.

3 (2) FUTURE GRANTS.—The result of the audit
4 shall be taken into account in awarding any future
5 grants to the State or local government.

6 **SEC. 104. RESEARCH, DEVELOPMENT, DEMONSTRATION,**
7 **AND TRAINING.**

8 Section 311 of the Comprehensive Environmental Re-
9 sponse, Compensation, and Liability Act of 1980 (42
10 U.S.C. 9660) is amended by striking subsection (c) and
11 inserting the following:

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

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

22 “(2) ELIGIBILITY.—The Administrator may
23 award grants and cooperative agreements, or con-
24 tracts or provide technical assistance under this sub-
25 section to a State, Indian tribe, consortium of In-

dian tribes, interstate agency, political subdivision of a State, educational institution, or other agency or organization for the development and implementation of training, technology transfer, and information dissemination programs to strengthen environmental response activities, including enforcement, at the Federal, State, tribal and local levels.

“(3) REQUIREMENTS.—The Administrator may establish such requirements for grants and cooperative agreements under this subsection as the Administrator considers to be appropriate.”.

SEC. 105. FINANCIAL ASSISTANCE FOR TRAINING.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by adding at the end the following:

“(f) FINANCIAL ASSISTANCE FOR TRAINING.—

“(1) IN GENERAL.—The Administrator shall carry out a program to provide financial assistance for brownfield training programs.

“(2) PURPOSES.—Assistance provided under this section may be used for—

“(A) expansion of environmental training and curriculum development at colleges located near brownfield sites;

1 “(B) establishment of environmental edu-
2 cation and training centers or other community-
3 based job training organizations; and

4 “(C) such other related activities as the
5 Administrator considers to be appropriate.

6 “(3) FORM OF ASSISTANCE.—The Adminis-
7 trator may provide grants and such other forms of
8 assistance under this section as the Administrator
9 considers to be appropriate.”.

10 **SEC. 106. EXPENDITURES FROM THE SUPERFUND.**

11 Amounts in the Hazardous Substance Superfund es-
12 tablished by section 9507 of the Internal Revenue Code
13 of 1986 shall be made available consistent with, and for
14 the purposes of carrying out, the programs established
15 under sections 102, 103, 104, and 105.

16 **SEC. 107. REPORTS.**

17 (a) IN GENERAL.—Not later than 1 year after the
18 date of enactment of this Act, and not later than January
19 31 of each of the 3 calendar years thereafter, the Adminis-
20 trator shall prepare and submit a report describing the
21 results of each program established under this title to—

22 (1) the Committee on Environment and Public
23 Works of the Senate; and

24 (2) the Committee on Commerce of the House
25 of Representatives.

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

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

6 (2) the number of applications approved by the
7 Administrator during the preceding calendar year;
8 and

9 (3) the allocation of assistance under sections
10 102 and 103 among the States and local govern-
11 ments.

12 **SEC. 108. LIMITATIONS ON USE OF FUNDS.**

13 (a) EXCLUDED FACILITIES.—A grant for site inven-
14 tory and assessment under section 102 or to capitalize a
15 revolving loan fund under section 103 may not be used
16 for any activity involving—

17 (1) a facility that is the subject of a planned or
18 an ongoing response action under the Comprehensive
19 Environmental Response, Compensation, and Liabil-
20 ity Act of 1980 (42 U.S.C. 9601 et seq.), except for
21 a facility for which a preliminary assessment, site in-
22 vestigation, or removal action has been completed
23 and with respect to which the Administrator has de-
24 cided not to take further response action, including
25 cost recovery action;

1 (2) a facility included, or proposed for inclu-
2 sion, on the National Priorities List maintained by
3 the Administrator under the Comprehensive Envi-
4 ronmental Response, Compensation, and Liability
5 Act of 1980 (42 U.S.C. 9601 et seq.);

6 (3) a facility with respect to which a record of
7 decision, other than a no-action record of decision,
8 has been issued by the President under section 104
9 of the Comprehensive Environmental Response,
10 Compensation, and Liability Act of 1980 (42 U.S.C.
11 9604) with respect to the facility;

12 (4) a facility that is subject to corrective action
13 under section 3004(u) or 3008(h) of the Solid Waste
14 Disposal Act (42 U.S.C. 6924(u), 6928(h)) to which
15 a corrective action permit or order has been issued
16 or modified to require the implementation of correc-
17 tive measures;

18 (5) any land disposal unit with respect to which
19 a closure notification under subtitle C of the Solid
20 Waste Disposal Act (42 U.S.C. 6921 et seq.) has
21 been submitted and closure requirements have been
22 specified in a closure plan or permit;

23 (6) a facility at which there has been a release
24 of a polychlorinated biphenyl and that is subject to

1 the Toxic Substances Control Act (15 U.S.C. 2601
2 et seq.);

3 (7) a facility with respect to which an adminis-
4 trative or judicial order or a consent decree requiring
5 cleanup has been issued or entered into by the Presi-
6 dent and is in effect under—

7 (A) the Comprehensive Environmental Re-
8 sponse, Compensation, and Liability Act of
9 1980 (42 U.S.C. 9601 et seq.);

10 (B) the Solid Waste Disposal Act (42
11 U.S.C. 6901 et seq.);

12 (C) the Federal Water Pollution Control
13 Act (33 U.S.C. 1251 et seq.);

14 (D) the Toxic Substances Control Act (15
15 U.S.C. 2601 et seq.); or

16 (E) the Safe Drinking Water Act (42
17 U.S.C. 300f et seq.);

18 (8) a facility at which assistance for response
19 activities may be obtained under subtitle I of the
20 Solid Waste Disposal Act (42 U.S.C. 6991 et seq.)
21 from the Leaking Underground Storage Tank Trust
22 Fund established by section 9508 of the Internal
23 Revenue Code of 1986; and

24 (9) a facility owned or operated by a depart-
25 ment, agency, or instrumentality of the United

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

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

7 (c) OTHER LIMITATIONS.—

8 (1) IN GENERAL.—Funds made available to a
9 State or local government under the grant programs
10 established under sections 102 and 103 shall be used
11 only to inventory and assess brownfield sites as au-
12 thorized by this title and for capitalizing a revolving
13 loan fund as authorized by this title, respectively.

14 (2) RESPONSIBILITY FOR CLEANUP ACTION.—
15 Funds made available under this title may not be
16 used to relieve a local government or State of the
17 commitment or responsibilities of the local govern-
18 ment or State under State law to assist or carry out
19 cleanup actions at brownfield sites.

20 **SEC. 109. EFFECT ON OTHER LAWS.**

21 Nothing in this title affects the liability or response
22 authorities for environmental contamination under any
23 other law (including any regulation), including—

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

4 (2) the Solid Waste Disposal Act (42 U.S.C.
 5 6901 et seq.);

6 (3) the Federal Water Pollution Control Act
 7 (33 U.S.C. 1251 et seq.);

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

10 (5) the Safe Drinking Water Act (42 U.S.C.
 11 300f et seq.).

12 **SEC. 110. REGULATIONS.**

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

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

20 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) THIS ACT.—

22 (1) INVENTORY AND ASSESSMENT PROGRAM.—
 23 There is authorized to be appropriated to carry out
 24 section 102 \$35,000,000 for each of fiscal years
 25 1999 through 2003.

1 (2) GRANTS FOR REVOLVING LOAN PRO-
2 GRAMS.—There is authorized to be appropriated to
3 carry out section 103 \$50,000,000 for each of fiscal
4 years 1999 through 2003.

5 (3) AVAILABILITY OF FUNDS.—The amounts
6 appropriated under this subsection shall remain
7 available until expended.

8 (b) CERCLA.—Section 111 of the Comprehensive
9 Environmental Response, Compensation, and Liability Act
10 of 1980 (42 U.S.C. 9611) is amended by adding at the
11 end the following:

12 “(q) BROWNFIELDS.—

13 “(1) ASSISTANCE FOR HAZARDOUS SUBSTANCE
14 RESEARCH, DEVELOPMENT, DEMONSTRATION, AND
15 TRAINING.—There is authorized to be appropriated
16 to carry out section 311(c) \$9,000,000 for each of
17 fiscal years 1999 through 2003.

18 “(2) ASSISTANCE FOR WORKFORCE TRAIN-
19 ING.—There is authorized to be appropriated to
20 carry out section 117(f) \$5,000,000 for each of fis-
21 cal years 1999 through 2003.

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

TITLE II—PROSPECTIVE PURCHASERS

SEC. 201. LIMITATIONS ON LIABILITY FOR RESPONSE COSTS FOR PROSPECTIVE PURCHASERS.

(a) LIMITATIONS ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

“(o) LIMITATIONS ON LIABILITY FOR PROSPECTIVE PURCHASERS.—Notwithstanding paragraphs (1) through (4) of subsection (a), to the extent the liability of a person, with respect to a release or the threat of a release from a facility, is based solely on subsection (a)(1), the person shall not be liable under this Act (except to the extent necessary to enforce a lien under subsection (p)) if the person—

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

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

(b) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as

1 amended by subsection (a)) is amended by inserting after
 2 subsection (o) the following:

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

5 “(1) IN GENERAL.—In any case in which the
 6 United States has incurred unrecovered response
 7 costs at a facility for which an owner of the facility
 8 is not liable by reason of subsection (o), and the con-
 9 ditions described in paragraph (3) are met, the
 10 United States shall have a lien on the facility, or
 11 may obtain, from the appropriate responsible party
 12 or parties, a lien on other property or other assur-
 13 ances of payment satisfactory to the Administrator,
 14 for the unrecovered costs.

15 “(2) AMOUNT; DURATION.—The lien—

16 “(A) shall be for an amount not to exceed
 17 the increase in fair market value of the prop-
 18 erty attributable to the response action at the
 19 time of a subsequent sale or other disposition
 20 of the property;

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

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

4 “(D) shall continue until the earlier of sat-
5 isfaction of the lien or recovery of all response
6 costs incurred at the facility.

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

9 “(A) RESPONSE ACTION.—A response ac-
10 tion for which the United States has incurred
11 unrecovered costs is carried out at the facility.

12 “(B) FAIR MARKET VALUE.—The response
13 action increases the fair market value of the fa-
14 cility above the fair market value of the facility
15 that existed on the date that is 180 days before
16 the response action was commenced.”.

17 (c) DEFINITION OF BONA FIDE PROSPECTIVE PUR-
18 CHASER.—

19 (1) IN GENERAL.—Section 101 of the Com-
20 prehensive Environmental Response, Compensation,
21 and Liability Act of 1980 (42 U.S.C. 9601) is
22 amended by adding at the end the following:

23 “(39) BONA FIDE PROSPECTIVE PURCHASER.—
24 The term ‘bona fide prospective purchaser’ means a
25 person who acquires ownership of a facility after the

1 date of enactment of the Brownfields and Environ-
 2 mental Cleanup Act of 1999, or a tenant of such a
 3 person, who can establish each of the following by a
 4 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;

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 “(iii) is in compliance with all infor-
16 mation requests, administrative subpoenas,
17 and discovery requests issued by the Presi-
18 dent in connection with the facility; and

19 “(iv) has provided full cooperation
20 and assistance to the President in identify-
21 ing and locating potentially responsible
22 parties or other persons that previously
23 owned, operated, or otherwise controlled
24 activities at the vessel or facility.

“(F) RELATIONSHIP.—The person is not liable or affiliated with any other person that is potentially liable, for response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.”.

(2) REGULATORY AUTHORITY.—

(A) IN GENERAL.—The Administrator of the Environmental Protection Agency may—

(i) issue such regulations as the Administrator considers necessary to carry out the amendment made by this subsection; and

(ii) assign any duties or powers imposed on or assigned to the Administrator by the amendment made by this subsection.

(B) AUTHORITY TO CLARIFY AND IMPLEMENT.—The authority under subparagraph (A) includes authority to clarify or interpret all terms, including the terms used in this subsection, and to implement any provision of the amendment made by this subsection.

TITLE III—INNOCENT LANDOWNERS

SEC. 301. INNOCENT LANDOWNERS.

(a) KNOWLEDGE OF INQUIRY REQUIREMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended by striking subparagraph (B) and inserting the following:

“(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

“(i) DEFINITION OF CONTAMINATION.—In this subparagraph, the term ‘contamination’ means an existing release, a past release, or the threat of a release of a hazardous substance.

“(ii) REQUIREMENT.—

“(I) INQUIRY.—To establish that the defendant had no reason to know (under subparagraph (A)(i)), the defendant must have made, at the time of the acquisition, all appropriate inquiry (as well as comply with clause (vii)) into the previous ownership and uses of the facility, consistent with

1 good commercial or customary prac-
2 tice in an effort to minimize liability.

3 “(II) CONSIDERATIONS.—For the
4 purpose of subclause (I) and until the
5 President issues or designates stand-
6 ards as provided in clause (iv), the
7 court shall take into account—

8 “(aa) any specialized knowl-
9 edge or experience on the part of
10 the defendant;

11 “(bb) the relationship of the
12 purchase price to the value of the
13 property if uncontaminated;

14 “(cc) commonly known or
15 reasonably ascertainable informa-
16 tion about the property;

17 “(dd) the obviousness of the
18 presence or likely presence of
19 contamination at the property;
20 and

21 “(ee) the ability to detect
22 the contamination by appropriate
23 investigation.

24 “(iii) CONDUCT OF ENVIRONMENTAL
25 ASSESSMENT.—A person who has acquired

1 real property shall be considered to have
2 made all appropriate inquiry within the
3 meaning of clause (ii)(I) if—

4 “(I) the person establishes that,
5 within 180 days prior to the date of
6 acquisition, an environmental site as-
7 sessment of the real property was con-
8 ducted that meets the requirements of
9 clause (iv); and

10 “(II) the person complies with
11 clause (vii).

12 “(iv) ENVIRONMENTAL SITE ASSESS-
13 MENT.—

14 “(I) IN GENERAL.—An environ-
15 mental site assessment meets the re-
16 quirements of this clause if the assess-
17 ment is conducted in accordance with
18 the standards set forth in the Amer-
19 ican Society for Testing and Materials
20 (ASTM) Standard E1527–94, titled
21 ‘Standard Practice for Environmental
22 Site Assessments: Phase I Environ-
23 mental Site Assessment Process’ or
24 with any alternative standards issued
25 by regulation by the President or

1 issued or developed by other entities
2 and designated by regulation by the
3 President.

4 “(II) STUDY OF PRACTICES.—

5 Before issuing or designating alter-
6 native standards under subclause (I),
7 the President shall conduct a study of
8 commercial and industrial practices
9 concerning environmental site assess-
10 ments in the transfer of real property
11 in the United States.

12 “(v) CONSIDERATIONS IN ISSUING

13 STANDARDS.—In issuing or designating
14 any standards under clause (iv), the Presi-
15 dent shall consider requirements governing
16 each of the following:

17 “(I) Conduct of an inquiry by an
18 environmental professional.

19 “(II) Interviews of each owner,
20 operator, and occupant of the prop-
21 erty to determine information regard-
22 ing the potential for contamination.

23 “(III) Review of historical
24 sources as necessary to determine
25 each previous use and occupancy of

1 the property since the property was
2 first developed. In this subclause, the
3 term ‘historical sources’ means any of
4 the following, if reasonably ascertain-
5 able: each recorded chain of title doc-
6 ument regarding the real property, in-
7 cluding each deed, easement, lease, re-
8 striction, and covenant, any aerial
9 photograph, fire insurance map, prop-
10 erty tax file, United States Geological
11 Survey 7.5 minutes topographic map,
12 local street directory, building depart-
13 ment record, and zoning/land use
14 record, and any other source that
15 identifies a past use or occupancy of
16 the property.

17 “(IV) Determination of the exist-
18 ence of any recorded environmental
19 cleanup lien against the real property
20 that has arisen under any Federal,
21 State, or local law.

22 “(V) Review of reasonably ascer-
23 tainable Federal, State, and local gov-
24 ernment records of any facility that is
25 likely to cause or contribute to con-

1 tamination at the real property, in-
2 cluding, as appropriate—

3 “(aa) any investigation re-
4 port for the facility;

5 “(bb) any record of activities
6 likely to cause or contribute to
7 contamination at the real prop-
8 erty, including any landfill or
9 other disposal location record,
10 underground storage tank record,
11 hazardous waste handler and
12 generator record, and spill re-
13 porting record; and

14 “(cc) any other reasonably
15 ascertainable Federal, State, and
16 local government environmental
17 record that could reflect an inci-
18 dent or activity that is likely to
19 cause or contribute to contamina-
20 tion at the real property.

21 “(VI) A visual site inspection of
22 the real property and each facility and
23 improvement on the real property and
24 a visual site inspection of each imme-
25 diately adjacent property, including an

1 investigation of any hazardous sub-
2 stance use, storage, treatment, or dis-
3 posal practice on the property.

4 “(VII) Any specialized knowledge
5 or experience on the part of the per-
6 son that acquired the property.

7 “(VIII) The relationship of the
8 purchase price to the value of the
9 property if uncontaminated.

10 “(IX) Commonly known or rea-
11 sonably ascertainable information
12 about the property.

13 “(X) The obviousness of the
14 presence or likely presence of contami-
15 nation at the property, and the ability
16 to detect the contamination by appro-
17 priate investigation.

18 “(vi) REASONABLY ASCERTAIN-
19 ABLE.—A record shall be considered to be
20 reasonably ascertainable for purposes of
21 clause (v) if a copy or reasonable facsimile
22 of the record is publicly available by re-
23 quest (within reasonable time and cost con-
24 straints) and the record is practicably re-
25 viewable.

1 “(vii) APPROPRIATE INQUIRY.—A per-
2 son shall not be treated as having made all
3 appropriate inquiry under clause (ii)(I)
4 unless—

5 “(I) the person has maintained a
6 compilation of the information re-
7 viewed and gathered in the course of
8 any environmental site assessment;

9 “(II) the person exercised appro-
10 priate care with respect to hazardous
11 substances found at the facility by
12 taking reasonable steps to—

13 “(aa) stop ongoing releases
14 of hazardous substances;

15 “(bb) prevent threatened fu-
16 ture releases of hazardous sub-
17 stances; and

18 “(cc) prevent or limit
19 human, environmental, or natural
20 resource exposure to hazardous
21 substances previously released
22 into the environment;

23 “(III) the person provides full co-
24 operation, assistance, and facility ac-
25 cess to such persons as are authorized

1 to conduct response actions at the fa-
2 cility, including the cooperation and
3 access necessary for the installation,
4 integrity, operation, and maintenance
5 of any complete or partial response
6 action at the facility; and

7 “(IV) the person has fully com-
8 plied with and is in full compliance
9 with any land use or activity restric-
10 tions on the property established or
11 relied on in connection with a re-
12 sponse action at the facility, including
13 informing any other party that the
14 person allows to occupy or use the
15 property of such restrictions and tak-
16 ing prompt action to correct any non-
17 compliance by such parties.

18 “(viii) SITE INSPECTION AND TITLE
19 SEARCH.—In the case of property for resi-
20 dential use or other similar use purchased
21 by a nongovernmental or noncommercial
22 entity, a site inspection and title search
23 that reveal no basis for further investiga-
24 tion shall satisfy the requirements of
25 clause (ii).”.

1 (b) REGULATORY AUTHORITY.—

2 (1) IN GENERAL.—The Administrator of the
3 Environmental Protection Agency may—

4 (A) issue such regulations as the Adminis-
5 trator considers necessary to carry out the
6 amendment made by this section; and

7 (B) assign any duties or powers imposed
8 on or assigned to the Administrator by the
9 amendment made by this section.

10 (2) AUTHORITY TO CLARIFY AND IMPLE-
11 MENT.—The authority under paragraph (1) includes
12 authority to clarify or interpret all terms, including
13 the terms used in this section, and to implement any
14 provision of the amendment made by this section.

15 **TITLE IV—CONTIGUOUS** 16 **PROPERTIES**

17 **SEC. 401. CONTIGUOUS PROPERTIES.**

18 (a) IN GENERAL.—Section 107 of the Comprehensive
19 Environmental Response, Compensation, and Liability Act
20 of 1980 (42 U.S.C. 9607) (as amended by section 201(b))
21 is amended by adding at the end the following:

22 “(q) CONTIGUOUS PROPERTIES.—

23 “(1) IN GENERAL.—A person that owns or op-
24 erates real property that is contiguous to or other-
25 wise similarly situated with respect to real property

1 on or under which there has been a release or
2 threatened release of a hazardous substance and
3 that is or may be contaminated by the release shall
4 not be considered to be an owner or operator of a
5 vessel or facility under paragraph (1) or (2) of sub-
6 section (a) solely by reason of the contamination if—

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

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

12 “(C) the person exercised appropriate care
13 with respect to hazardous substances found at
14 the facility by taking reasonable steps to—

15 “(i) stop ongoing releases;

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

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

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

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

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

15 “(2) ASSURANCES.—The President may issue
16 an assurance that no enforcement action under this
17 Act will be initiated against a person described in
18 paragraph (1).”.

19 (b) REGULATORY AUTHORITY.—

20 (1) IN GENERAL.—The Administrator of the
21 Environmental Protection Agency may—

22 (A) issue such regulations as the Adminis-
23 trator considers necessary to carry out the
24 amendment made by this section; and

1 (B) assign any duties or powers imposed
2 on or assigned to the Administrator by the
3 amendment made by this section.

4 (2) AUTHORITY TO CLARIFY AND IMPLE-
5 MENT.—The authority under paragraph (1) includes
6 authority to clarify or interpret all terms, including
7 the terms used in this section, and to implement any
8 provision of the amendment made by this section.

○