

106TH CONGRESS  
2D SESSION

# S. 2700

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 8, 2000

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

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## A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response 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 Revitalization and Environmental Restora-  
6 tion Act of 2000”.

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

Sec. 1. Short title; table of contents.

TITLE I—BROWNFIELDS REVITALIZATION FUNDING

Sec. 101. Brownfields revitalization funding.

TITLE II—BROWNFIELDS LIABILITY CLARIFICATIONS

Sec. 201. Contiguous properties.

Sec. 202. Prospective purchasers and windfall liens.

Sec. 203. Innocent landowners.

TITLE III—STATE RESPONSE PROGRAMS

Sec. 301. State response programs.

Sec. 302. Additions to National Priorities List.

3 **TITLE I—BROWNFIELDS**  
 4 **REVITALIZATION FUNDING**

5 **SEC. 101. BROWNFIELDS REVITALIZATION FUNDING.**

6 (a) DEFINITION OF BROWNFIELD SITE.—Section  
 7 101 of the Comprehensive Environmental Response, Com-  
 8 pensation, and Liability Act of 1980 (42 U.S.C. 9601) is  
 9 amended by adding at the end the following:

10 “(39) BROWNFIELD SITE.—

11 “(A) IN GENERAL.—The term ‘brownfield  
 12 site’ means real property, the expansion, rede-  
 13 velopment, or reuse of which may be com-  
 14 plicated by the presence or potential presence of  
 15 a hazardous substance, pollutant, or contami-  
 16 nant.

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

1           “(i) a facility that is the subject of a  
2           planned or ongoing removal action under  
3           this title;

4           “(ii) a facility that is listed on the Na-  
5           tional Priorities List or is proposed for  
6           listing;

7           “(iii) a facility that is the subject of  
8           a unilateral administrative order, a court  
9           order, an administrative order on consent  
10          or judicial consent decree that has been  
11          issued to or entered into by the parties  
12          under this Act;

13          “(iv) a facility that is the subject of a  
14          unilateral administrative order, a court  
15          order, an administrative order on consent  
16          or judicial consent decree that has been  
17          issued to or entered into by the parties, or  
18          a facility to which a permit has been issued  
19          by the United States or an authorized  
20          State under the Solid Waste Disposal Act  
21          (42 U.S.C. 6901 et seq.), the Federal  
22          Water Pollution Control Act (33 U.S.C.  
23          1321), the Toxic Substances Control Act  
24          (15 U.S.C. 2601 et seq.), or the Safe

1 Drinking Water Act (42 U.S.C. 300f et  
2 seq.);

3 “(v) a facility that—

4 “(I) is subject to corrective ac-  
5 tion under section 3004(u) or 3008(h)  
6 of the Solid Waste Disposal Act (42  
7 U.S.C. 6924(u), 6928(h)); and

8 “(II) to which a corrective action  
9 permit or order has been issued or  
10 modified to require the implementa-  
11 tion of corrective measures;

12 “(vi) a land disposal unit with respect  
13 to which—

14 “(I) a closure notification under  
15 subtitle C of the Solid Waste Disposal  
16 Act (42 U.S.C. 6921 et seq.) has been  
17 submitted; and

18 “(II) closure requirements have  
19 been specified in a closure plan or  
20 permit;

21 “(vii) a facility that is subject to the  
22 jurisdiction, custody, or control of a de-  
23 partment, agency, or instrumentality of the  
24 United States, except for land held in trust  
25 by the United States for an Indian tribe;

1 “(viii) a portion of a facility—

2 “(I) at which there has been a  
3 release of polychlorinated biphenyls;  
4 and

5 “(II) that is subject to remedi-  
6 ation under the Toxic Substances  
7 Control Act (15 U.S.C. 2601 et seq.);  
8 or

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

17 “(C) SITE-BY-SITE DETERMINATIONS.—  
18 Notwithstanding subparagraph (B) and on a  
19 site-by-site basis, the President may authorize  
20 financial assistance under section 128 to an eli-  
21 gible entity at a site included in clause (i), (iv),  
22 (v), (vi), (viii), or (ix) of subparagraph (B) if  
23 the President finds that financial assistance will  
24 protect human health and the environment, and  
25 either promote economic development or enable

1 the creation of, preservation of, or addition to  
 2 parks, greenways, undeveloped property, other  
 3 recreational property, or other property used  
 4 for nonprofit purposes.

5 “(D) ADDITIONAL AREAS.—For the pur-  
 6 poses of section 128, the term ‘brownfield site’  
 7 includes—

8 “(i) a site that is contaminated by a  
 9 controlled substance (as defined in section  
 10 102 of the Controlled Substances Act (21  
 11 U.S.C. 802)); and

12 “(ii) mine-scarred land.”.

13 (b) BROWNFIELDS REVITALIZATION FUNDING.—  
 14 Title I of the Comprehensive Environmental Response,  
 15 Compensation, and Liability Act of 1980 (42 U.S.C. 9601  
 16 et seq.) is amended by adding at the end the following:  
 17 **“SEC. 128. BROWNFIELDS REVITALIZATION FUNDING.**

18 “(a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-  
 19 tion, the term ‘eligible entity’ means—

20 “(1) a general purpose unit of local govern-  
 21 ment;

22 “(2) a land clearance authority or other quasi-  
 23 governmental entity that operates under the super-  
 24 vision and control of or as an agent of a general  
 25 purpose unit of local government;

1           “(3) a government entity created by a State  
2 legislature;

3           “(4) a regional council or group of general pur-  
4 pose units of local government;

5           “(5) a redevelopment agency that is chartered  
6 or otherwise sanctioned by a State;

7           “(6) a State; or

8           “(7) an Indian Tribe.

9           “(b) BROWNFIELD SITE CHARACTERIZATION AND  
10 ASSESSMENT GRANT PROGRAM.—

11           “(1) ESTABLISHMENT OF PROGRAM.—The Ad-  
12 ministrator shall establish a program to—

13           “(A) provide grants to inventory, charac-  
14 terize, assess, and conduct planning related to  
15 brownfield sites under paragraph (2); and

16           “(B) perform targeted site assessments at  
17 brownfield sites.

18           “(2) ASSISTANCE FOR SITE CHARACTERIZATION  
19 AND ASSESSMENT.—

20           “(A) IN GENERAL.—On approval of an ap-  
21 plication made by an eligible entity, the Admin-  
22 istrator may make a grant to the eligible entity  
23 to be used for programs to inventory, charac-  
24 terize, assess, and conduct planning related to  
25 1 or more brownfield sites.

1           “(B) SITE CHARACTERIZATION AND AS-  
2           SESSMENT.—A site characterization and assess-  
3           ment carried out with the use of a grant under  
4           subparagraph (A) shall be performed in accord-  
5           ance with section 101(35)(B).

6           “(c) GRANTS AND LOANS FOR BROWNFIELD REME-  
7           DIATION.—

8           “(1) GRANTS PROVIDED BY THE PRESIDENT.—  
9           Subject to subsections (d) and (e), the President  
10          shall establish a program to provide grants to—

11                   “(A) eligible entities, to be used for cap-  
12                   italization of revolving loan funds; and

13                   “(B) eligible entities or nonprofit organiza-  
14                   tions, where warranted, as determined by the  
15                   President based on considerations under para-  
16                   graph (3), to be used directly for remediation of  
17                   1 or more brownfield sites that is owned by the  
18                   entity or organization that receives the grant  
19                   and in amounts not to exceed \$200,000 for  
20                   each site to be remediated.

21           “(2) LOANS AND GRANTS PROVIDED BY ELIGI-  
22           BLE ENTITIES.—An eligible entity that receives a  
23           grant under paragraph (1)(A) shall use the grant  
24           funds to provide assistance for the remediation of  
25           brownfield sites in the form of—



1           “(A) 1 or more loans to an eligible entity,  
2           a site owner, a site developer, or another per-  
3           son; or

4           “(B) 1 or more grants to an eligible entity  
5           or other nonprofit organization, where war-  
6           ranted, as determined by the eligible entity that  
7           is providing the assistance, based on consider-  
8           ations under paragraph (3), to remediate sites  
9           owned by the eligible entity or nonprofit organi-  
10          zation that receives the grant.

11          “(3) CONSIDERATIONS.—In determining wheth-  
12          er a grant under paragraph (1)(B) or (2)(B) is war-  
13          ranted, the President or the eligible entity, as the  
14          case may be, shall take into consideration—

15                 “(A) the extent to which a grant will facili-  
16                 tate the creation of, preservation of, or addition  
17                 to a park, a greenway, undeveloped property,  
18                 recreational property, or other property used  
19                 for nonprofit purposes;

20                 “(B) the extent to which a grant will meet  
21                 the needs of a community that has an inability  
22                 to draw on other sources of funding for environ-  
23                 mental remediation and subsequent redevelop-  
24                 ment of the area in which a brownfield site is

1 located because of the small population or low  
2 income of the community;

3 “(C) the extent to which a grant will facili-  
4 tate the use or reuse of existing infrastructure;

5 “(D) the benefit of promoting the long-  
6 term availability of funds from a revolving loan  
7 fund for brownfield remediation; and

8 “(E) such other factors as the Adminis-  
9 trator considers appropriate to consider for the  
10 purposes of this section.

11 “(4) COMPLIANCE WITH APPLICABLE LAWS.—  
12 An eligible entity that provides assistance under  
13 paragraph (2) shall include in all loan and grant  
14 agreements a requirement that the loan or grant re-  
15 cipient shall comply with all laws applicable to the  
16 cleanup for which grant funds will be used and en-  
17 sure that the cleanup protects human health and the  
18 environment.

19 “(5) TRANSITION.—Revolving loan funds that  
20 have been established before the date of enactment  
21 of this section may be used in accordance with this  
22 subsection.

23 “(d) GENERAL PROVISIONS.—

24 “(1) MAXIMUM GRANT AMOUNT.—

1           “(A) BROWNFIELD SITE CHARACTERIZA-  
2           TION AND ASSESSMENT.—

3                   “(i) IN GENERAL.—A grant under  
4           subsection (b)—

5                           “(I) may be awarded to an eligi-  
6                           ble entity on a community-wide or  
7                           site-by-site basis; and

8                           “(II) shall not exceed, for any in-  
9                           dividual brownfield site covered by the  
10                          grant, \$200,000.

11                          “(ii) WAIVER.—The Administrator  
12                          may waive the \$200,000 limitation under  
13                          clause (i)(II) to permit the brownfield site  
14                          to receive a grant of not to exceed  
15                          \$350,000, based on the anticipated level of  
16                          contamination, size, or status of ownership  
17                          of the site.

18           “(B) BROWNFIELD REMEDIATION.—

19                          “(i) GRANT AMOUNT.—A grant under  
20                          subsection (c)(1)(A) may be awarded to an  
21                          eligible entity on a community-wide or site-  
22                          by-site basis, not to exceed \$1,000,000 per  
23                          eligible entity.

24                          “(ii) ADDITIONAL GRANT AMOUNT.—  
25                          The Administrator may make an additional

1 grant to an eligible entity described in  
2 clause (i) for any year after the year for  
3 which the initial grant is made, taking into  
4 consideration—

5 “(I) the number of sites and  
6 number of communities that are ad-  
7 dressed by the revolving loan fund;

8 “(II) the demand for funding by  
9 eligible entities that have not pre-  
10 viously received a grant under this  
11 section;

12 “(III) the demonstrated ability of  
13 the eligible entity to use the revolving  
14 loan fund to enhance remediation and  
15 provide funds on a continuing basis;  
16 and

17 “(IV) any other factors that the  
18 Administrator considers appropriate  
19 to carry out this section.

20 “(2) PROHIBITION.—

21 “(A) IN GENERAL.—No part of a grant or  
22 loan under this section may be used for the  
23 payment of—

24 “(i) a penalty or fine;

1           “(ii) a Federal cost-share require-  
2           ment;

3           “(iii) an administrative cost;

4           “(iv) a response cost at a brownfield  
5           site for which the recipient of the grant or  
6           loan is potentially liable under section 107;  
7           or

8           “(v) a cost of compliance with any  
9           Federal law (including a Federal law speci-  
10          fied in section 101(39)(B)).

11          “(B) EXCLUSIONS.—For the purposes of  
12          subparagraph (A)(iii), the term ‘administrative  
13          cost’ does not include the cost of—

14               “(i) investigation and identification of  
15               the extent of contamination;

16               “(ii) design and performance of a re-  
17               sponse action; or

18               “(iii) monitoring of a natural re-  
19               source.

20          “(3) ASSISTANCE FOR DEVELOPMENT OF  
21          LOCAL GOVERNMENT SITE REMEDIATION PRO-  
22          GRAMS.—A local government that receives a grant  
23          under this section may use not to exceed 10 percent  
24          of the grant funds to develop and implement a  
25          brownfields program that may include—

1           “(A) monitoring the health of populations  
2 exposed to 1 or more hazardous substances  
3 from a brownfield site; and

4           “(B) monitoring and enforcement of any  
5 institutional control used to prevent human ex-  
6 posure to any hazardous substance from a  
7 brownfield site.

8           “(e) GRANT APPLICATIONS.—

9           “(1) SUBMISSION.—

10           “(A) IN GENERAL.—

11           “(i) APPLICATION.—An eligible entity  
12 may submit to the Administrator, through  
13 a regional office of the Environmental Pro-  
14 tection Agency and in such form as the  
15 Administrator may require, an application  
16 for a grant under this section for 1 or  
17 more brownfield sites (including informa-  
18 tion on the criteria used by the Adminis-  
19 trator to rank applications under para-  
20 graph (3), to the extent that the informa-  
21 tion is available).

22           “(ii) NCP REQUIREMENTS.—The Ad-  
23 ministrator may include in any require-  
24 ment for submission of an application  
25 under clause (i) a requirement of the Na-

1            tional Contingency Plan only to the extent  
2            that the requirement is relevant and appro-  
3            priate to the program under this section.

4            “(B) COORDINATION.—The Administrator  
5            shall coordinate with other Federal agencies to  
6            assist in making eligible entities aware of other  
7            available Federal resources.

8            “(C) GUIDANCE.—The Administrator shall  
9            publish guidance to assist eligible entities in ap-  
10           applying for grants under this section.

11           “(2) APPROVAL.—The Administrator shall—

12                  “(A) complete an annual review of applica-  
13                  tions for grants that are received from eligible  
14                  entities under this section; and

15                  “(B) award grants under this section to el-  
16                  igible entities that the Administrator deter-  
17                  mines have the highest rankings under the  
18                  ranking criteria established under paragraph  
19                  (3).

20           “(3) RANKING CRITERIA.—The Administrator  
21           shall establish a system for ranking grant applica-  
22           tions received under this subsection that includes the  
23           following criteria:

24                  “(A) The extent to which a grant will stim-  
25                  ulate the availability of other funds for environ-

1           mental assessment or remediation, and subse-  
2           quent reuse, of an area in which 1 or more  
3           brownfield sites are located.

4           “(B) The potential of the proposed project  
5           or the development plan for an area in which 1  
6           or more brownfield sites are located to stimu-  
7           late economic development of the area on com-  
8           pletion of the cleanup.

9           “(C) The extent to which a grant would  
10          address or facilitate the identification and re-  
11          duction of threats to human health and the en-  
12          vironment.

13          “(D) The extent to which a grant would  
14          facilitate the use or reuse of existing infrastruc-  
15          ture.

16          “(E) The extent to which a grant would  
17          facilitate the creation of, preservation of, or ad-  
18          dition to a park, a greenway, undeveloped prop-  
19          erty, recreational property, or other property  
20          used for nonprofit purposes.

21          “(F) The extent to which a grant would  
22          meet the needs of a community that has an in-  
23          ability to draw on other sources of funding for  
24          environmental remediation and subsequent re-  
25          development of the area in which a brownfield



1 site is located because of the small population  
2 or low income of the community.

3 “(G) The extent to which the applicant is  
4 eligible for funding from other sources.

5 “(H) The extent to which a grant will fur-  
6 ther the fair distribution of funding between  
7 urban and nonurban areas.

8 “(I) The extent to which the grant pro-  
9 vides for involvement of the local community in  
10 the process of making decisions relating to  
11 cleanup and future use of a brownfield site.

12 “(f) IMPLEMENTATION OF BROWNFIELDS PRO-  
13 GRAMS.—

14 “(1) ESTABLISHMENT OF PROGRAM.—The Ad-  
15 ministrator may provide, or fund eligible entities to  
16 provide, training, research, and technical assistance  
17 to individuals and organizations, as appropriate, to  
18 facilitate the inventory of brownfield sites, site as-  
19 sessments, remediation of brownfield sites, commu-  
20 nity involvement, or site preparation.

21 “(2) FUNDING RESTRICTIONS.—The total Fed-  
22 eral funds to be expended by the Administrator  
23 under this subsection shall not exceed 15 percent of  
24 the total amount appropriated to carry out this sec-  
25 tion in any fiscal year.

1 “(g) AUDITS.—

2 “(1) IN GENERAL.—The Inspector General of  
3 the Environmental Protection Agency shall conduct  
4 such reviews or audits of grants and loans under  
5 this section as the Inspector General considers nec-  
6 essary to carry out this section.

7 “(2) PROCEDURE.—An audit under this para-  
8 graph shall be conducted in accordance with the au-  
9 diting procedures of the General Accounting Office,  
10 including chapter 75 of title 31, United States Code.

11 “(3) VIOLATIONS.—If the Administrator deter-  
12 mines that a person that receives a grant or loan  
13 under this section has violated or is in violation of  
14 a condition of the grant, loan, or applicable Federal  
15 law, the Administrator may—

16 “(A) terminate the grant or loan;

17 “(B) require the person to repay any funds  
18 received; and

19 “(C) seek any other legal remedies avail-  
20 able to the Administrator.

21 “(h) LEVERAGING.—An eligible entity that receives  
22 a grant under this section may use the grant funds for  
23 a portion of a project at a brownfield site for which fund-  
24 ing is received from other sources if the grant funds are

1 used only for the purposes described in subsection (b) or  
2 (c).

3 “(i) AGREEMENTS.—Each grant or loan made under  
4 this section shall be subject to an agreement that—

5 “(1) requires the recipient to comply with all  
6 applicable Federal and State laws;

7 “(2) requires that the recipient use the grant or  
8 loan exclusively for purposes specified in subsection  
9 (b) or (c), as applicable;

10 “(3) in the case of an application by an eligible  
11 entity under subsection (c)(1), requires the eligible  
12 entity to pay a matching share (which may be in the  
13 form of a contribution of labor, material, or services)  
14 of at least 20 percent, from non-Federal sources of  
15 funding, unless the Administrator determines that  
16 the matching share would place an undue hardship  
17 on the eligible entity; and

18 “(4) contains such other terms and conditions  
19 as the Administrator determines to be necessary to  
20 carry out this section.

21 “(j) FACILITY OTHER THAN BROWNFIELD SITE.—

22 The fact that a facility may not be a brownfield site within  
23 the meaning of section 101(39)(A) has no effect on the  
24 eligibility of the facility for assistance under any other pro-  
25 vision of Federal law.

1       “(k) FUNDING.—There is authorized to be appro-  
 2       priated to carry out this section \$150,000,000 for each  
 3       of fiscal years 2001 through 2005.”.

4                   **TITLE II—BROWNFIELDS**  
 5                   **LIABILITY CLARIFICATIONS**

6       **SEC. 201. CONTIGUOUS PROPERTIES.**

7       Section 107 of the Comprehensive Environmental Re-  
 8       sponse, Compensation, and Liability Act of 1980 (42  
 9       U.S.C. 9607) is amended by adding at the end the fol-  
 10      lowing:

11       “(o) CONTIGUOUS PROPERTIES.—

12               “(1) NOT CONSIDERED TO BE AN OWNER OR  
 13      OPERATOR.—

14               “(A) IN GENERAL.—A person that owns  
 15               real property that is contiguous to or otherwise  
 16               similarly situated with respect to, and that is or  
 17               may be contaminated by a release or threatened  
 18               release of a hazardous substance from, real  
 19               property that is not owned by that person shall  
 20               not be considered to be an owner or operator of  
 21               a vessel or facility under paragraph (1) or (2)  
 22               of subsection (a) solely by reason of the con-  
 23               tamination if—

1           “(i) the person did not cause, con-  
2           tribute, or consent to the release or threat-  
3           ened release;

4           “(ii) the person is not—

5                 “(I) potentially liable, or affili-  
6                 ated with any other person that is po-  
7                 tentially liable, for response costs at a  
8                 facility through any direct or indirect  
9                 familial relationship or any contrac-  
10                tual, corporate, or financial relation-  
11                ship (other than a contractual, cor-  
12                porate, or financial relationship that  
13                is created by a contract for the sale of  
14                goods or services); or

15               “(II) the result of a reorganiza-  
16               tion of a business entity that was po-  
17               tentially liable;

18           “(iii) the person takes reasonable  
19           steps to—

20                 “(I) stop any continuing release;

21                 “(II) prevent any threatened fu-  
22                 ture release; and

23                 “(III) prevent or limit human,  
24                 environmental, or natural resource ex-  
25                 posure to any hazardous substance re-

1 leased on or from property owned by  
2 that person;

3 “(iv) the person provides full coopera-  
4 tion, assistance, and access to persons that  
5 are authorized to conduct response actions  
6 or natural resource restoration at the ves-  
7 sel or facility from which there has been a  
8 release or threatened release (including the  
9 cooperation and access necessary for the  
10 installation, integrity, operation, and main-  
11 tenance of any complete or partial re-  
12 sponse action at the vessel or facility);

13 “(v) the person—

14 “(I) is in compliance with any  
15 land use restrictions established or re-  
16 lied on in connection with the re-  
17 sponse action at a facility; and

18 “(II) does not impede the effec-  
19 tiveness or integrity of any institu-  
20 tional control employed in connection  
21 with a response action;

22 “(vi) the person is in compliance with  
23 any request for information or administra-  
24 tive subpoena issued by the President  
25 under this Act;

1           “(vii) the person provides all legally  
2           required notices with respect to the dis-  
3           covery or release of any hazardous sub-  
4           stances at the facility; and

5           “(viii) at the time at which the person  
6           acquired the property, the person—

7                   “(I) conducted all appropriate in-  
8                   quiry within the meaning of section  
9                   101(35)(B) with respect to the prop-  
10                  erty; and

11                   “(II) did not know or have rea-  
12                   son to know that the property was or  
13                   could be contaminated by a release or  
14                   threatened release of 1 or more haz-  
15                   ardous substances from other real  
16                   property not owned or operated by the  
17                   person.

18           “(B) DEMONSTRATION.—To qualify as a  
19           person described in subparagraph (A), a person  
20           must establish by a preponderance of the evi-  
21           dence that the conditions in clauses (i) through  
22           (viii) of subparagraph (A) have been met.

23           “(C) BONA FIDE PROSPECTIVE PUR-  
24           CHASER.—Any person that does not qualify as  
25           a person described in this paragraph because

1 the person had knowledge specified in subpara-  
2 graph (A)(viii) at the time of acquisition of the  
3 real property may qualify as a bona fide pro-  
4 spective purchaser under section 101(40) if the  
5 person is otherwise described in that section.

6 “(D) GROUND WATER.—If a hazardous  
7 substance from 1 or more sources that are not  
8 on the property of a person enters ground water  
9 beneath the property of the person solely as a  
10 result of subsurface migration in an aquifer,  
11 subparagraph (A)(iii) shall not require the per-  
12 son to conduct ground water investigations or  
13 to install ground water remediation systems, ex-  
14 cept in accordance with the policy of the Envi-  
15 ronmental Protection Agency concerning owners  
16 of property containing contaminated aquifers,  
17 dated May 24, 1995.

18 “(2) EFFECT OF LAW.—With respect to a per-  
19 son described in this subsection, nothing in this  
20 subsection—

21 “(A) limits any defense to liability that  
22 may be available to the person under any other  
23 provision of law; or

24 “(B) imposes liability on the person that is  
25 not otherwise imposed by subsection (a).



1           “(3) ASSURANCES.—The Administrator may—  
 2           “(A) issue an assurance that no enforce-  
 3           ment action under this Act will be initiated  
 4           against a person described in paragraph (1);  
 5           and  
 6           “(B) grant a person described in para-  
 7           graph (1) protection against a cost recovery or  
 8           contribution action under section 113(f).”.

9   **SEC. 202. PROSPECTIVE PURCHASERS AND WINDFALL**  
 10                           **LIENS.**

11           (a) DEFINITION OF BONA FIDE PROSPECTIVE PUR-  
 12   CHASER.—Section 101 of the Comprehensive Environ-  
 13   mental Response, Compensation, and Liability Act of  
 14   1980 (42 U.S.C. 9601) (as amended by section 101(a))  
 15   is amended by adding at the end the following:

16           “(40) BONA FIDE PROSPECTIVE PURCHASER.—  
 17           The term ‘bona fide prospective purchaser’ means a  
 18           person (or a tenant of a person) that acquires own-  
 19           ership of a facility after the date of enactment of  
 20           this paragraph and that establishes each of the fol-  
 21           lowing by a preponderance of the evidence:

22           “(A) DISPOSAL PRIOR TO ACQUISITION.—  
 23           All disposal of hazardous substances at the fa-  
 24           cility occurred before the person acquired the  
 25           facility.

1 “(B) INQUIRIES.—

2 “(i) IN GENERAL.—The person made  
3 all appropriate inquiries into the previous  
4 ownership and uses of the facility in ac-  
5 cordance with generally accepted good  
6 commercial and customary standards and  
7 practices in accordance with clauses (ii)  
8 and (iii).

9 “(ii) STANDARDS AND PRACTICES.—  
10 The standards and practices referred to in  
11 clauses (ii) and (iv) of paragraph (35)(B)  
12 shall be considered to satisfy the require-  
13 ments of this subparagraph.

14 “(iii) RESIDENTIAL USE.—In the case  
15 of property in residential or other similar  
16 use at the time of purchase by a non-  
17 governmental or noncommercial entity, a  
18 facility inspection and title search that re-  
19 veal no basis for further investigation shall  
20 be considered to satisfy the requirements  
21 of this subparagraph.

22 “(C) NOTICES.—The person provides all  
23 legally required notices with respect to the dis-  
24 covery or release of any hazardous substances  
25 at the facility.

1           “(D) CARE.—The person exercises appro-  
2           priate care with respect to hazardous sub-  
3           stances found at the facility by taking reason-  
4           able steps to—

5                   “(i) stop any continuing release;

6                   “(ii) prevent any threatened future re-  
7           lease; and

8                   “(iii) prevent or limit human, environ-  
9           mental, or natural resource exposure to  
10          any previously released hazardous sub-  
11          stance.

12          “(E) COOPERATION, ASSISTANCE, AND AC-  
13          CESS.—The person provides full cooperation,  
14          assistance, and access to persons that are au-  
15          thorized to conduct response actions at a vessel  
16          or facility (including the cooperation and access  
17          necessary for the installation, integrity, oper-  
18          ation, and maintenance of any complete or par-  
19          tial response actions at the vessel or facility).

20          “(F) INSTITUTIONAL CONTROL.—The  
21          person—

22                   “(i) is in compliance with any land  
23          use restrictions established or relied on in  
24          connection with the response action at a  
25          vessel or facility; and

1           “(ii) does not impede the effectiveness  
2           or integrity of any institutional control em-  
3           ployed at the vessel or facility in connec-  
4           tion with a response action.

5           “(G) REQUESTS; SUBPOENAS.—The person  
6           complies with any request for information or  
7           administrative subpoena issued by the President  
8           under this Act.

9           “(H) NO AFFILIATION.—The person is  
10          not—

11           “(i) potentially liable, or affiliated  
12           with any other person that is potentially  
13           liable, for response costs at a facility  
14           through—

15           “(I) any direct or indirect famil-  
16           ial relationship; or

17           “(II) any contractual, corporate,  
18           or financial relationship (other than a  
19           contractual, corporate, or financial re-  
20           lationship that is created by the in-  
21           struments by which title to the facility  
22           is conveyed or financed or by a con-  
23           tract for the sale of goods or services);  
24           or

1                   “(ii) the result of a reorganization of  
2                   a business entity that was potentially lia-  
3                   ble.”.

4           (b) PROSPECTIVE PURCHASER AND WINDFALL  
5 LIEN.—Section 107 of the Comprehensive Environmental  
6 Response, Compensation, and Liability Act of 1980 (42  
7 U.S.C. 9607) (as amended by section 201) is amended by  
8 adding at the end the following:

9           “(p) PROSPECTIVE PURCHASER AND WINDFALL  
10 LIEN.—

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

19           “(2) LIEN.—If there are unrecovered response  
20 costs incurred by the United States at a facility for  
21 which an owner of the facility is not liable by reason  
22 of paragraph (1), and if each of the conditions de-  
23 scribed in paragraph (3) is met, the United States  
24 shall have a lien on the facility, or may by agree-  
25 ment with the party obtain from an appropriate

1 party a lien on any other property or other assur-  
2 ance of payment satisfactory to the Administrator,  
3 for the unrecovered response costs.

4 “(3) CONDITIONS.—The conditions referred to  
5 in paragraph (2) are the following:

6 “(A) RESPONSE ACTION.—A response ac-  
7 tion for which there are unrecovered costs of  
8 the United States is carried out at the facility.

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

14 “(4) AMOUNT; DURATION.—A lien under para-  
15 graph (2)—

16 “(A) shall be in 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 sale or other disposition of the prop-  
20 erty;

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

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

1 “(D) shall continue until the earlier of—  
2 “(i) satisfaction of the lien by sale or  
3 other means; or  
4 “(ii) notwithstanding any statute of  
5 limitations under section 113, recovery of  
6 all response costs incurred at the facility.”.

7 **SEC. 203. INNOCENT LANDOWNERS.**

8 Section 101(35) of the Comprehensive Environmental  
9 Response, Compensation, and Liability Act of 1980 (42  
10 U.S.C. 9601(35)) is amended—

11 (1) in subparagraph (A)—

12 (A) in the first sentence, in the matter pre-  
13 ceding clause (i), by striking “deeds or” and in-  
14 serting “deeds, easements, leases, or”; and

15 (B) in the second sentence—

16 (i) by striking “he” and inserting “the  
17 defendant”; and

18 (ii) by striking the period at the end  
19 and inserting “, provides full cooperation,  
20 assistance, and facility access to the per-  
21 sons that are authorized to conduct re-  
22 sponse actions at the facility (including the  
23 cooperation and access necessary for the  
24 installation, integrity, operation, and main-  
25 tenance of any complete or partial re-

1           sponse action at the facility), and is in  
2           compliance with any land use restrictions  
3           established or relied on in connection with  
4           the response action at a facility, and does  
5           not impede the effectiveness or integrity of  
6           any institutional control employed at the  
7           facility in connection with a response ac-  
8           tion.”; and

9           (2) by striking subparagraph (B) and inserting  
10          the following:

11           “(B) REASON TO KNOW.—

12           “(i) ALL APPROPRIATE INQUIRIES.—  
13          To establish that the defendant had no  
14          reason to know of the matter described in  
15          subparagraph (A)(i), the defendant must  
16          demonstrate to a court that—

17           “(I) on or before the date on  
18          which the defendant acquired the fa-  
19          cility, the defendant carried out all  
20          appropriate inquiries, as provided in  
21          clauses (ii) and (iv), into the previous  
22          ownership and uses of the facility in  
23          accordance with generally accepted  
24          good commercial and customary  
25          standards and practices; and



1                   “(II) the defendant took reason-  
2                   able steps to—

3                   “(aa) stop any continuing  
4                   release;

5                   “(bb) prevent any threat-  
6                   ened future release; and

7                   “(cc) prevent or limit any  
8                   human, environmental, or natural  
9                   resource exposure to any pre-  
10                  viously released hazardous sub-  
11                  stance.

12                  “(ii) STANDARDS AND PRACTICES.—  
13                  Not later than 2 years after the date of en-  
14                  actment of the Brownfields Revitalization  
15                  and Environmental Restoration Act of  
16                  2000, the Administrator shall by regula-  
17                  tion establish standards and practices for  
18                  the purpose of satisfying the requirement  
19                  to carry out all appropriate inquiries under  
20                  clause (i).

21                  “(iii) CRITERIA.—In promulgating  
22                  regulations that establish the standards  
23                  and practices referred to in clause (ii), the  
24                  Administrator shall include each of the fol-  
25                  lowing:

1           “(I) The results of an inquiry by  
2 an environmental professional.

3           “(II) Interviews with past and  
4 present owners, operators, and occu-  
5 pants of the facility for the purpose of  
6 gathering information regarding the  
7 potential for contamination at the fa-  
8 cility.

9           “(III) Reviews of historical  
10 sources, such as chain of title docu-  
11 ments, aerial photographs, building  
12 department records, and land use  
13 records, to determine previous uses  
14 and occupancies of the real property  
15 since the property was first developed.

16           “(IV) Searches for recorded envi-  
17 ronmental cleanup liens against the  
18 facility that are filed under Federal,  
19 State, or local law.

20           “(V) Reviews of Federal, State,  
21 and local government records, waste  
22 disposal records, underground storage  
23 tank records, and hazardous waste  
24 handling, generation, treatment, dis-

1 posal, and spill records, concerning  
2 contamination at or near the facility.

3 “(VI) Visual inspections of the  
4 facility and of adjoining properties.

5 “(VII) Specialized knowledge or  
6 experience on the part of the defend-  
7 ant.

8 “(VIII) The relationship of the  
9 purchase price to the value of the  
10 property, if the property was not con-  
11 taminated.

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

15 “(X) The degree of obviousness  
16 of the presence or likely presence of  
17 contamination at the property, and  
18 the ability to detect the contamination  
19 by appropriate investigation.

20 “(iv) INTERIM STANDARDS AND PRAC-  
21 TICES.—

22 “(I) PROPERTY PURCHASED BE-  
23 FORE MAY 31, 1997.—With respect to  
24 property purchased before May 31,  
25 1997, in making a determination with

1           respect to a defendant described of  
2           clause (i), a court shall take into  
3           account—

4                   “(aa) any specialized knowl-  
5                   edge or experience on the part of  
6                   the defendant;

7                   “(bb) the relationship of the  
8                   purchase price to the value of the  
9                   property, if the property was not  
10                  contaminated;

11                  “(cc) commonly known or  
12                  reasonably ascertainable informa-  
13                  tion about the property;

14                  “(dd) the obviousness of the  
15                  presence or likely presence of  
16                  contamination at the property;  
17                  and

18                  “(ee) the ability of the de-  
19                  fendant to detect the contamina-  
20                  tion by appropriate inspection.

21                  “(II) PROPERTY PURCHASED ON  
22                  OR AFTER MAY 31, 1997.—With re-  
23                  spect to property purchased on or  
24                  after May 31, 1997, and until the Ad-  
25                  ministrator promulgates the regula-

1 tions described in clause (ii), the pro-  
 2 cedures of the American Society for  
 3 Testing and Materials, including the  
 4 document known as ‘Standard  
 5 E1527–97’, entitled ‘Standard Prac-  
 6 tice for Environmental Site Assess-  
 7 ment: Phase 1 Environmental Site  
 8 Assessment Process’, shall satisfy the  
 9 requirements in clause (i).

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

## 18 **TITLE III—STATE RESPONSE** 19 **PROGRAMS**

### 20 **SEC. 301. STATE RESPONSE PROGRAMS.**

21 (a) DEFINITIONS.—Section 101 of the Comprehen-  
 22 sive Environmental Response, Compensation, and Liabil-  
 23 ity Act of 1980 (42 U.S.C. 9601) (as amended by section  
 24 202) is amended by adding at the end the following:

25 “(41) ELIGIBLE RESPONSE SITE.—

1           “(A) IN GENERAL.—The term ‘eligible re-  
2           sponse site’ means a site that meets the defini-  
3           tion of a brownfield site in subparagraphs (A)  
4           and (B) of paragraph (39), as modified by sub-  
5           paragraphs (B) and (C) of this paragraph.

6           “(B) INCLUSIONS.—The term ‘eligible re-  
7           sponse site’ includes—

8                   “(i) notwithstanding paragraph  
9                   (39)(B)(ix), a portion of a facility, for  
10                  which portion assistance for response activ-  
11                  ity has been obtained under subtitle I of  
12                  the Solid Waste Disposal Act (42 U.S.C.  
13                  6991 et seq.) from the Leaking Under-  
14                  ground Storage Tank Trust Fund estab-  
15                  lished under section 9508 of the Internal  
16                  Revenue Code of 1986; or

17                   “(ii) a site for which, notwithstanding  
18                   the exclusions provided in subparagraph  
19                   (C) or paragraph (39)(B), the President  
20                   determines, on a site-by-site basis and  
21                   after consultation with the State, that limi-  
22                   tations on enforcement under section 129  
23                   at sites specified in clause (iv), (v), (vi) or  
24                   (viii) of paragraph (39)(B) would be ap-  
25                   propriate and will—

1           “(I) protect human health and  
2           the environment; and

3           “(II) promote economic develop-  
4           ment or facilitate the creation of,  
5           preservation of, or addition to a park,  
6           a greenway, undeveloped property,  
7           recreational property, or other prop-  
8           erty used for nonprofit purposes.

9           “(C) EXCLUSIONS.—The term ‘eligible re-  
10          sponse site’ does not include—

11           “(i) a facility for which the  
12          President—

13           “(I) conducts or has conducted a  
14          remedial site investigation; and

15           “(II) after consultation with the  
16          State, determines or has determined  
17          that the site qualifies for listing on  
18          the National Priorities List;

19          unless the President has made a deter-  
20          mination that no further Federal action  
21          will be taken; or

22           “(ii) facilities that the President de-  
23          termines warrant particular consideration  
24          as identified by regulation, such as sites

1                   posing a threat to a sole-source drinking  
2                   water aquifer or a sensitive ecosystem.”.

3           (b) STATE RESPONSE PROGRAMS.—Title I of the  
4 Comprehensive Environmental Response, Compensation,  
5 and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as  
6 amended by section 101(b)) is amended by adding at the  
7 end the following:

8 **“SEC. 129. STATE RESPONSE PROGRAMS.**

9           “(a) ASSISTANCE TO STATES.—

10                   “(1) IN GENERAL.—

11                           “(A) STATES.—The Administrator may  
12                   award a grant to a State or Indian tribe that—

13                                   “(i) has a response program that in-  
14                                   cludes each of the elements, or is taking  
15                                   reasonable steps to include each of the ele-  
16                                   ments, listed in paragraph (2); or

17                                   “(ii) is a party to a memorandum of  
18                                   agreement with the Administrator for vol-  
19                                   untary response programs.

20                   “(B) USE OF GRANTS BY STATES.—

21                           “(i) IN GENERAL.—A State or Indian  
22                           tribe may use a grant under this sub-  
23                           section to establish or enhance the re-  
24                           sponse program of the State or Indian  
25                           tribe.



1           “(ii) ADDITIONAL USES.—In addition  
2           to the uses under clause (i), a State or In-  
3           dian tribe may use a grant under this sub-  
4           section to—

5                   “(I) capitalize a revolving loan  
6                   fund for brownfield remediation under  
7                   section 128(c); or

8                   “(II) develop a risk sharing pool,  
9                   an indemnity pool, or insurance mech-  
10                  anism to provide financing for re-  
11                  sponse actions under a State response  
12                  program.

13           “(2) ELEMENTS.—The elements of a State or  
14           Indian tribe response program referred to in para-  
15           graph (1)(A)(i) are the following:

16                   “(A) Timely survey and inventory of  
17                   brownfield sites in the State.

18                   “(B) Oversight and enforcement authori-  
19                   ties or other mechanisms, and resources, that  
20                   are adequate to ensure that—

21                           “(i) a response action will—

22                                   “(I) protect human health and  
23                                   the environment; and

1                   “(II) be conducted in accordance  
2                   with applicable Federal and State law;  
3                   and

4                   “(ii) if the person conducting the re-  
5                   sponse action fails to complete the nec-  
6                   essary response activities, including oper-  
7                   ation and maintenance or long-term moni-  
8                   toring activities, the necessary response ac-  
9                   tivities are completed.

10                  “(C) Mechanisms and resources to provide  
11                  meaningful opportunities for public participa-  
12                  tion, including—

13                         “(i) public access to documents that  
14                         the State, Indian tribe, or party con-  
15                         ducting the cleanup is relying on or devel-  
16                         oping in making cleanup decisions or con-  
17                         ducting site activities; and

18                         “(ii) prior notice and opportunity for  
19                         comment on proposed cleanup plans and  
20                         site activities.

21                  “(D) Mechanisms for approval of a clean-  
22                  up plan, and a requirement for verification by  
23                  and certification or similar documentation from  
24                  the State, an Indian tribe, or a licensed site  
25                  professional to the person conducting a re-

1           response action indicating that the response is  
2           complete.

3           “(3) FUNDING.—There is authorized to be ap-  
4           propriated to carry out this subsection \$50,000,000  
5           for each of fiscal years 2001 through 2005.

6           “(b) ENFORCEMENT IN CASES OF A RELEASE SUB-  
7           JECT TO STATE PROGRAM.—

8           “(1) ENFORCEMENT.—

9           “(A) IN GENERAL.—Except as provided in  
10           subparagraph (B) and subject to subparagraph  
11           (C), in the case of an eligible response site at  
12           which—

13                   “(i) there is a release or threatened  
14                   release of a hazardous substance, pollut-  
15                   ant, or contaminant; and

16                   “(ii) a person is conducting or has  
17                   completed a response action regarding the  
18                   specific release that is addressed by the re-  
19                   sponse action that is in compliance with  
20                   the State program that specifically governs  
21                   response actions for the protection of pub-  
22                   lic health and the environment;

23           the President may not use authority under this  
24           Act to take an administrative or judicial en-  
25           forcement action under section 106(a) or to

1 take a judicial enforcement action to recover re-  
2 sponse costs under section 107(a) against the  
3 person regarding the specific release that is ad-  
4 dressed by the response action.

5 “(B) EXCEPTIONS.—The President may  
6 bring an enforcement action under this Act dur-  
7 ing or after completion of a response action de-  
8 scribed in subparagraph (A) with respect to a  
9 release or threatened release at an eligible re-  
10 sponse site described in that subparagraph if—

11 “(i) the State requests that the Presi-  
12 dent provide assistance in the performance  
13 of a response action;

14 “(ii) the Administrator determines  
15 that contamination has migrated or will  
16 migrate across a State line, resulting in  
17 the need for further response action to  
18 protect human health or the environment,  
19 or the President determines that contami-  
20 nation has migrated or is likely to migrate  
21 onto property subject to the jurisdiction,  
22 custody, or control of a department, agen-  
23 cy, or instrumentality of the United States  
24 and may impact the authorized purposes of  
25 the Federal property;

1           “(iii) after taking into consideration  
2 the response activities already taken, the  
3 Administrator determines that—

4           “(I) a release or threatened re-  
5 lease may present an imminent and  
6 substantial endangerment to public  
7 health or welfare or the environment;  
8 and

9           “(II) additional response actions  
10 are likely to be necessary to address,  
11 prevent, limit, or mitigate the release  
12 or threatened release; or

13           “(iv) the Administrator determines  
14 that information, that on the earlier of the  
15 date on which cleanup was approved or  
16 completed, was not known by the State, as  
17 recorded in documents prepared or relied  
18 on in selecting or conducting the cleanup,  
19 has been discovered regarding the contami-  
20 nation or conditions at a facility such that  
21 the contamination or conditions at the fa-  
22 cility present a threat requiring further re-  
23 mediation to protect public health or wel-  
24 fare or the environment.

1           “(C) PUBLIC RECORD.—The limitations on  
2           the authority of the President under subpara-  
3           graph (A) apply only at sites in States that  
4           maintain, update not less than annually, and  
5           make available to the public a record of sites,  
6           by name and location, at which response actions  
7           have been completed in the previous year and  
8           are planned to be addressed under the State  
9           program that specifically governs response ac-  
10          tions for the protection of public health and the  
11          environment in the upcoming year. The public  
12          record shall identify whether or not the site, on  
13          completion of the response action, will be suit-  
14          able for unrestricted use and, if not, shall iden-  
15          tify the institutional controls relied on in the  
16          remedy. Each State and tribe receiving finan-  
17          cial assistance under subsection (a) shall main-  
18          tain and make available to the public a record  
19          of sites as provided in this paragraph.

20           “(D) EPA NOTIFICATION.—

21           “(i) IN GENERAL.—In the case of an  
22           eligible response site at which there is a re-  
23           lease or threatened release of a hazardous  
24           substance, pollutant, or contaminant and  
25           for which the Administrator intends to

1 carry out an action that may be barred  
2 under subparagraph (A), the Adminis-  
3 trator shall—

4 “(I) notify the State of the action  
5 the Administrator intends to take;  
6 and

7 “(II)(aa) wait 48 hours for a  
8 reply from the State under clause (ii);  
9 or

10 “(bb) if the State fails to reply to  
11 the notification or if the Adminis-  
12 trator makes a determination under  
13 clause (iii), take immediate action  
14 under that clause.

15 “(ii) STATE REPLY.—Not later than  
16 48 hours after a State receives notice from  
17 the Administrator under clause (i), the  
18 State shall notify the Administrator if—

19 “(I) the release at the eligible re-  
20 sponse site is or has been subject to  
21 a cleanup conducted under a State  
22 program; and

23 “(II) the State is planning to  
24 abate the release or threatened re-  
25 lease, any actions that are planned.

1 “(iii) IMMEDIATE FEDERAL ACTION.—

2 The Administrator may take action imme-  
3 diately after giving notification under  
4 clause (i) without waiting for a State reply  
5 under clause (ii) if the Administrator de-  
6 termines that 1 or more exceptions under  
7 subparagraph (B) are met.

8 “(E) REPORT TO CONGRESS.—Not later  
9 than 90 days after the date of initiation of any  
10 enforcement action by the President under  
11 clause (ii), (iii), or (iv) of subparagraph (B),  
12 the President shall submit to Congress a report  
13 describing the basis for the enforcement action,  
14 including specific references to the facts dem-  
15 onstrating that enforcement action is permitted  
16 under subparagraph (B).

17 “(2) SAVINGS PROVISION.—

18 “(A) COSTS INCURRED PRIOR TO LIMITA-  
19 TIONS.—Nothing in paragraph (1) precludes  
20 the President from seeking to recover costs in-  
21 curred prior to the date of enactment of this  
22 section or during a period in which the limita-  
23 tions of paragraph (1)(A) were not applicable.

24 “(B) EFFECT ON AGREEMENTS BETWEEN  
25 STATES AND EPA.—Nothing in paragraph (1)—



1           “(i) modifies or otherwise affects a  
2           memorandum of agreement, memorandum  
3           of understanding, or any similar agreement  
4           relating to this Act between a State agency  
5           or an Indian tribe and the Administrator  
6           that is in effect on or before the date of  
7           enactment of this section (which agreement  
8           shall remain in effect, subject to the terms  
9           of the agreement); or

10           “(ii) limits the discretionary authority  
11           of the President to enter into or modify an  
12           agreement with a State, an Indian tribe, or  
13           any other person relating to the implemen-  
14           tation by the President of statutory au-  
15           thorities.

16           “(3) EFFECTIVE DATE.—This subsection ap-  
17           plies only to response actions conducted after June  
18           8, 2000.

19           “(c) EFFECT ON FEDERAL LAWS.—Nothing in this  
20           section affects any liability or response authority under  
21           any Federal law, including—

22           “(1) this Act, except as provided in subsection  
23           (b);

24           “(2) the Solid Waste Disposal Act (42 U.S.C.  
25           6901 et seq.);

1           “(3) the Federal Water Pollution Control Act  
2           (33 U.S.C. 1251 et seq.);

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

5           “(5) the Safe Drinking Water Act (42 U.S.C.  
6           300f et seq.).”.

7 **SEC. 302. ADDITIONS TO NATIONAL PRIORITIES LIST.**

8           Section 105 of the Comprehensive Environmental Re-  
9           sponse, Compensation, and Liability Act of 1980 (42  
10          U.S.C. 9605) is amended by adding at the end the fol-  
11          lowing:

12          “(h) NPL DEFERRAL.—

13                 “(1) DEFERRAL TO STATE VOLUNTARY CLEAN-  
14                 UPS.—At the request of a State and subject to para-  
15                 graphs (2) and (3), the President generally shall  
16                 defer final listing of an eligible response site on the  
17                 National Priorities List if the President determines  
18                 that—

19                         “(A) the State, or another party under an  
20                         agreement with or order from the State, is con-  
21                         ducting a response action at the eligible re-  
22                         sponse site—

23                                 “(i) in compliance with a State pro-  
24                                 gram that specifically governs response ac-

1           tions for the protection of public health  
2           and the environment; and

3                   “(ii) that will provide long-term pro-  
4           tection of human health and the environ-  
5           ment; or

6                   “(B) the State is actively pursuing an  
7           agreement to perform a response action de-  
8           scribed in subparagraph (A) at the site with a  
9           person that the State has reason to believe is  
10          capable of conducting a response action that  
11          meets the requirements of subparagraph (A).

12                   “(2) PROGRESS TOWARD CLEANUP.—If, after  
13          the last day of the 1-year period beginning on the  
14          date on which the President proposes to list an eligi-  
15          ble response site on the National Priorities List, the  
16          President determines that the State or other party  
17          is not making reasonable progress toward com-  
18          pleting a response action at the eligible response  
19          site, the President may list the eligible response site  
20          on the National Priorities List.

21                   “(3) CLEANUP AGREEMENTS.—With respect to  
22          an eligible response site under paragraph (1)(B), if,  
23          after the last day of the 1-year period beginning on  
24          the date on which the President proposes to list the  
25          eligible response site on the National Priorities List,

1 an agreement described in paragraph (1)(B) has not  
2 been reached, the President may defer the listing of  
3 the eligible response site on the National Priorities  
4 List for an additional period of not to exceed 180  
5 days if the President determines deferring the listing  
6 would be appropriate based on—

7 “(A) the complexity of the site;

8 “(B) substantial progress made in negotia-  
9 tions; and

10 “(C) other appropriate factors, as deter-  
11 mined by the President.

12 “(4) EXCEPTIONS.—The President may decline  
13 to defer, or elect to discontinue a deferral of, a list-  
14 ing of an eligible response site on the National Pri-  
15 orities List if the President determines that—

16 “(A) deferral would not be appropriate be-  
17 cause the State, as an owner or operator or a  
18 significant contributor of hazardous substances  
19 to the facility, is a potentially responsible party;

20 “(B) the criteria under the National Con-  
21 tingency Plan for issuance of a health advisory  
22 have been met; or

1                   “(C) the conditions in paragraphs (1)  
2                   through (3), as applicable, are no longer being  
3                   met.”.

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