

107TH CONGRESS  
1ST SESSION

# H. R. 324

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote brownfields redevelopment, to reauthorize and reform the Superfund program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2001

Mr. BOEHLERT introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote brownfields redevelopment, to reauthorize and reform the Superfund program, 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 “Recycle America’s Land Act of 2001”.

6 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to Comprehensive Environmental Response, Compensation, and Liability Act of 1980.
- Sec. 3. Effective date.

#### TITLE I—BROWNFIELDS REVITALIZATION

- Sec. 101. Savings provision.
- Sec. 102. Brownfields.
- Sec. 103. Assistance for voluntary cleanup programs.
- Sec. 104. Enforcement in cases of a release subject to a State response action.
- Sec. 105. Additions to National Priorities List.

#### TITLE II—COMMUNITY PARTICIPATION AND HUMAN HEALTH

##### Subtitle A—Community Participation

- Sec. 201. Improving citizen and community participation in decisionmaking.
- Sec. 202. Additional information requirements.
- Sec. 203. Technical assistance grants.
- Sec. 204. Understandable presentation of materials.
- Sec. 205. Public participation in removal actions.
- Sec. 206. Community study.
- Sec. 207. Definitions.

##### Subtitle B—Human Health

- Sec. 221. Public health authorities.
- Sec. 222. Indian health provisions.
- Sec. 223. Hazard ranking system.
- Sec. 224. Facility scoring.

#### TITLE III—LIABILITY REFORM

- Sec. 301. Amendments to section 106.
- Sec. 302. Innocent parties.
- Sec. 303. Statutory construction.
- Sec. 304. Livestock treatment.
- Sec. 305. Liability relief for small businesses, municipal solid waste, sewage sludge, municipal owners and operators, and de micromis contributors.
- Sec. 306. Amendments to section 113.
- Sec. 307. Liability of response action contractors.
- Sec. 308. Amendments to section 122.
- Sec. 309. Clarification of liability for recycling transactions.
- Sec. 310. Allocation.

#### TITLE IV—REMEDY SELECTION

- Sec. 401. Remedy selection.
- Sec. 402. Hazardous substance property use.
- Sec. 403. Risk assessment standards.

#### TITLE V—GENERAL PROVISIONS

- Sec. 501. Trust fund defined.
- Sec. 502. Indian tribes.
- Sec. 503. Grants for training and education of workers.

- Sec. 504. State cost share.  
 Sec. 505. State and local reimbursement for response actions.  
 Sec. 506. State role at Federal facilities.  
 Sec. 507. Federal cost study.  
 Sec. 508. No preemption of State law claims.  
 Sec. 509. Purchase of American-made equipment, products, and technologies.  
 Sec. 510. Development of new technologies and methods.

TITLE VI—EXPENDITURES FROM THE HAZARDOUS SUBSTANCE  
SUPERFUND

- Sec. 601. Expenditures from the Hazardous Substance Superfund.  
 Sec. 602. Authorization of appropriations from general revenues.  
 Sec. 603. Completion of National Priorities List.

TITLE VII—REVENUES

- Sec. 701. Sense of Committee on Transportation and Infrastructure.

1 **SEC. 2. AMENDMENTS TO COMPREHENSIVE ENVIRON-**  
 2 **MENTAL RESPONSE, COMPENSATION, AND LI-**  
 3 **ABILITY ACT OF 1980.**

4 Except as otherwise specifically provided, whenever in  
 5 this Act an amendment or repeal is expressed in terms  
 6 of an amendment to, or repeal of, a section or other provi-  
 7 sion of law, the reference shall be considered to be made  
 8 to a section or other provision of the Comprehensive Envi-  
 9 ronmental Response, Compensation, and Liability Act of  
 10 1980 (42 U.S.C. 9601 et seq.).

11 **SEC. 3. EFFECTIVE DATE.**

12 Except as otherwise specifically provided, this Act,  
 13 and the amendments made by this Act, shall become effec-  
 14 tive on the date of enactment of this Act.

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

3 **SEC. 101. SAVINGS PROVISION.**

4           Nothing in this title (including the amendments made  
5 by this title) may be construed to affect the President’s  
6 authority to respond to a release or threatened release of  
7 a hazardous substance, pollutant, or contaminant under  
8 section 104 of the Comprehensive Environmental Re-  
9 sponse, Compensation, and Liability Act of 1980.

10 **SEC. 102. BROWNFIELDS.**

11           Title I (42 U.S.C. 9601 et seq.) is amended by adding  
12 at the end the following:

13 **“SEC. 127. BROWNFIELDS.**

14           “(a) DEFINITIONS.—In this section, the following  
15 definitions apply:

16                   “(1) ADMINISTRATIVE COST.—The term ‘ad-  
17 ministrative cost’ does not include the cost of—

18                                   “(A) site inventories;

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

21                                   “(C) design and performance of a response  
22 action; or

23                                   “(D) monitoring of natural resources.

24                   “(2) BROWNFIELD FACILITY.—

1           “(A) IN GENERAL.—The term ‘brownfield  
2 facility’ means real property with respect to  
3 which expansion, development, or redevelopment  
4 is complicated by the presence or potential pres-  
5 ence of a hazardous substance.

6           “(B) EXCLUDED FACILITIES.—The term  
7 ‘brownfield facility’ does not include—

8                   “(i) any portion of real property that  
9 is the subject of an ongoing removal or  
10 planned removal under section 104;

11                   “(ii) any portion of real property that  
12 is listed or has been proposed for listing on  
13 the National Priorities List;

14                   “(iii) any portion of real property with  
15 respect to which a cleanup is proceeding  
16 under a permit, an administrative order, or  
17 a judicial consent decree entered into by  
18 the United States or an authorized State  
19 under this Act, the Solid Waste Disposal  
20 Act (42 U.S.C. 6901 et seq.), the Federal  
21 Water Pollution Control Act (33 U.S.C.  
22 1251 et seq.), the Toxic Substances Con-  
23 trol Act (15 U.S.C. 2601 et seq.), or the  
24 Safe Drinking Water Act (42 U.S.C. 300f  
25 et seq.);

1           “(iv) a facility that is owned or oper-  
2           ated by a department, agency, or instru-  
3           mentality of the United States, except a  
4           facility located on lands held in trust for  
5           an Indian tribe; or

6           “(v) a portion of a facility for which  
7           assistance for response activity has been  
8           obtained under subtitle I of the Solid  
9           Waste Disposal Act (42 U.S.C. 6991 et  
10          seq.) from the Leaking Underground Stor-  
11          age Tank Trust Fund established under  
12          section 9508 of the Internal Revenue Code  
13          of 1986.

14          “(3) ELIGIBLE ENTITY.—

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

17                         “(i) a State or a political subdivision  
18                         of a State, including—

19                                 “(I) a general purpose unit of  
20                                 local government; and

21                                 “(II) a regional council or group  
22                                 of general purpose units of local gov-  
23                                 ernment;

1           “(ii) a redevelopment agency that is  
2           chartered or otherwise sanctioned by a  
3           State or other unit of government; and

4           “(iii) an Indian tribe.

5           “(B) EXCLUDED ENTITIES.—The term ‘el-  
6           igible entity’ does not include any entity that is  
7           not in full compliance with the requirements of  
8           an administrative order, judicial consent decree,  
9           or closure plan under a permit which has been  
10          issued or entered into by the United States or  
11          an authorized State under this Act, the Solid  
12          Waste Disposal Act (42 U.S.C. 6901 et seq.),  
13          the Federal Water Pollution Control Act (33  
14          U.S.C. 1251 et seq.), the Toxic Substances  
15          Control Act (15 U.S.C. 2601 et seq.), or the  
16          Safe Drinking Water Act (42 U.S.C. 300f et  
17          seq.) with respect to the real property or por-  
18          tion thereof which is the subject of the order,  
19          judicial consent decree, or closure plan.

20          “(b) BROWNFIELD ASSESSMENT GRANT PRO-  
21          GRAM.—

22                 “(1) ESTABLISHMENT OF PROGRAM.—The  
23          President shall establish a program to provide  
24          grants to eligible entities for inventory and assess-  
25          ment of brownfield facilities.

1           “(2) ASSISTANCE FOR SITE ASSESSMENT.—On  
2 approval of an application made by an eligible entity,  
3 the President may make grants to the eligible entity  
4 to be used for developing an inventory and con-  
5 ducting an assessment (including an assessment of  
6 public health implications) of 1 or more brownfield  
7 facilities.

8           “(3) APPLICATIONS.—

9           “(A) IN GENERAL.—Any eligible entity  
10 may submit an application to the President, in  
11 such form as the President may require, for a  
12 grant under this subsection for 1 or more  
13 brownfield facilities.

14           “(B) APPLICATION REQUIREMENTS.—An  
15 application for a grant under this subsection  
16 shall include information relevant to the rank-  
17 ing criteria established under paragraph (4) for  
18 the facility or facilities for which the grant is  
19 requested.

20           “(4) RANKING CRITERIA.—The President shall  
21 establish a system for ranking grant applications  
22 submitted under this subsection that includes the  
23 following criteria:

24           “(A) The demonstrated need for Federal  
25 assistance.



1           “(B) The extent to which a grant will  
2 stimulate the availability of other funds for en-  
3 vironmental remediation and subsequent rede-  
4 velopment of the area in which the brownfield  
5 facilities are located.

6           “(C) The estimated extent to which a  
7 grant would facilitate the identification of or fa-  
8 cilitate a reduction in health and environmental  
9 risks.

10           “(D) The financial involvement of the  
11 State and local government in any response ac-  
12 tion planned for a brownfield facility and the  
13 extent to which the response action and the  
14 proposed redevelopment is consistent with any  
15 applicable State or local community economic  
16 development plan.

17           “(E) The extent to which the site assess-  
18 ment and subsequent development involves the  
19 active participation and support of the local  
20 community.

21           “(5) MAXIMUM GRANT AMOUNT PER FACIL-  
22 ITY.—A grant made to an eligible entity under this  
23 subsection shall not exceed \$200,000 with respect to  
24 any brownfield facility covered by the grant.

1       “(c) BROWNFIELD REMEDIATION GRANT PRO-  
2 GRAM.—

3           “(1) ESTABLISHMENT OF PROGRAM.—The  
4 President shall establish a program to provide  
5 grants to eligible entities to be used for capitaliza-  
6 tion of revolving loan funds for remedial actions at  
7 brownfield facilities.

8           “(2) ASSISTANCE FOR SITE REMEDIATION.—  
9 Upon approval of an application made by an eligible  
10 entity, the President may make grants to the eligible  
11 entity to be used for establishing a revolving loan  
12 fund. Any fund established using such grants shall  
13 be used to make loans to a State, a site owner, or  
14 a site developer for the purpose of carrying out re-  
15 medial actions at 1 or more brownfield facilities.

16           “(3) ASSISTANCE FOR DEVELOPMENT OF  
17 LOCAL GOVERNMENT SITE REMEDIATION PRO-  
18 GRAMS.—A local government that receives a grant  
19 under this subsection may use up to 10 percent of  
20 the amount of the grant to develop and implement  
21 a brownfields site remediation program, including  
22 monitoring of human health of any populations ex-  
23 posed to hazardous substances from brownfields fa-  
24 cilities, and monitoring and enforcement of any in-  
25 stitutional controls required to prevent human expo-

1 sure to any hazardous substances from brownfields  
2 facilities.

3 “(4) APPLICATIONS.—

4 “(A) IN GENERAL.—Any eligible entity  
5 may submit an application to the President, in  
6 such form as the President may require, for a  
7 grant under this subsection.

8 “(B) APPLICATION REQUIREMENTS.—An  
9 application under this subsection shall include  
10 information relevant to the ranking criteria es-  
11 tablished under paragraph (5).

12 “(5) RANKING CRITERIA.—The President shall  
13 establish a system for ranking grant applications  
14 submitted under this subsection that includes the  
15 following criteria:

16 “(A) The adequacy of the financial con-  
17 trols and resources of the eligible entity to ad-  
18 minister a revolving loan fund in accordance  
19 with this subsection.

20 “(B) The ability of the eligible entity to  
21 monitor the use of funds provided to loan re-  
22 cipients under this subsection.

23 “(C) The ability of the eligible entity to en-  
24 sure that a remedial action funded by the grant  
25 will be conducted under the authority of a State

1 cleanup program that ensures that the remedial  
2 action is protective of human health and the en-  
3 vironment.

4 “(D) The ability of the eligible entity to  
5 ensure that any cleanup funded under this sub-  
6 section will comply with all laws that apply to  
7 the cleanup.

8 “(E) The need of the eligible entity for fi-  
9 nancial assistance to clean up brownfield sites  
10 that are the subject of the application, taking  
11 into consideration the financial resources avail-  
12 able to the eligible entity.

13 “(F) The ability of the eligible entity to  
14 ensure that the applicants repay the loans in a  
15 timely manner.

16 “(G) The plans of the eligible entity for  
17 using the grant to stimulate economic develop-  
18 ment or creation of recreational areas on com-  
19 pletion of the cleanup.

20 “(H) The plans of the eligible entity for  
21 using the grant to stimulate the availability of  
22 other funds for environmental remediation and  
23 subsequent redevelopment of the area in which  
24 the brownfield facilities are located.

1           “(I) The plans of the eligible entity for  
2           using the grant to facilitate a reduction of  
3           health and environmental risks.

4           “(J) The plans of the eligible entity for  
5           using the grant for remediation and subsequent  
6           development that involve the active participa-  
7           tion and support of the local community.

8           “(6) MAXIMUM GRANT AMOUNT.—A grant  
9           made to an eligible entity under this subsection may  
10          not exceed \$1,000,000.

11          “(d) GENERAL PROVISIONS.—

12           “(1) PROHIBITION.—No part of a grant under  
13           this section may be used for the payment of pen-  
14           alties or fines. Except as provided in subsection  
15           (c)(3), no part of such a grant may be used for the  
16           payment of administrative costs.

17           “(2) AUDITS.—The President shall audit an ap-  
18           propriate number of grants made under subsections  
19           (b) and (c) to ensure that funds are used for the  
20           purposes described in this section.

21           “(3) AGREEMENTS.—

22           “(A) TERMS AND CONDITIONS.—Each  
23           grant made under this section shall be subject  
24           to an agreement that—

1           “(i) requires the eligible entity to  
2           comply with all applicable Federal and  
3           State laws;

4           “(ii) requires the eligible entity to use  
5           the grant exclusively for the purposes spec-  
6           ified in subsection (b) or (c);

7           “(iii) in the case of an application by  
8           a State under subsection (c), requires pay-  
9           ment by the State of a matching share, of  
10          at least 50 percent of the amount of the  
11          grant, from other sources of funding;

12          “(iv) requires that grants under this  
13          section will not supplant State or local  
14          funds normally provided for the purposes  
15          specified in subsection (b) or (c); and

16          “(v) contains such other terms and  
17          conditions as the President determines to  
18          be necessary to ensure proper administra-  
19          tion of the grants.

20          “(B) LIMITATION.—The President shall  
21          not place terms or conditions on grants made  
22          under this section other than the terms and  
23          conditions specified in subparagraph (A).

24          “(4) LEVERAGING.—An eligible entity that re-  
25          ceives a grant under this section may use the funds

1 for part of a project at a brownfield facility for  
2 which funding is received from other sources, includ-  
3 ing other Federal sources, but the grant shall be  
4 used only for the purposes described in subsection  
5 (b) or (c).

6 “(e) APPROVAL.—

7 “(1) INITIAL GRANT.—Before the expiration of  
8 the fourth quarter of the first fiscal year following  
9 the date of enactment of this section, the President  
10 shall make grants under this section to eligible enti-  
11 ties and States that submit applications, before the  
12 expiration of the second quarter of such year, that  
13 the President determines have the highest rankings  
14 under the ranking criteria established under sub-  
15 section (b)(4) or (c)(5).

16 “(2) SUBSEQUENT GRANTS.—Beginning with  
17 the second fiscal year following the date of enact-  
18 ment of this section, the President shall make an an-  
19 nual evaluation of each application received during  
20 the prior fiscal year and make grants under this sec-  
21 tion to eligible entities and States that submit appli-  
22 cations during the prior year that the President de-  
23 termines have the highest rankings under the rank-  
24 ing criteria established under subsection (b)(4) or  
25 (c)(5).

1       “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
2 is authorized to be appropriated to carry out this section  
3 such sums as may be necessary. Such funds shall remain  
4 available until expended.”.

5 **SEC. 103. ASSISTANCE FOR VOLUNTARY CLEANUP PRO-**  
6 **GRAMS.**

7       Title I (42 U.S.C. 9601 et seq.) is further amended  
8 by adding at the end the following:

9 **“SEC. 128. STATE VOLUNTARY CLEANUP PROGRAMS.**

10       “(a) ASSISTANCE TO STATES.—The Administrator  
11 may provide technical and other assistance to States to  
12 establish and expand State voluntary cleanup programs.

13       “(b) ELIGIBLE PURPOSES.—The purposes for which  
14 assistance may be provided under subsection (a) include  
15 the following:

16               “(1) Providing technical assistance for response  
17 actions.

18               “(2) Providing adequate opportunities for pub-  
19 lic participation, including prior notice and oppor-  
20 tunity for comment in appropriate circumstances, in  
21 selecting response actions.

22               “(3) Developing streamlined procedures to en-  
23 sure expeditious response actions.

24               “(4) Providing oversight and enforcement of re-  
25 sponse actions.



1           “(5) Performing site inventories and assess-  
2           ments.

3           “(c) PROHIBITION ON CONDITIONS.—A State may  
4           request assistance under this section for 1 or more eligible  
5           purposes. The President may require that such assistance  
6           be used to carry out the eligible purposes for which the  
7           assistance is provided, but may not require as a condition  
8           of such assistance that the State take actions unrelated  
9           to such purposes.

10          “(d) FUNDING.—There is authorized to be appro-  
11          priated for assistance to States under this section  
12          \$25,000,000 for each of fiscal years 2000 through 2007.  
13          The amount of such assistance shall be distributed among  
14          each of the States that notifies the Administrator of the  
15          State’s intent to establish a State voluntary cleanup pro-  
16          gram and each of the States with a State voluntary clean-  
17          up program.

18          “(e) MINIMUM AMOUNT OF ASSISTANCE.—Subject to  
19          appropriations, the minimum amount of assistance the  
20          Administrator may provide to a State voluntary cleanup  
21          program under this section for a fiscal year shall be  
22          \$250,000.

23          “(f) LIMITATION ON ASSISTANCE FOR SITE INVEN-  
24          TORIES.—A State that receives assistance under this sec-  
25          tion in a fiscal year shall not be eligible in assistance for

1 site inventories and assessments under section 127(b) in  
2 such fiscal year.”.

3 **SEC. 104. ENFORCEMENT IN CASES OF A RELEASE SUBJECT**  
4 **TO A STATE RESPONSE ACTION.**

5 Title I (42 U.S.C. 9601 et seq.) is further amended  
6 by adding at the end the following:

7 **“SEC. 129. ENFORCEMENT IN CASES OF A RELEASE SUB-**  
8 **JECT TO A STATE RESPONSE ACTION.**

9 “(a) ENFORCEMENT.—Except as provided in sub-  
10 section (b), in the case of a facility that is not listed or  
11 proposed for listing on the National Priorities List and  
12 at which there is a release or threatened release of a haz-  
13 ardous substance, neither the President nor any other per-  
14 son (other than a State) may use authority under this Act  
15 against any person who is conducting or has completed  
16 a response action in compliance with a State law that spe-  
17 cifically governs response actions for the protection of pub-  
18 lic health and the environment—

19 “(1) to take an administrative or judicial en-  
20 forcement action under section 106;

21 “(2) to take a judicial enforcement action to re-  
22 cover response costs under section 107 or 113; or

23 “(3) to bring a private civil action to recover re-  
24 sponse costs under section 107 or 113;

1 regarding any release or threatened release that is ad-  
2 dressed by such response action.

3 “(b) EXCEPTIONS.—The President may bring an ad-  
4 ministrative enforcement action or a judicial enforcement  
5 action to recover response costs under this Act with re-  
6 spect to a facility described in subsection (a) if—

7 “(1) the State requests the President to take  
8 such action;

9 “(2) the President determines that response ac-  
10 tions are immediately required to prevent, limit, or  
11 mitigate an emergency and the State will not take  
12 the necessary response actions in a timely manner;

13 “(3) the Agency for Toxic Substances and Dis-  
14 ease Registry issues a public health advisory with re-  
15 spect to the facility; or

16 “(4) the President determines that contamina-  
17 tion has migrated across a State line, resulting in  
18 the need for further response action to protect  
19 human health or the environment and the affected  
20 States will not take the necessary response actions  
21 in a timely manner.

22 “(c) REPORT TO CONGRESS.—Not later than 30 days  
23 after the date of any enforcement action by the President  
24 against a person described in subsection (a), the President  
25 shall submit a report to Congress describing the factual

1 and legal basis for such action, with specific reference to  
2 the facts demonstrating that action is permitted under  
3 subsection (b).”.

4 **SEC. 105. ADDITIONS TO NATIONAL PRIORITIES LIST.**

5 (a) NPL DEFERRALS.—Section 105 (42 U.S.C.  
6 9605) is amended by adding at the end the following:

7 “(h) NPL DEFERRALS.—

8 “(1) DEFERRALS TO OTHER FEDERAL AUTHOR-  
9 ITY.—The President generally shall defer listing a  
10 facility on the National Priorities List if long-term  
11 remedial action will be conducted under other Fed-  
12 eral authorities, including the Solid Waste Disposal  
13 Act (42 U.S.C. 6901 et seq.), the Surface Mining  
14 Control and Reclamation Act of 1977 (30 U.S.C.  
15 1201 et seq.), the Federal Insecticide, Fungicide,  
16 and Rodenticide Act (7 U.S.C. 136 et seq.), and the  
17 Atomic Energy Act of 1954 (42 U.S.C. 2011 et  
18 seq.).

19 “(2) DEFERRAL TO STATE RESPONSE AC-  
20 TION.—The President generally shall defer listing a  
21 facility on the National Priorities List if remedial  
22 action that will provide long-term protection of  
23 human health and the environment is underway at  
24 that facility under a State response program.

1           “(3) ENCOURAGING STATE VOLUNTARY CLEAN-  
2           UPS.—At the request of a State, the President shall  
3           defer final listing of a facility on the National Prior-  
4           ities List if the State is attempting to obtain an  
5           agreement from a person or persons to perform a re-  
6           medial action that will provide long-term protection  
7           of human health and the environment at such facil-  
8           ity under a State response program. If, after the last  
9           day of the 1-year period beginning on the date that  
10          the President proposes to list the facility on the Na-  
11          tional Priorities List, the President finds that the  
12          State is not making reasonable progress toward ob-  
13          taining such an agreement, the President may place  
14          the facility on the National Priorities List.”.

15          (b) CROSS REFERENCE.—Section 105(a)(8)(B) (42  
16          U.S.C. 9605(a)(8)(B)) is amended by inserting after  
17          “shall revise the list” the following: “, subject to sub-  
18          section (h),”.

1 **TITLE II—COMMUNITY PARTICI-**  
2 **PATION AND HUMAN HEALTH**  
3 **Subtitle A—Community**  
4 **Participation**

5 **SEC. 201. IMPROVING CITIZEN AND COMMUNITY PARTICI-**  
6 **PATION IN DECISIONMAKING.**

7 (a) TECHNICAL AMENDMENTS.—Section 117 (42  
8 U.S.C. 9617) is amended—

9 (1) in subsection (a)—

10 (A) by striking “PROPOSED PLAN” and in-  
11 serting “PROPOSED PLAN”;

12 (B) by redesignating paragraphs (1) and  
13 (2) as subparagraphs (A) and (B), respectively;  
14 and

15 (C) by striking “under paragraph (1)” and  
16 inserting “under subparagraph (A)”;

17 (2) by redesignating subsection (a) as para-  
18 graph (4) and moving the text of such paragraph 2  
19 ems to the right;

20 (3) in subsection (b) by striking “FINAL PLAN”  
21 and inserting “FINAL PLAN”;

22 (4) in subsection (c)—

23 (A) by striking “EXPLANATION OF DIF-  
24 FERENCES” and inserting “EXPLANATION OF  
25 DIFFERENCES”; and

1 (B) by redesignating paragraphs (1), (2),  
2 and (3) as subparagraphs (A), (B), and (C), re-  
3 spectively; and

4 (5) by redesignating subsections (b) and (c) as  
5 paragraphs (6) and (7) and moving the text of such  
6 paragraphs 2 ems to the right.

7 (b) PARTICIPATION IN DECISIONMAKING.—

8 (1) IMPROVING CITIZEN AND COMMUNITY PAR-  
9 TICIPATION IN DECISIONMAKING.—Section 117 (42  
10 U.S.C. 9617) is further amended by inserting after  
11 the section heading the following:

12 “(a) IMPROVING CITIZEN AND COMMUNITY PARTICI-  
13 PATION IN DECISIONMAKING.—

14 “(1) IN GENERAL.—In order to provide an op-  
15 portunity for meaningful public participation at  
16 every significant phase of a response action at a cov-  
17 ered facility, the President shall take the actions  
18 specified in this subsection. Public meetings required  
19 under this subsection shall be designed to obtain in-  
20 formation from the community and to disseminate  
21 information to the community concerning the Presi-  
22 dent’s activities at a covered facility.

23 “(2) PRELIMINARY ASSESSMENT AND SITE IN-  
24 SPECTION.—

1           “(A) EVALUATION OF CONCERNS.—To the  
2 extent practicable, before or during site inspec-  
3 tion, the President shall solicit and evaluate  
4 concerns, interests, and information from af-  
5 fected Indian Tribes, the affected community,  
6 local government officials, and State and local  
7 health officials.

8           “(B) REQUIREMENTS FOR EVALUATION.—  
9 An evaluation under subparagraph (A) shall in-  
10 clude, as appropriate, face-to-face community  
11 surveys to identify the location of private drink-  
12 ing water wells, potential exposure pathways,  
13 including historic and current or potential use  
14 of water, and other environmental resources in  
15 the community; a public meeting; written re-  
16 sponses to significant concerns; and other ap-  
17 propriate participatory activities.

18           “(3) REMEDIAL INVESTIGATION AND FEASI-  
19 BILITY STUDY.—

20           “(A) PUBLIC MEETINGS.—The President  
21 shall provide, as appropriate, an opportunity for  
22 public meetings and publish a notice of such  
23 meetings before or during the remedial inves-  
24 tigation and feasibility study.



1           “(B) SOLICITATION OF VIEWS.—During  
2           the remedial investigation and feasibility study,  
3           the President shall solicit the views and pref-  
4           erences of affected Indian tribes, the affected  
5           community, local government officials, and  
6           State and local health officials on the remedi-  
7           ation and disposition of hazardous substances,  
8           pollutants, or contaminants at the facility. Such  
9           views and preferences shall be described in the  
10          remedial investigation and feasibility study and  
11          considered in the screening of remedial alter-  
12          natives for the facility.”.

13          (2) COMPLETION OF WORK PLAN.—Section  
14          117(a) (42 U.S.C. 9617(a)) is amended by inserting  
15          after paragraph (4) of such section, as redesignated  
16          by subsection (a)(2) of this section, the following:

17                 “(5) COMPLETION OF WORK PLAN.—The Presi-  
18                 dent shall provide, as appropriate, an opportunity  
19                 for public meetings and publish a notice of such  
20                 meetings before or during the completion of the  
21                 work plan for the remedial action.”.

22          (c) ALTERNATIVES; SELECTING APPROPRIATE AC-  
23          TIVITIES; PROVIDING INFORMATION.—Section 117(a) (42  
24          U.S.C. 9617(a)) is amended by inserting after paragraph

1 (7) of such section, as redesignated by subsection (a)(5)  
2 of this section, the following:

3           “(8) ALTERNATIVES.—Pursuant to paragraph  
4 (4), affected Indian tribes, the affected community,  
5 local government officials, and State and local health  
6 officials may propose remedial alternatives to the  
7 President. The President shall consider such alter-  
8 natives in the same manner as the President con-  
9 siders alternatives proposed by other parties.

10           “(9) SELECTING APPROPRIATE ACTIVITIES.—In  
11 determining which of the activities set forth in para-  
12 graph (2) may be appropriate, the President may  
13 consult with affected Indian tribes, the affected com-  
14 munity, local government officials, and State and  
15 local health officials.

16           “(10) PROVIDING INFORMATION.—

17           “(A) IN GENERAL.—The President shall  
18 provide information to affected Indian tribes,  
19 the affected community, local government offi-  
20 cials, and State and local health officials at  
21 every significant phase of the response action at  
22 the covered facility.

23           “(B) NOTICE.—The President, on a reg-  
24 ular basis, shall inform the entities specified in  
25 subparagraph (A) of the progress and sub-

1           stance of technical meetings between the lead  
2           agency and potentially responsible parties re-  
3           garding a covered facility and shall provide no-  
4           tice to such entities concerning—

5                   “(i) the schedule for commencement  
6                   of construction activities at the covered fa-  
7                   cility and the location and availability of  
8                   construction plans;

9                   “(ii) the results of any review under  
10                  section 121(c) and any modifications to the  
11                  covered facility made as a result of the re-  
12                  view; and

13                  “(iii) the execution of and any revi-  
14                  sions to institutional controls being used as  
15                  part of a remedial action.”.

16 **SEC. 202. ADDITIONAL INFORMATION REQUIREMENTS.**

17           Section 117 (42 U.S.C. 9617) is amended by insert-  
18           ing after subsection (a), as amended by section 201 of this  
19           Act, the following:

20                   “(b) ADDITIONAL INFORMATION REQUIREMENTS.—

21                           “(1) ADDITIONAL PUBLIC INVOLVEMENT RE-  
22                           QUIREMENTS.—

23                                   “(A) AVAILABILITY OF RECORDS.—The  
24                                   President shall make records relating to a re-  
25                                   sponse action at a covered facility available to

1 the public throughout all phases of the response  
2 action. Such information shall be made avail-  
3 able to the public for inspection and copying  
4 without the need to file a formal request, sub-  
5 ject to reasonable service charges as appro-  
6 priate. This paragraph shall not apply to a  
7 record that is exempt from disclosure under  
8 section 552 of title 5, United States Code.

9 “(B) REQUIREMENTS FOR PUBLIC INFOR-  
10 MATION.—The President, in carrying out re-  
11 sponsibilities under this Act, shall ensure that  
12 the presentation of information on risk is unbi-  
13 ased and informative and clearly discloses any  
14 uncertainties and data gaps.

15 “(2) DISCLOSURE OF RELEASES OF HAZ-  
16 ARDOUS SUBSTANCES AT SUPERFUND SITES.—

17 “(A) INFORMATION.—The President shall  
18 make the following information available to the  
19 public as provided in subparagraph (B) about  
20 releases of hazardous substances, pollutants,  
21 and contaminants from covered facilities at the  
22 following stages of a response action:

23 “(i) REMOVAL ACTIONS.—A best esti-  
24 mate of the releases from the facility be-  
25 fore the removal action is taken, during

1 the period of the removal action, and that  
2 are expected after the removal action is  
3 completed.

4 “(ii) REMEDIAL INVESTIGATION.—As  
5 part of the requirements for the remedial  
6 investigation, a summary and best estimate  
7 of the releases from the facility.

8 “(iii) FEASIBILITY STUDY.—As part  
9 of the feasibility study, a summary and  
10 best estimate of the releases that are ex-  
11 pected both during and at the conclusion  
12 of each remedial option that is considered.

13 “(iv) RECORD OF DECISION.—As part  
14 of the record of decision, a summary and  
15 best estimate of the releases that are ex-  
16 pected both during and at the conclusion  
17 of implementation of the selected remedy.

18 “(v) CONSTRUCTION COMPLETION.—  
19 After construction of the remedy is com-  
20 plete and during operation and mainte-  
21 nance, a periodic assessment of releases  
22 based on any monitoring required under  
23 section 121(g).

24 “(B) AVAILABILITY OF INFORMATION.—  
25 Information provided under this paragraph

1 shall be made available to the residents of the  
2 communities surrounding the covered facility, to  
3 police, fire, and emergency medical personnel in  
4 the surrounding communities, and to the gen-  
5 eral public. To improve access to such informa-  
6 tion by Federal, State, and local governments  
7 and researchers, such information may be pro-  
8 vided to the general public through electronic  
9 or other means. Such information shall be ex-  
10 pressed in common units and a common format.

11 “(C) SOURCE OF INFORMATION AND  
12 METHODS OF COLLECTION.—Nothing in this  
13 paragraph shall require the collection of any ad-  
14 ditional data beyond that already collected as  
15 part of the response action. If data are not  
16 readily available, the information provided  
17 under this paragraph shall be based on best es-  
18 timates.”.

19 **SEC. 203. TECHNICAL ASSISTANCE GRANTS.**

20 Section 117 (42 U.S.C. 9617) is further amended—

21 (1) by redesignating subsections (d) and (e) as  
22 subsections (c) and (d), respectively; and

23 (2) by striking subsection (d) (as so redesign-  
24 dated) and inserting the following:

25 “(d) TECHNICAL ASSISTANCE GRANTS.—

1           “(1) AUTHORITY.—In accordance with rules to  
2           be promulgated by the Administrator, the Adminis-  
3           trator may make grants for technical assistance  
4           available to any affected community with respect  
5           to—

6                   “(A) a covered facility;

7                   “(B) a facility at which the Administrator  
8           is undertaking a response action anticipated to  
9           exceed 1 year; or

10                   “(C) a facility at which the funding limit  
11           under section 104 is anticipated to be reached.

12           “(2) SPECIAL RULES.—

13                   “(A) FEDERAL SHARE.—No matching con-  
14           tribution shall be required for a grant under  
15           this subsection.

16                   “(B) ADVANCE PAYMENTS.—The Adminis-  
17           trator may make available to a recipient of a  
18           grant under this subsection in advance of the  
19           expenditures to be covered by the grant the  
20           lesser of \$5,000 or 10 percent of the total  
21           amount of the grant.

22                   “(3) GRANT AVAILABILITY.—The Administrator  
23           shall promptly notify residents and Indian tribes liv-  
24           ing near a facility eligible for grants under para-

1 graph (1) that technical assistance grants are avail-  
2 able under this section.

3 “(4) NUMBER OF GRANTS PER FACILITY.—

4 “(A) IN GENERAL.—Except as otherwise  
5 provided in this paragraph, the Administrator  
6 may not make more than 1 grant under this  
7 subsection with respect to a single facility.

8 “(B) RENEWAL OF GRANTS.—A grant  
9 made under this subsection with respect to a fa-  
10 cility may be renewed to facilitate public par-  
11 ticipation at all stages of a response action.

12 “(C) SPECIAL RULE.—In exceptional cir-  
13 cumstances, the Administrator may provide  
14 more than 1 grant under this subsection with  
15 respect to a single facility, after considering  
16 such factors as the area affected by the facility  
17 and the distances between affected commu-  
18 nities.

19 “(5) FUNDING AMOUNT.—

20 “(A) IN GENERAL.—Except as provided in  
21 subparagraph (B), the amount of a grant under  
22 this subsection may not exceed \$50,000 for a  
23 single grant recipient.



1           “(B) ADDITIONAL FUNDS.—The Adminis-  
2           trator may increase the amount of a grant  
3           under this subsection if—

4                   “(i) the grant recipient demonstrates  
5                   that the characteristics of a facility indi-  
6                   cate that additional funds are necessary  
7                   due to the complexity of the response ac-  
8                   tion, including the size and complexity of  
9                   the facility, or the nature or volume of  
10                  site-related information; and

11                   “(ii) the Administrator finds that the  
12                   grant recipient’s management of a previous  
13                   grant under this subsection, if any, was  
14                   satisfactory, and the costs incurred under  
15                   the grant were allowable and reasonable.

16           “(6) SIMPLIFICATION.—To ensure that the ap-  
17           plication process is accessible to all affected citizens,  
18           the Administrator shall review the existing guide-  
19           lines and application procedures for grants under  
20           this subsection and, not later than 180 days after  
21           the date of enactment of this paragraph, revise, as  
22           appropriate, such guidelines and procedures to sim-  
23           plify the process of obtaining such grants.

24           “(7) AUTHORIZED GRANT ACTIVITIES.—

1           “(A) INFORMATION AND PARTICIPATION.—  
2           To facilitate full participation by a grant recipi-  
3           ent in response activities at a facility, a grant  
4           made under this subsection may be used to ob-  
5           tain technical assistance, including the hiring of  
6           health and safety experts, in interpreting infor-  
7           mation for, and disseminating information to,  
8           members of the community, and in providing  
9           information and recommendations to the Presi-  
10          dent, with regard to—

11                   “(i) the nature of the hazard at a fa-  
12                   cility, including information used to rank  
13                   facilities according to the Hazard Ranking  
14                   System;

15                   “(ii) sampling and monitoring plans;

16                   “(iii) the remedial investigation and  
17                   feasibility study;

18                   “(iv) the record of decision;

19                   “(v) the selection, design, and con-  
20                   struction of the remedial action;

21                   “(vi) operation and maintenance;

22                   “(vii) institutional controls;

23                   “(viii) removal activities at the facil-  
24                   ity; and

1                   “(ix) public health assessment or  
2                   health studies.

3                   “(B) ADDITIONAL ACTIVITIES.—In addi-  
4                   tion to the activities specified in subparagraph  
5                   (A), not more than 10 percent of the amount  
6                   of a grant under this subsection may be used  
7                   for educational training, hiring neutral profes-  
8                   sionals to facilitate deliberations and consensus  
9                   efforts, and hiring community liaisons to poten-  
10                  tially responsible parties and government agen-  
11                  cies to facilitate public participation at the facil-  
12                  ity.

13                  “(C) AVAILABILITY OF INFORMATION.—In-  
14                  formation generated by the recipients of grants  
15                  under this subsection shall be made publicly  
16                  available.

17                  “(D) LIMITATION.—Grants made under  
18                  this subsection may not be used for the pur-  
19                  poses of collecting field sampling data.

20                  “(8) NON-SITE-SPECIFIC GRANTS.—In accord-  
21                  ance with rules to be promulgated by the Adminis-  
22                  trator, the Administrator may make grants under  
23                  this subsection to Indian tribes, nonprofit organiza-  
24                  tions, and citizens groups to enhance their participa-  
25                  tion, prior to final agency action, in rulemaking

1 processes carried out in accordance with this Act.  
2 Total funding for all such grants shall not exceed  
3 \$100,000.

4 “(9) REPRESENTATIVE OF THE COMMUNITY.—  
5 The Administrator shall publish guidance for deter-  
6 mining whether a recipient of a grant under this  
7 subsection is a legitimate representative of the com-  
8 munity affected by a facility.”

9 **SEC. 204. UNDERSTANDABLE PRESENTATION OF MATE-**  
10 **RIALS.**

11 Section 117 (42 U.S.C. 9617) is further amended by  
12 adding at the end the following:

13 “(e) UNDERSTANDABLE PRESENTATION OF MATE-  
14 RIALS.—The President shall ensure that information pre-  
15 pared for distribution to the public under this section will  
16 be provided or summarized in a manner that may be easily  
17 understood by the community, after considering any  
18 unique cultural needs of the community, including presen-  
19 tation of information orally and distribution of informa-  
20 tion in languages other than English, as appropriate.”

21 **SEC. 205. PUBLIC PARTICIPATION IN REMOVAL ACTIONS.**

22 Section 117 (42 U.S.C. 9617) is further amended by  
23 adding at the end the following:

24 “(f) PUBLIC PARTICIPATION IN REMOVAL AC-  
25 TIONS.—In the case of a removal action taken in accord-

1   ance with section 104, the President shall provide opportu-  
2   nities for meaningful public participation as follows:

3           “(1) REMOVAL ACTIONS WHERE ON-SITE AC-  
4           TIVITIES MUST BEGIN IN LESS THAN 6 MONTHS.—

5           In the case of a removal action where on-site activi-  
6           ties must begin in less than 6 months, the President  
7           shall—

8                   “(A) publish a notice of availability of the  
9                   administrative record established under section  
10                  113(k) in a local newspaper of general circula-  
11                  tion within 60 days of any on-site removal ac-  
12                  tivity;

13                   “(B) provide a public comment period, as  
14                   appropriate, of not less than 30 days from the  
15                   date on which the administrative record is made  
16                   available for public inspection; and

17                   “(C) prepare a written response to com-  
18                   ments.

19           “(2) REMOVAL ACTIONS WHERE ON-SITE AC-  
20           TIVITIES WILL EXTEND BEYOND 120 DAYS.—In the

21           case of a removal action where on-site activities are  
22           expected to extend beyond 120 days, the President  
23           shall—

24                   “(A) conduct interviews with any relevant  
25                   community advisory group, affected Indian

1 tribes, the affected community, local govern-  
2 ment officials, and State and local health offi-  
3 cials, as appropriate, to solicit their concerns  
4 and information needs and to determine the  
5 method and timing of involvement in the re-  
6 sponse action by the affected community;

7 “(B) prepare a formal community relations  
8 plan based on the community interviews and  
9 other relevant information, specifying the com-  
10 munity relations activities that the President  
11 expects to undertake during the response; and

12 “(C) establish at least 1 local information  
13 repository at or near the location of the re-  
14 sponse action.

15 The information repository shall contain items made  
16 available for public information and the administra-  
17 tive record. The President shall inform the affected  
18 community of the establishment of the information  
19 repository and provide a notice of availability of the  
20 administrative record for public review. All items in  
21 the repository shall be available for public inspection  
22 and copying.

23 “(3) REMOVAL ACTIONS WHERE PLANNING PE-  
24 RIOD WILL EXTEND BEYOND 6 MONTHS.—In the  
25 case of a removal action where the planning period

1 is expected to extend beyond 6 months, the Presi-  
2 dent shall—

3 “(A) comply with the requirements of  
4 paragraph (2);

5 “(B) provide a notice of availability of and  
6 a brief description of the removal engineering  
7 evaluation and cost analysis in a local news-  
8 paper of general circulation;

9 “(C) provide a reasonable opportunity, not  
10 less than 30 days, for submission of written and  
11 oral comments after completion of the engineer-  
12 ing evaluation and cost analysis; and

13 “(D) prepare a written response to signifi-  
14 cant comments.”.

15 **SEC. 206. COMMUNITY STUDY.**

16 Section 117 (42 U.S.C. 9617) is further amended by  
17 adding at the end the following:

18 “(g) COMMUNITY STUDY.—

19 “(1) REPORT BY THE ADMINISTRATOR.—Not  
20 later than 2 years after the date of enactment of  
21 this Act, the Administrator shall prepare and submit  
22 to Congress a community study. The Administrator  
23 shall periodically update the study. The Adminis-  
24 trator shall ensure that copies of such studies are  
25 made available to the public.

1           “(2) CONTENTS OF THE REPORT.—The Admin-  
2           istrator’s report shall include an analysis of—

3                   “(A) the time between the discovery and  
4           listing of a facility;

5                   “(B) the timing and nature of response ac-  
6           tions;

7                   “(C) the degree to which public views are  
8           reflected in response actions;

9                   “(D) future land use determinations and  
10          use of institutional controls;

11                   “(E) the population, race, ethnicity, and  
12          income characteristics of each community af-  
13          fected by a facility listed or proposed for listing  
14          on the National Priorities List; and

15                   “(F) the risk presented by each such facil-  
16          ity.

17           “(3) EVALUATION.—The Administrator shall  
18          evaluate the information in the study to determine  
19          whether priority setting, response actions, and public  
20          participation requirements were conducted in a fair  
21          and equitable manner and identify program areas  
22          that require improvements or modification.

23           “(4) ACTIONS BASED ON EVALUATION.—The  
24          Administrator shall institute necessary improve-



1       ments or modifications to address any deficiencies  
2       identified by the study prepared under this section.”.

3       **SEC. 207. DEFINITIONS.**

4       Section 117 (42 U.S.C. 9617) is further amended by  
5       adding at the end the following:

6       “(h) **DEFINITIONS.**—In this section, the following  
7       definitions apply:

8               “(1) **COVERED FACILITY.**—The term ‘covered  
9       facility’ means a facility that has been listed or pro-  
10       posed for listing on the National Priorities List.

11               “(2) **AFFECTED COMMUNITY.**—The term ‘af-  
12       fected community’ means any group of 2 or more in-  
13       dividuals (including representatives of Indian tribes)  
14       which may be affected by a release or threatened re-  
15       lease of a hazardous substance, pollutant, or con-  
16       taminant at a covered facility.”.

17       **Subtitle B—Human Health**

18       **SEC. 221. PUBLIC HEALTH AUTHORITIES.**

19       (a) **DISEASE REGISTRY AND MEDICAL CARE PRO-**  
20       **VIDERS.**—Section 104(i)(1) (42 U.S.C. 9604(i)(1)) is  
21       amended—

22               (1) by striking subparagraph (A) and inserting  
23       the following:

24               “(A) in cooperation with the States, for sci-  
25       entific purposes and public health purposes, estab-

1       lish and maintain a national registry of persons ex-  
2       posed to toxic substances;” and

3               (2) by striking the last sentence and inserting  
4       the following:

5       “In cases of public health emergencies, exposed per-  
6       sons shall be eligible for referral to licensed or ac-  
7       credited health care providers.”.

8       (b) SUBSTANCE PROFILES.—Section 104(i)(3) (42  
9       U.S.C. 9604(i)(3)) is amended—

10           (1) by inserting “(A)” after “(3)”;

11           (2) by redesignating subparagraphs (A), (B),  
12       and (C) as clauses (i), (ii), and (iii), respectively;  
13       and

14           (3) by striking “Any toxicological profile or re-  
15       vision thereof” and all that follows through “par-  
16       ties.” and inserting the following:

17       “(B) Any toxicological profile or revision thereof shall  
18       reflect the Administrator of ATSDR’s assessment of all  
19       relevant toxicological testing which has been peer re-  
20       viewed. The profiles prepared under this paragraph shall  
21       be for those substances highest on the list of priorities  
22       under paragraph (2) for which profiles have not previously  
23       been prepared or for substances not on the list but which  
24       have been found at facilities for which there has been a  
25       response action under this Act and which have been deter-

1 mined by ATSDR to be of health concern. Profiles re-  
2 quired under this paragraph shall be revised and repub-  
3 lished, as appropriate, based on scientific development and  
4 shall be provided to the States, including State health de-  
5 partments, tribal health officials, and local health depart-  
6 ments, and made available to other interested parties.”.

7 (c) DETERMINING HEALTH EFFECTS.—Section  
8 104(i)(5)(A) (42 U.S.C. 9604(i)(5)(A)) is amended—

9 (1) by striking “designed to determine the  
10 health effects (and techniques for development of  
11 methods to determine such health effects) of such  
12 substance.” and inserting “conducted directly or by  
13 means such as cooperative agreements and grants  
14 with appropriate public and nonprofit institutions.  
15 The research shall be designed to determine the  
16 health effects of the substance and techniques for  
17 development of methods to determine such health ef-  
18 fects.”;

19 (2) by redesignating clause (iv) as clause (v);

20 (3) by striking “and” at the end of clause (iii);

21 and

22 (4) by inserting after clause (iii) the following:

23 “(iv) laboratory and other studies to develop in-  
24 novative techniques for predicting organ-specific,

1 site-specific, and system-specific acute and chronic  
2 toxicity; and”.

3 (d) PUBLIC HEALTH AT NPL FACILITIES.—

4 (1) PRELIMINARY PUBLIC HEALTH ASSESS-  
5 MENTS.—Section 104(i)(6) (42 U.S.C. 9604(i)(6)) is  
6 amended by striking “(6)(A)” and all that follows  
7 through the period at the end of subparagraph (A)  
8 and inserting the following:

9 “(6)(A)(i) The Administrator of ATSDR shall per-  
10 form a preliminary public health assessment or health con-  
11 sultation for each facility on the National Priorities List,  
12 including those facilities owned by any department, agen-  
13 cy, or instrumentality of the United States, and those sites  
14 that are the subject of a petition under subparagraph (B).  
15 The preliminary public health assessment or health con-  
16 sultation shall be commenced as soon as practicable after  
17 each facility is proposed for inclusion on the National Pri-  
18 orities List or the Administrator of ATSDR accepts a peti-  
19 tion for a public health assessment. If the Administrator  
20 of ATSDR, in consultation with local public health offi-  
21 cials, determines that the results of a preliminary public  
22 health assessment or health consultation indicate the need  
23 for a public health assessment, the Administrator of the  
24 ATSDR shall conduct the public health assessment of  
25 those sites posing a health hazard. The results of the pub-

1 lic health assessment should be considered in selecting the  
2 remedial action for the facility.

3 “(ii) The Administrator of ATSDR, in cooperation  
4 with States, shall design public health assessments that  
5 take into account the needs and conditions of the affected  
6 community.

7 “(iii) The Administrator of EPA shall place highest  
8 priority on facilities with releases of hazardous substances  
9 which result in actual ongoing human exposures at levels  
10 of public health concern or adverse health effects as identi-  
11 fied in a public health assessment conducted by the Ad-  
12 ministrator of ATSDR or are reasonably anticipated based  
13 on currently known facts.”.

14 (2) STRATEGIES FOR OBTAINING DATA; COMMU-  
15 NITY INVOLVEMENT.—Section 104(i)(6)(D) (42  
16 U.S.C. 9604(i)(6)(D)) is amended—

17 (A) by inserting “(i)” after “(D)”; and

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

19 “(ii) The President and the Administrator of ATSDR  
20 shall develop strategies to obtain relevant on-site and off-  
21 site characterization data for use in the public health as-  
22 sessment. The President shall, to the maximum extent  
23 practicable, provide the Administrator of ATSDR with the  
24 data and information necessary to make public health as-  
25 sessments sufficiently prior to the choice of remedial ac-

1 tions to allow the Administrator of ATSDR to complete  
2 these assessments.

3 “(iii) Where appropriate, the Administrator of  
4 ATSDR shall provide to the President as soon as prac-  
5 ticable after site discovery, recommendations for sampling  
6 environmental media for hazardous substances of public  
7 health concern. To the extent feasible, the President shall  
8 incorporate such recommendations into the President’s  
9 site investigation activities.

10 “(iv) In order to improve community involvement in  
11 public health assessments, the Administrator of ATSDR  
12 shall carry out each of the following duties:

13 “(I) Collect from community advisory groups,  
14 from State and local public health authorities, and  
15 from other sources in communities affected or poten-  
16 tially affected by releases of hazardous substances  
17 data regarding exposure, relevant human activities,  
18 and other factors.

19 “(II) Design public health assessments that  
20 take into account the needs and conditions of the af-  
21 fected community. Community-based research mod-  
22 els, local expertise, and local health resources should  
23 be used in designing the public health assessment.  
24 In developing such designs, emphasis shall be placed

1 on collection of actual exposure data, and sources of  
2 multiple exposure shall be considered.”.

3 (3) CONFORMING AMENDMENTS.—Section  
4 104(i) (42 U.S.C. 9604(i)) is amended by inserting  
5 “public” before “health assessment” each place it  
6 appears and before “health assessments” each place  
7 it appears.

8 (e) HEALTH STUDIES.—Section 104(i)(7) (42 U.S.C.  
9 9604(i)(7)) is amended by striking “(7)(A)” and all that  
10 follows through the period at the end of subparagraph (A)  
11 and inserting the following:

12 “(7)(A) Whenever in the judgment of the Adminis-  
13 trator of ATSDR it is appropriate on the basis of the re-  
14 sults of a public health assessment or on the basis of other  
15 appropriate information, the Administrator of ATSDR  
16 shall conduct a human health study of exposure or other  
17 health effects for selected groups or individuals in order  
18 to determine the desirability of conducting full scale epi-  
19 demiologic or other health studies of the entire exposed  
20 population.”.

21 (f) DISTRIBUTION OF MATERIALS TO HEALTH PRO-  
22 FESSIONALS AND MEDICAL CENTERS.—Section  
23 104(i)(14) (42 U.S.C. 9604(i)(14)) is amended to read as  
24 follows:

1           “(14) EDUCATIONAL MATERIALS.—In imple-  
2           menting this subsection and other health-related  
3           provisions of this Act the Administrator of ATSDR,  
4           in cooperation with the States, shall—

5                   “(A) assemble, develop as necessary, and  
6                   distribute to the State and local health officials,  
7                   tribes, medical colleges, physicians, nursing in-  
8                   stitutions, nurses, and other health profes-  
9                   sionals and medical centers appropriate edu-  
10                  cational materials (including short courses) on  
11                  the medical surveillance, screening, and meth-  
12                  ods of prevention, diagnosis, and treatment of  
13                  injury or disease related to exposure to haz-  
14                  ardous substances (giving priority to those list-  
15                  ed under paragraph (2)) through means the  
16                  Administrator of ATSDR considers appropriate;  
17                  and

18                   “(B) assemble, develop as necessary, and  
19                   distribute to the general public and to at-risk  
20                   populations appropriate educational materials  
21                   and other information on human health effects  
22                   of hazardous substances.”.

23           (g) GRANTS, CONTRACTS, AND COMMUNITY ASSIST-  
24           ANCE ACTIVITIES.—Section 104(i)(15) (42 U.S.C.  
25           9604(i)(15)) is amended—



1           (1) by striking “(15)” and inserting the fol-  
2           lowing:

3           “(15) GRANTS, CONTRACTS, AND COMMUNITY  
4           ASSISTANCE.—(A)”;

5           (2) in the first sentence by striking “coopera-  
6           tive agreements with States (or political subdivisions  
7           thereof)” and inserting “grants, cooperative agree-  
8           ments, or contracts with States (or political subdivi-  
9           sions thereof), other appropriate public authorities,  
10          public or private institutions, colleges, universities,  
11          and professional associations”;

12          (3) by aligning the text of subparagraph (A) (as  
13          designated by paragraph (1) of this subsection) ac-  
14          cordingly; and

15          (4) by adding at the end the following:

16          “(B) When a public health assessment is con-  
17          ducted at a facility on the National Priorities List,  
18          or a facility is being evaluated for inclusion on the  
19          National Priorities List, the Administrator of  
20          ATSDR may provide the assistance specified in this  
21          paragraph to public or private nonprofit entities, in-  
22          dividuals, and community-based groups that may be  
23          affected by the release or threatened release of haz-  
24          ardous substances in the environment.

1           “(C) The Administrator of ATSDR, pursuant  
2           to the grants, cooperative agreements, and contracts  
3           referred to in this paragraph, is authorized and di-  
4           rected to provide, where appropriate, diagnostic serv-  
5           ices, health data registries and preventative public  
6           health education to communities affected by the re-  
7           lease of hazardous substances.”.

8           (h) PEER REVIEW COMMITTEE.—Section 104(i) (42  
9           U.S.C. 9604(i)) is amended by adding at the end the fol-  
10          lowing:

11           “(19) PEER REVIEW COMMITTEE.—The Admin-  
12          istrator of ATSDR shall establish an external peer  
13          review committee of qualified health scientists who  
14          serve for fixed periods and meet periodically to—

15           “(A) provide guidance on initiation of  
16          studies;

17           “(B) assess the quality of study reports  
18          funded by the agency; and

19           “(C) provide guidance on effective and ob-  
20          jective risk characterization and communica-  
21          tion.

22          The peer review committee may include additional  
23          specific experts representing a balanced group of  
24          stakeholders on an ad hoc basis for specific issues.

1 Meetings of the committee should be open to the  
2 public.”.

3 (i) CONFORMING AMENDMENTS.—Section 104(i) is  
4 further amended—

5 (1) in paragraph (16) by inserting “PER-  
6 SONNEL.—” after “(16)”;

7 (2) in paragraph (17) by inserting “AUTHORI-  
8 TIES.—” after “(17)”;

9 (3) in paragraph (18) by inserting “POLLUT-  
10 ANTS AND CONTAMINANTS.—” after “(18)”; and

11 (4) by moving paragraphs (16), (17), and (18)  
12 2 ems to the right.

13 **SEC. 222. INDIAN HEALTH PROVISIONS.**

14 Section 104(i) (42 U.S.C. 9604(i)) is further  
15 amended—

16 (1) in paragraph (1) by inserting “the Director  
17 of the Indian Health Service,” after “the Secretary  
18 of Transportation,”;

19 (2) in paragraph (5)(A) by inserting “and the  
20 Director of the Indian Health Service” after “EPA”;

21 (3) in paragraph (6)(C) by inserting “where low  
22 population density is not used as an excluding risk  
23 factor” after “health appears highest”;

24 (4) by adding at the end of paragraph (6)(E)  
25 the following: “If the Administrator of ATSDR or

1 the Administrator of EPA does not act on the rec-  
2 ommendations of the State, the Administrator of  
3 ATSDR or EPA must respond in writing to the  
4 State or tribe as to why the Administrator of  
5 ATSDR or EPA has not acted on the recommenda-  
6 tions.”;

7 (5) in paragraph (6)(F)—

8 (A) by striking “and” after “emissions,”;  
9 and

10 (B) by inserting “, and any other pathways  
11 resulting from subsistence activities” after  
12 “food chain contamination”; and

13 (6) by striking the period at the end of para-  
14 graph (6)(G) and inserting the following: “, and may  
15 give special consideration, where appropriate, to any  
16 practices of the affected community that may result  
17 in increased exposure to hazardous substances, pol-  
18 lutants, or contaminants, such as subsistence hunt-  
19 ing, fishing, and gathering.”.

20 **SEC. 223. HAZARD RANKING SYSTEM.**

21 Section 105(c) (42 U.S.C. 9605(c)) is amended by  
22 adding at the end the following:

23 “(5) RISK PRIORITIZATION.—In setting prior-  
24 ities under subsection (a)(8), the President shall  
25 place highest priority on facilities with releases of

1 hazardous substances which result in actual ongoing  
2 human exposures at levels of public health concern  
3 or demonstrated adverse health effects as identified  
4 in a public health assessment conducted by the  
5 Agency for Toxic Substances and Disease Registry  
6 or are reasonably anticipated based on currently  
7 known facts.

8 “(6) PRIOR RESPONSE ACTION.—Any evalua-  
9 tion under this section shall take into account all  
10 prior response actions taken at a facility.”.

11 **SEC. 224. FACILITY SCORING.**

12 Section 105 (42 U.S.C. 9605) is amended by adding  
13 at the end the following:

14 “(i) FACILITY SCORING.—The Administrator shall  
15 evaluate areas, such as Indian reservations or poor rural  
16 or urban communities, that warrant special attention and  
17 identify up to 5 facilities in each region of the Environ-  
18 mental Protection Agency that are likely to warrant inclu-  
19 sion on the National Priorities List. These facilities shall  
20 be accorded a priority in evaluation for National Priorities  
21 List listing and scoring and shall be evaluated for listing  
22 within 2 years after the date of enactment of this sub-  
23 section.”.

# 1     **TITLE III—LIABILITY REFORM**

## 2     **SEC. 301. AMENDMENTS TO SECTION 106.**

3           (a) SUFFICIENT CAUSE.—Section 106(b)(1) (42  
4 U.S.C. 9606(b)(1)) is amended—

5                 (1) by inserting “(A)” after “(b)(1)”;

6                 (2) by striking “to enforce such order”;

7                 (3) by inserting before the period “or be re-  
8                 quired to comply with such order, or both, even if  
9                 another person has complied, or is complying, with  
10                the terms of the same order or another order per-  
11                taining to the same facility and release or threatened  
12                release”; and

13                (4) by adding at the end the following:

14                “(B) For purposes of this subsection and section  
15 107(c)(3), a ‘sufficient cause’ includes an objectively rea-  
16 sonable belief by the person to whom the order is issued  
17 that—

18                   “(i) the person is not liable for any response  
19                   costs under section 107; or

20                   “(ii) that the action to be performed pursuant  
21                   to the order is inconsistent with the national contin-  
22                   gency plan.”.

23           (b) LIMITATION ON LIABLE PARTIES.—Section 106  
24 is amended by adding at the end the following:

1       “(d) LIMITATION ON LIABLE PARTIES.—No Federal  
2 agency or department with authority to use the imminent  
3 hazard, enforcement, and emergency response authorities  
4 under this section may use such authorities with respect  
5 to a release or threatened release for which the agency  
6 or department is a responsible party under section 107.”

7 **SEC. 302. INNOCENT PARTIES.**

8       (a) LIABILITY RELIEF FOR INNOCENT PARTIES.—  
9 Section 107(b) (42 U.S.C. 9607(b)) is amended to read  
10 as follows:

11       “(b) DEFENSES TO LIABILITY.—

12               “(1) IN GENERAL.—There shall be no liability  
13 under subsection (a) for a person otherwise liable  
14 who can establish by a preponderance of the evi-  
15 dence that the release or threat of release of a haz-  
16 ardous substance and the damages resulting there-  
17 from were caused solely by—

18                       “(A) an act of God;

19                       “(B) an act of war;

20                       “(C) an act or omission of a third party  
21 other than an employee or agent of the defend-  
22 ant, or other than one whose act or omission  
23 occurs in connection with a contractual relation-  
24 ship, existing directly or indirectly, with the de-  
25 fendant (except where the sole contractual ar-

1           rangement arises exclusively from a contract for  
2           carriage by a common carrier by rail), if the de-  
3           fendant establishes by a preponderance of the  
4           evidence that (i) the defendant exercised due  
5           care with respect to the hazardous substance  
6           concerned, taking into consideration the charac-  
7           teristics of such hazardous substance, in light  
8           of all relevant facts, circumstances, and gen-  
9           erally accepted good commercial and customary  
10          standards and practices at the time of the de-  
11          fendant's acts or omissions, and (ii) the defend-  
12          ant took precautions against foreseeable acts or  
13          omissions of any such third party and the con-  
14          sequences that could foreseeably result from  
15          such acts or omissions; or

16                 “(D) any combination of acts or omissions  
17                 described in subparagraphs (A), (B), and (C).

18                 “(2) LIABILITY RELIEF FOR INNOCENT PAR-  
19                 TIES.—

20                         “(A) OWNERS OR OPERATORS.—

21                                 “(i) IN GENERAL.—There shall be no  
22                                 liability under subsection (a) for a person  
23                                 whose liability is based solely on the per-  
24                                 son's status as an owner or operator of a



1 facility or vessel and who can establish by  
2 a preponderance of the evidence that—

3 “(I) the person acquired the fa-  
4 cility or vessel after the disposal or  
5 placement of the hazardous sub-  
6 stances for which liability is alleged  
7 under subsection (a);

8 “(II) the person did not, by any  
9 act or omission, cause or contribute to  
10 the release or threatened release of  
11 such hazardous substances; and

12 “(III) the person exercised ap-  
13 propriate care with respect to such  
14 hazardous substances.

15 “(ii) SPECIAL RULE FOR PROPERTY  
16 ACQUIRED AFTER DATE OF ENACTMENT  
17 OF CERCLA.—In addition to the require-  
18 ments of clause (i), a person who acquired  
19 ownership of a facility or vessel after De-  
20 cember 11, 1980, must establish by a pre-  
21 ponderance of the evidence that the per-  
22 son, prior to such acquisition, made all ap-  
23 propriate inquiry into the previous owner-  
24 ship and uses of the facility or vessel in ac-  
25 cordance with the generally accepted com-

1           mercial and customary standards and  
2           practices of the time of acquisition.

3           “(iii) SPECIAL RULE FOR PROPERTY  
4           ACQUIRED BEFORE MARCH 25, 1999.—In  
5           addition to the requirements of clauses (i)  
6           and (ii), a person who acquired a facility  
7           or vessel before March 25, 1999, must es-  
8           tablish by a preponderance of the evidence  
9           that, at the time the person acquired the  
10          facility or vessel, the person did not know  
11          and had no reason to know that any haz-  
12          ardous substance which is the subject of a  
13          release or threatened release was disposed  
14          of on, in, or at the facility or vessel. This  
15          clause shall not apply to any person who  
16          expanded, developed, or redeveloped a com-  
17          mercial or industrial facility, notwith-  
18          standing the presence or potential presence  
19          of hazardous substances, under a Federal,  
20          State, or local program for the redevelop-  
21          ment of property that is or may be con-  
22          taminated by hazardous substances.

23          “(B) RECIPIENTS OF PROPERTY BY IN-  
24          HERITANCE OR BEQUEST.—There shall be no li-  
25          ability under subsection (a) for a person whose

1 liability is based solely on the person's status  
2 as an owner or operator of a facility or vessel  
3 and who can establish by a preponderance of  
4 the evidence that the person meets the require-  
5 ments of subparagraph (A)(i) and that the per-  
6 son acquired the property by inheritance or be-  
7 quest.

8 “(C) RECIPIENTS OF PROPERTY BY CHARI-  
9 TABLE DONATION.—Liability under subsection  
10 (a) shall be limited to the lesser of the fair mar-  
11 ket value of the facility or vessel and the actual  
12 proceeds of the sale of the facility for a person  
13 whose liability is based solely on the person's  
14 status as an owner or operator of the facility or  
15 vessel and who can establish by a preponder-  
16 ance of the evidence that the person meets the  
17 requirements of subparagraph (A)(i) and that  
18 the person holding title, either outright or in  
19 trust, to the vessel or facility is an organization  
20 described in section 501(c)(3) of the Internal  
21 Revenue Code of 1986 and exempt from tax  
22 under section 501(a) of such Code and holds  
23 such title as a result of a charitable donation  
24 that qualifies under section 170, 2055, or 2522  
25 of such Code.

1           “(D) GOVERNMENTAL ENTITIES.—There  
2 shall be no liability under subsection (a) for a  
3 person that is a governmental entity, that meets  
4 the requirements of subparagraph (A)(i), and  
5 that acquired a facility or vessel by escheat or  
6 through any other involuntary transfer or by  
7 acquisition through the exercise of eminent do-  
8 main authority if the person’s liability is based  
9 solely on—

10                   “(i) the person’s status as an owner  
11 or operator of the facility or vessel; or

12                   “(ii) the granting of a license or per-  
13 mit to conduct business.

14           “(E) OWNERS AND OPERATORS OF SEW-  
15 AGE TREATMENT WORKS.—There shall be no li-  
16 ability under subsection (a) for a person who is  
17 an owner or operator of a treatment works (as  
18 defined in section 212(2) of the Federal Water  
19 Pollution Control Act) that is publicly or feder-  
20 ally owned or that, without regard to owner-  
21 ship, would be considered a publicly owned  
22 treatment works and is principally treating mu-  
23 nicipal waste water or domestic sewage and who  
24 can establish by a preponderance of the evi-  
25 dence that—

1           “(i) the treatment works, at the time  
2           of the release or threatened release, was  
3           subject to and in compliance with sub-  
4           stantive requirements for pretreatment  
5           under section 307 of the Federal Water  
6           Pollution Control Act applicable to the  
7           hazardous substances, pollutants, and con-  
8           taminants that are the subject of the re-  
9           sponse action; and

10           “(ii) the release or threatened release  
11           was not caused by a failure to properly op-  
12           erate and maintain the treatment works or  
13           by conduct that constitutes gross neg-  
14           ligence or intentional misconduct.

15           “(F) OWNERS OR OPERATORS OF RIGHTS-  
16           OF-WAY.—There shall be no liability under sub-  
17           section (a) for a person whose liability is based  
18           solely on ownership or operation of a road,  
19           street, or other right-of-way or public transpor-  
20           tation route (other than railroad rights-of-way  
21           and railroad property) over which hazardous  
22           substances are transported if such person can  
23           establish by a preponderance of the evidence  
24           that the person did not, by any act or omission,

1 cause or contribute to the release or threatened  
2 release.

3 “(G) RAILROAD OWNERS OR OPERATORS  
4 OF SPUR TRACK.—There shall be no liability  
5 under subsection (a) for a person whose liability  
6 is based solely on the status of the person as  
7 a railroad owner or railroad operator of a spur  
8 track, including a spur track over land subject  
9 to an easement, to a facility that is owned or  
10 operated by a person that is not affiliated with  
11 the railroad owner or operator if the railroad  
12 owner or operator can establish by a preponder-  
13 ance of the evidence that—

14 “(i) the spur track provides access to  
15 a main line or branch line track that is  
16 owned or operated by the railroad owner or  
17 operator;

18 “(ii) the spur track is 10 miles long or  
19 less; and

20 “(iii) the railroad owner or operator  
21 did not cause or contribute to a release or  
22 threatened release of the hazardous sub-  
23 stances for which liability is alleged under  
24 subsection (a).

1           “(H) CONSTRUCTION CONTRACTORS.—

2           There shall be no liability under subsection (a)  
3           for a person who is a construction contractor  
4           (other than a response action contractor cov-  
5           ered by section 119) if such person can estab-  
6           lish by a preponderance of the evidence that—

7                   “(i) the person’s liability is based sole-  
8                   ly on construction activities that were spe-  
9                   cifically directed by and carried out in ac-  
10                  cordance with a contract with an owner or  
11                  operator of the facility;

12                   “(ii) the person did not know or have  
13                   reason to know of the presence of haz-  
14                   ardous substances at the facility concerned  
15                   before beginning construction activities;  
16                   and

17                   “(iii) the person exercised appropriate  
18                   care with respect to the hazardous sub-  
19                   stances discovered in the course of per-  
20                   forming the construction activity, including  
21                   precautions against foreseeable acts of  
22                   third parties, taking into consideration the  
23                   characteristics of such hazardous sub-  
24                   stances, in light of all relevant facts, cir-  
25                   cumstances, and generally accepted good

1 commercial and customary standards and  
2 practices at the time of the person's acts  
3 or omissions.

4 “(3) APPROPRIATE CARE.—

5 “(A) SITE-SPECIFIC BASIS.—The deter-  
6 mination whether or not a person has exercised  
7 appropriate care with respect to hazardous sub-  
8 stances within the meaning of paragraph  
9 (2)(A)(i)(III) shall be made on a site-specific  
10 basis taking into consideration the characteris-  
11 tics of the hazardous substances, in light of all  
12 relevant facts, circumstances, and generally ac-  
13 cepted good commercial and customary stand-  
14 ards and practices at the time of the defend-  
15 ant's acts or omissions.

16 “(B) SAFE HARBOR.—A person shall be  
17 deemed to have exercised appropriate care with-  
18 in the meaning of paragraph (2)(A)(i)(III) if—

19 “(i) the person took reasonable steps  
20 to stop any continuing release, prevent any  
21 threatened future release, and prevent or  
22 limit human or natural resource exposure  
23 to any previously released hazardous sub-  
24 stance, or



1           “(ii) in any case in which the release  
2           or threatened release of hazardous sub-  
3           stances is the subject of a response action  
4           by persons authorized to conduct the re-  
5           sponse action at the facility or vessel, the  
6           person provides access for and all reason-  
7           able cooperation with the response action.

8           “(4) ALL APPROPRIATE INQUIRY.—

9           “(A) SITE-SPECIFIC BASIS.—The deter-  
10          mination whether or not a person has made all  
11          appropriate inquiry into the previous ownership  
12          and uses of a facility or vessel within the mean-  
13          ing of paragraph (2)(A)(ii) shall be made on a  
14          site-specific basis taking into account any spe-  
15          cialized knowledge or experience on the part of  
16          the person, the relationship of the purchase  
17          price to the value of the property if contami-  
18          nated, commonly known or reasonably ascer-  
19          tainable information about the property, the ob-  
20          viousness of the presence or likely presence of  
21          contamination at the property, and the ability  
22          to detect such contamination by appropriate in-  
23          spection.

24          “(B) ASTM SAFE HARBOR.—A person  
25          who has acquired real property shall be deemed

1 to have made all appropriate inquiry within the  
2 meaning of paragraph (2)(A)(ii) if the person—

3 “(i) establishes that an environmental  
4 assessment has been conducted in accord-  
5 ance with the standards set forth in the  
6 American Society for Testing and Mate-  
7 rials Standards E1527–94, entitled ‘Stand-  
8 ard Practice for Environmental Site As-  
9 sessments: Phase I Environmental Site As-  
10 sessment Process’ or with alternative  
11 standards issued by rule by the Adminis-  
12 trator or promulgated or developed by oth-  
13 ers and designated by rule by the Adminis-  
14 trator; and

15 “(ii) maintains a compilation of the  
16 information reviewed and gathered in the  
17 course of the environmental site assess-  
18 ment.

19 “(C) GOVERNMENTAL REVIEW SAFE HAR-  
20 BOR.—A person who has acquired real property  
21 shall be deemed to have made all appropriate  
22 inquiry within the meaning of paragraph  
23 (2)(A)(ii) if, prior to such acquisition, the per-  
24 son reviewed a final determination by a State or  
25 Federal environmental or health agency with ju-

1 jurisdiction over response actions at a facility that  
2 no further response action was planned at the  
3 facility based on the level of risk to human  
4 health and the environment.

5 “(5) LIMITATIONS.—No defense shall be avail-  
6 able to any of the following:

7 “(A) A person who obtained actual knowl-  
8 edge of a release or threat of release of a haz-  
9 ardous substance at a facility when such person  
10 owned the real property and subsequently  
11 transferred ownership of the property to an-  
12 other person without disclosing such knowledge.

13 “(B) A person who knowingly and willfully  
14 impedes the performance of a response action  
15 or natural resource restoration at a facility.

16 “(C) A person who did not provide all le-  
17 gally required notices with respect to the dis-  
18 covery or release of any hazardous substances  
19 at a facility.

20 “(D) A person (other than a person de-  
21 scribed in paragraph (2)(B)) who is affiliated  
22 with any other person liable for response costs  
23 at a facility through any direct or indirect fa-  
24 milial relationship or any contractual, cor-  
25 porate, or financial relationship other than that

1           created by the instruments by which title to the  
2           facility is conveyed or financed or by a contract  
3           for the sale of goods or services.

4           “(6) WINDFALL LIENS.—

5                   “(A) IN GENERAL.—In any case in which  
6           there are unrecovered response costs incurred  
7           by the United States at a facility for which an  
8           owner of the facility is not liable by reason of  
9           paragraph (2), and the conditions described in  
10          subparagraph (C) are met, the United States  
11          shall have a lien upon such facility for such un-  
12          recovered costs.

13                   “(B) SPECIAL RULES.—A lien under this  
14          paragraph—

15                           “(i) shall not exceed the increase in  
16           fair market value of the property attrib-  
17           utable to the response action at the time of  
18           a subsequent sale or other disposition of  
19           the property;

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

23                           “(iii) shall be subject to the require-  
24           ments for notice and validity established by  
25           subsection (1)(3);

1           “(iv) shall continue until the earlier of  
2           satisfaction of the lien or recovery of all re-  
3           sponse costs incurred at the facility; and

4           “(v) shall not arise against a recipient  
5           of a grant under section 127(b) or 127(c)  
6           with respect to such grant.

7           “(C) CONDITIONS.—The conditions re-  
8           ferred to in subparagraph (A) are the following:

9           “(i) A response action for which there  
10          are unrecovered costs is carried out at the  
11          facility.

12          “(ii) The United States has made rea-  
13          sonable efforts to recover such unrecovered  
14          response costs from parties liable under  
15          this section.

16          “(iii) Such response action increases  
17          the fair market value of the facility above  
18          the fair market value of the facility that  
19          existed in the 6-month period preceding  
20          the date that response action began.

21          “(D) LIMITATIONS.—No lien under this  
22          paragraph shall arise—

23          “(i) with respect to property for which  
24          the property owner preceding the current

1 owner is not a liable party or has resolved  
2 its liability under this Act; or

3 “(ii) in any case in which an environ-  
4 mental assessment gave the owner or oper-  
5 ator no reason to know of the release of  
6 hazardous substances.”.

7 (b) RENDERING CARE OR ADVICE.—

8 (1) STATE, TRIBAL, AND LOCAL GOVERN-  
9 MENTS.—Section 107(d)(2) (42 U.S.C. 9607(d)(2))  
10 is amended to read as follows:

11 “(2) STATE, TRIBAL, AND LOCAL GOVERN-  
12 MENTS.—

13 “(A) IN GENERAL.—No State, tribal, or  
14 local government, including a municipality or  
15 other political subdivision of a State, shall be  
16 liable under this title for costs or damages as  
17 a result of—

18 “(i) actions taken in response to an  
19 emergency created by the release or threat-  
20 ened release of a hazardous substance gen-  
21 erated by or from a facility owned by an-  
22 other person; or

23 “(ii) actions to improve water quality  
24 protection at an abandoned mine site and  
25 adjacent lands that are owned by a person

1           other than the State, tribal, or local gov-  
2           ernment if such actions are taken in ac-  
3           cordance with a response action approved  
4           under applicable State or Federal law.

5           “(B) LIMITATION ON STATUTORY CON-  
6           STRUCTION.—This paragraph shall not be con-  
7           strued to preclude liability for costs or damages  
8           as a result of gross negligence or intentional  
9           misconduct by a governmental entity referred to  
10          in subparagraph (A). For the purpose of the  
11          preceding sentence, reckless, willful, or wanton  
12          misconduct shall constitute gross negligence.”.

13          (2) SAVINGS PROVISION.—Section 107(d)(3)  
14          (42 U.S.C. 9607(d)(3)) is amended by striking  
15          “‘This’” and inserting “‘Except with respect to costs  
16          and damages referred to in paragraphs (1) and  
17          (2)(A), this’”.

18          (c) CLARIFICATION OF LIABILITY FOR CONTIGUOUS  
19          PROPERTY OWNERS.—Section 101(20) (42 U.S.C.  
20          9601(20)) is amended by adding at the end the following:

21                 “(H) CONTIGUOUS PROPERTY OWNER.—The  
22                 term ‘owner or operator’ does not include a person  
23                 who owns or operates real property that is contig-  
24                 uous to, or onto which a release has migrated from,  
25                 a facility under separate ownership or operation

1 from which there is a release or threatened release  
2 of a hazardous substance if—

3 “(i) the person did not, by any act or omis-  
4 sion, cause or contribute to the release or  
5 threatened release of a hazardous substance;  
6 and

7 “(ii) the person is not affiliated with any  
8 other person that is potentially liable for any  
9 response costs at the facility at which there has  
10 been a release or threatened release of a haz-  
11 ardous substance.”.

12 (d) CONFORMING AMENDMENTS.—Section 101 (42  
13 U.S.C. 9601) is amended by striking paragraph (35).

14 **SEC. 303. STATUTORY CONSTRUCTION.**

15 Section 107(f) (42 U.S.C. 9607(f)) is amended—

16 (1) by inserting “SPECIAL RULES FOR NAT-  
17 URAL RESOURCES.—” after “(f)”;

18 (2) by indenting paragraph (1) and aligning it  
19 with paragraph (2) of such section; and

20 (3) by adding at the end the following:

21 “(3) UNITARY EXECUTIVE.—In any judicial ac-  
22 tion brought under this Act by the United States  
23 seeking recovery for damages to natural resources,  
24 any brief or motion addressing the interpretation  
25 and construction of this subsection filed by the



1 United States in any other judicial action seeking re-  
2 covery from the United States for damages to nat-  
3 ural resources under this Act shall be admissible in  
4 the action brought by the United States.”.

5 **SEC. 304. LIVESTOCK TREATMENT.**

6 Section 107(i) (42 U.S.C. 9607(i)) is amended—

7 (1) by inserting “LIMITATION ON LIABILITY  
8 FOR APPLICATION OF PESTICIDE PRODUCTS.—”  
9 after “(i)”;

10 (2) by striking “No person” and inserting “(1)  
11 IN GENERAL.—No person”;

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

13 “(2) APPLICATION IN COMPLIANCE WITH  
14 LAW.—For the purposes of paragraph (1), the term  
15 ‘application of a pesticide product registered under  
16 the Federal Insecticide, Fungicide, and Rodenticide  
17 Act’ includes a release of a hazardous substance re-  
18 sulting from the application, before the date of en-  
19 actment of this paragraph, of any pesticide, insecti-  
20 cide, or similar product in compliance with a Federal  
21 or State law (including a regulation) requiring the  
22 treatment of livestock to prevent, suppress, control,  
23 or eradicate any dangerous, contagious, or infectious  
24 disease or any vector organism for such disease.”;  
25 and

1           (4) by indenting and aligning paragraph (1) (as  
2           designated by paragraph (2) of this section) with  
3           paragraph (2) (as added by paragraph (3) of this  
4           section).

5 **SEC. 305. LIABILITY RELIEF FOR SMALL BUSINESSES, MU-**  
6                   **NICIPAL SOLID WASTE, SEWAGE SLUDGE, MU-**  
7                   **NICIPAL OWNERS AND OPERATORS, AND DE**  
8                   **MICROMIS CONTRIBUTORS.**

9           (a) LIMITATION ON LIABILITY FOR SMALL BUSI-  
10          NESSES.—Section 107 (42 U.S.C. 9607) is amended by  
11          adding at the end the following:

12           “(o) LIMITATION ON LIABILITY FOR SMALL BUSI-  
13          NESSES.—

14           “(1) IN GENERAL.—With respect to actions  
15          taken before March 25, 1999, no small business con-  
16          cern shall be liable under subsection (a)(3) or (a)(4)  
17          for response costs or damages at a facility or vessel  
18          on the National Priorities List.

19           “(2) LIMITATION.—Paragraph (1) shall not  
20          apply to an action brought by the President against  
21          a small business concern if the hazardous substances  
22          attributable to the small business concern have con-  
23          tributed, or contribute, significantly to the costs of  
24          the response action at the facility.

1           “(3) SMALL BUSINESS CONCERN DEFINED.—In  
2           this subsection, the term ‘small business concern’  
3           means a business entity that on average over the  
4           previous 3 years preceding the date of notification  
5           by the President that the business entity is a poten-  
6           tially responsible party—

7                     “(A) has no more than 75 full-time em-  
8                     ployees or the equivalent thereof; and

9                     “(B) has \$3,000,000 or less in gross reve-  
10                    nues.”.

11           (b) LIABILITY RELIEF FOR MUNICIPAL SOLID  
12 WASTE AND SEWAGE SLUDGE.—Section 107 is further  
13 amended by adding at the end the following:

14           “(p) LIABILITY EXEMPTIONS AND LIMITATIONS FOR  
15 MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—

16                     “(1) PRE-ENACTMENT ACTIVITIES.—

17                     “(A) IN GENERAL.—Except as provided in  
18                     subparagraph (B), no person shall be liable  
19                     under subsection (a)(3) or (a)(4) for response  
20                     costs or damages at a landfill facility on the  
21                     National Priorities List to the extent that the  
22                     person arranged or transported municipal solid  
23                     waste or municipal sewage sludge prior to the  
24                     date of enactment of this paragraph for dis-  
25                     posal at the landfill facility.

1           “(B) EXCEPTION.—Notwithstanding sub-  
2 paragraph (A), if the President determines that  
3 a person transported material containing haz-  
4 arduous substances to a landfill facility that has  
5 contributed, or contributes, significantly to the  
6 costs of response at the facility and such person  
7 is engaged in the business of transporting waste  
8 materials, such person may be liable under sub-  
9 section (a)(4). The liability of such person shall  
10 be subject to the aggregate limits on liability  
11 for municipal solid waste set forth in paragraph  
12 (2). Any determination of such person’s equi-  
13 table share of response costs shall be deter-  
14 mined on the basis of such person’s equitable  
15 share of the aggregate amount of response costs  
16 attributable to municipal solid waste and mu-  
17 nicipal sewage sludge under paragraph (2).

18           “(2) POST-ENACTMENT ACTIVITIES.—

19           “(A) IN GENERAL.—To the extent that a  
20 person or group of persons is liable under sub-  
21 section (a)(3) or (a)(4) for arranging or trans-  
22 porting municipal solid waste or municipal sew-  
23 age sludge for disposal at a landfill facility on  
24 the National Priorities List on or after the date  
25 of enactment of this paragraph and is not ex-

1           empt from liability under paragraph (3), the  
2           total aggregate liability for all such persons or  
3           groups of persons for response costs at such a  
4           landfill facility shall not exceed 10 percent of  
5           such costs. With respect to actions taken on or  
6           after the date that is 36 months after the date  
7           of enactment of this paragraph this limitation  
8           on liability shall apply only at a landfill facility  
9           within a municipality that has instituted or par-  
10          ticipates in a qualified household hazardous  
11          waste collection program.

12                 “(B) EXPEDITED SETTLEMENTS.—The  
13          President may offer a person subject to a limi-  
14          tation on liability under subparagraph (A) an  
15          expedited settlement based on the average unit  
16          cost of remediating municipal solid waste and  
17          municipal sewage sludge in landfills in lieu of  
18          the aggregate 10 percent limitation on liability  
19          provided by subparagraph (A).

20                 “(3) SPECIAL RULE.—No person shall be liable  
21          under subsection (a)(3) or (a)(4) for response costs  
22          or damages at a landfill facility on the National Pri-  
23          orities List to the extent that—

1           “(A) the materials that the person ar-  
2 ranged or transported for disposal consist of  
3 municipal solid waste; and

4           “(B) the person is—

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

9               “(ii) a business entity that employs no  
10 more than 100 individuals and is a small  
11 business concern as defined under the  
12 Small Business Act (15 U.S.C. 631 et  
13 seq.) from which was generated all of the  
14 entity’s municipal solid waste with respect  
15 to the facility; or

16               “(iii) an organization described in sec-  
17 tion 501(c)(3) of the Internal Revenue  
18 Code of 1986 and exempt from tax under  
19 section 501(a) of such Code if such organi-  
20 zation employs no more than 100 paid in-  
21 dividuals at the location from which was  
22 generated all of the municipal solid waste  
23 attributable to the organization with re-  
24 spect to the facility.

1           “(4) MIXED WASTES.—Liability for wastes that  
2 do not fall within the definition of municipal solid  
3 waste under paragraph (5)(A) and are collected and  
4 disposed of with municipal solid wastes and munic-  
5 ipal sewage sludge shall be governed by section  
6 107(a) and any applicable exemptions or limitations  
7 on liability without regard to the wastes covered by  
8 paragraph (5)(A).

9           “(5) DEFINITIONS.—In this section, the fol-  
10 lowing definitions apply:

11           “(A) MUNICIPAL SOLID WASTE.—The term  
12 ‘municipal solid waste’ means waste materials  
13 generated by households, including single and  
14 multifamily residences, and hotels and motels,  
15 and waste materials generated by commercial,  
16 institutional, and industrial sources, to the ex-  
17 tent that such materials (i) are essentially the  
18 same as waste materials normally generated by  
19 households, or (ii) are collected and disposed of  
20 with other municipal solid waste, and contain  
21 hazardous substances that would qualify for the  
22 de micromis exemption under section 107(r).  
23 The term includes food and yard waste, paper,  
24 clothing, appliances, consumer product pack-  
25 aging, disposable diapers, office supplies, cos-

1           metics, glass and metal food containers, wooden  
2           pallets, cardboard, elementary or secondary  
3           school science laboratory waste, and household  
4           hazardous waste. The term does not include  
5           combustion ash generated by resource recovery  
6           facilities or municipal incinerators; solid waste  
7           from the extraction, beneficiation, and proc-  
8           essing of ores and minerals; or waste from  
9           manufacturing or processing operations (includ-  
10          ing pollution control) that is not essentially the  
11          same as waste normally generated by house-  
12          holds.

13                 “(B) MUNICIPAL SEWAGE SLUDGE.—The  
14           term ‘municipal sewage sludge’ means solid,  
15           semisolid, or liquid residue removed during the  
16           treatment of municipal waste water, domestic  
17           sewage, or other waste water at or by (i) a pub-  
18           licly owned treatment works, (ii) a federally  
19           owned treatment works, or (iii) a treatment  
20           works that, without regard to ownership, would  
21           be considered to be a publicly owned treatment  
22           works and is principally treating municipal  
23           waste water or domestic sewage.

24                 “(C) QUALIFIED HOUSEHOLD HAZARDOUS  
25           WASTE COLLECTION PROGRAM.—The term



1           ‘qualified household hazardous waste collection  
2           program’ means a program established by an  
3           entity of the Federal Government, a State, a  
4           municipality, or an Indian tribe that provides,  
5           at a minimum, for semiannual collection of  
6           household hazardous waste at accessible, well-  
7           publicized collection points within the relevant  
8           jurisdiction.

9           “(q) LIMITATION ON LIABILITY FOR MUNICIPAL  
10          OWNERS AND OPERATORS.—

11           “(1) AGGREGATE LIABILITY OF SMALL MUNICI-  
12          PALITIES.—With respect to a facility that received  
13          municipal solid waste, that was proposed for listing  
14          on the National Priorities List before March 25,  
15          1999, that is or was owned or operated by munici-  
16          palities with a population of less than 100,000 ac-  
17          cording to the 1990 census, and that is not subject  
18          to the criteria for solid waste landfills published  
19          under subtitle D of the Solid Waste Disposal Act  
20          (42 U.S.C. 6941 et seq.) at part 258 of title 40,  
21          Code of Federal Regulations (or a successor regula-  
22          tion), the aggregate liability of such municipalities  
23          for response costs incurred on or after March 25,  
24          1999, shall be the lesser of—

1           “(A) 10 percent of the total amount of re-  
2           sponse costs at the facility; or

3           “(B) the costs of compliance with the re-  
4           quirements of such subtitle for the facility (as  
5           if the facility had continued to accept municipal  
6           solid waste through January 1, 1997).

7           “(2) AGGREGATE LIABILITY OF LARGE MUNICI-  
8           PALITIES.—With respect to a facility that received  
9           municipal solid waste, that was proposed for listing  
10          on the National Priorities List before March 25,  
11          1999, that is or was owned or operated by munici-  
12          palities with a population of 100,000 or more ac-  
13          cording to the 1990 census, and that is not subject  
14          to the criteria for solid waste landfills published  
15          under subtitle D of the Solid Waste Disposal Act  
16          (42 U.S.C. 6941 et seq.) at part 258 of title 40,  
17          Code of Federal Regulations (or a successor regula-  
18          tion), the aggregate liability of such municipalities  
19          for response costs incurred on or after March 25,  
20          1999, shall be the lesser of—

21                 “(A) 20 percent of the total amount of re-  
22                 sponse costs at the facility; or

23                 “(B) the costs of compliance with the re-  
24                 quirements of such subtitle for the facility (as

1           if the facility had continued to accept municipal  
2           solid waste through January 1, 1997).”.

3           (c) DE MICROMIS EXEMPTION.—Section 107 is fur-  
4 ther amended by adding at the end the following:

5           “(r) DE MICROMIS EXEMPTION.—

6           “(1) IN GENERAL.—In the case of a facility or  
7 vessel listed on the National Priorities List, no per-  
8 son shall be liable under subsection (a)(3) or (a)(4)  
9 if no more than 110 gallons or 200 pounds of mate-  
10 rials containing hazardous substances at the facility  
11 or vessel is attributable to such person, and the acts  
12 on which liability is based took place before the date  
13 of enactment of this paragraph.

14           “(2) EXCEPTION.—Paragraph (1) shall not  
15 apply in a case in which the President determines  
16 that the material described in paragraph (1) has  
17 contributed, or contributes, significantly to the costs  
18 of response at the facility.”.

19           (d) INELIGIBILITY FOR EXEMPTIONS OR LIMITA-  
20 TIONS.—Section 107 is further amended by adding at the  
21 end the following:

22           “(s) INELIGIBILITY FOR EXEMPTIONS OR LIMITA-  
23 TIONS.—

24           “(1) IMPEDING RESPONSE OR RESTORATION.—

25           The exemptions and limitations set forth in sub-

1 sections (o), (p), (q), and (r) and sections 114(c)  
2 and 130 shall not apply to any person with respect  
3 to a facility if such person impedes the performance  
4 of a response action or natural resource restoration  
5 at the facility.

6 “(2) FAILURE TO RESPOND TO INFORMATION  
7 REQUEST.—The exemptions and limitations set forth  
8 in subsections (o), (p), (q), and (r) and sections  
9 114(c) and 130 shall not apply to any person who—

10 “(A) willfully fails to submit a complete  
11 and timely response to an information request  
12 under section 104(e); or

13 “(B) knowingly makes any false or mis-  
14 leading material statement or representation in  
15 any such response.

16 “(3) FAILURE TO PROVIDE COOPERATION AND  
17 FACILITY ACCESS.—The limitation set forth in sub-  
18 section (q) shall not apply to any owner or operator  
19 of a facility who does not provide all reasonable co-  
20 operation and facility access to persons authorized to  
21 conduct response actions at the facility.”.

22 (e) EXEMPT PARTY FUNDING; CONCLUDED AC-  
23 TIONS; OVERSIGHT COSTS.—Section 107 is further  
24 amended by adding at the end the following:

25 “(t) EXEMPT PARTY FUNDING.—

1           “(1) EXEMPT PARTY FUNDING.—Except as  
2           provided in paragraph (2), the equitable share of li-  
3           ability under section 107(a) for any release or  
4           threatened release of a hazardous substance from a  
5           facility or vessel on the National Priorities List that  
6           is extinguished through an exemption or limitation  
7           on liability under subsection (o), (p), or (q) of this  
8           section, section 114(c), or section 130 shall be trans-  
9           ferred to and assumed by the Trust Fund.

10           “(2) CERTAIN MSW GENERATORS.—Paragraph  
11           (1) shall not apply to the equitable share of liability  
12           of any person who would have been liable under sub-  
13           section (a)(3) or (a)(4) but for the exemption from  
14           liability under subsection (p)(3).

15           “(3) SOURCE OF FUNDS.—Payments made by  
16           the Trust Fund or work performed on behalf of the  
17           Trust Fund to meet the obligations under paragraph  
18           (1) shall be funded from amounts made available by  
19           section 111(a)(1).

20           “(u) EFFECT ON CONCLUDED ACTIONS.—The ex-  
21           emptions from and limitations on liability provided under  
22           subsections (o), (p), (q), and (r) and sections 114(c) and  
23           130 shall not affect any settlement or judgment approved  
24           by a United States District Court not later than 30 days  
25           after the date of enactment of this subsection or any ad-

1 ministrative action against a person otherwise covered by  
2 such exemption or limitation that becomes effective not  
3 later than 30 days after such date of enactment.

4 “(v) LIMITATION ON RECOVERY OF OVERSIGHT  
5 COSTS.—

6 “(1) IN GENERAL.—Costs of oversight of a re-  
7 sponse action shall not be recoverable under this sec-  
8 tion from a person referred to in paragraph (2) to  
9 the extent that such costs exceed 10 percent of the  
10 costs of the response action.

11 “(2) ACCOUNTING OF RESPONSE COSTS.—Para-  
12 graph (1) shall apply only to a person who provides  
13 the Administrator with an accounting of the direct  
14 and indirect costs that the person incurred in con-  
15 ducting the response action. The Administrator may  
16 require an independent audit of the costs from such  
17 person.”.

18 (f) SMALL BUSINESS OMBUDSMAN.—The Adminis-  
19 trator shall establish a small business Superfund assist-  
20 ance section within the small business ombudsman office  
21 at the Environmental Protection Agency. Such section  
22 shall carry out the following functions:

23 (1) Act as a clearinghouse of information for  
24 small businesses regarding the Comprehensive Envi-  
25 ronmental Response, Compensation, and Liability

1 Act of 1980. Such information shall be comprehen-  
2 sible to a lay person and shall include information  
3 regarding the exemptions to liability under section  
4 107 of such Act, the allocation process under section  
5 131 of such Act, requirements and procedures for  
6 expedited settlements pursuant to section 122(g) of  
7 such Act, and de minimis status and ability-to-pay  
8 procedures.

9 (2) Provide general advice and assistance to  
10 small businesses as to their questions and problems  
11 concerning liability and the exemptions to liability  
12 under such Act and the allocation and settlement  
13 processes, except that such advice and assistance  
14 shall not include any legal advice as to liability or  
15 any other legal representation. The ombudsman  
16 shall not participate in the allocation process.

17 **SEC. 306. AMENDMENTS TO SECTION 113.**

18 Section 113(f) (42 U.S.C. 9613(f)) is amended—

19 (1) by adding at the end the following:

20 “(4) LIMITATIONS ON CONTRIBUTION AC-  
21 TIONS.—

22 “(A) IN GENERAL.—There shall be no  
23 right of contribution under this subsection in  
24 any of the following circumstances:

1           “(i) The person asserting the right of  
2           contribution has waived the right in a set-  
3           tlement pursuant to this Act.

4           “(ii) The person from whom contribu-  
5           tion is sought is not liable under this Act.

6           “(iii) The person from whom con-  
7           tribution is sought has entered into a set-  
8           tlement with the United States pursuant to  
9           section 122(g), with respect to matters ad-  
10          dressed in that settlement.

11          “(B) ATTORNEYS’ FEES.—Any person who  
12          commences an action for contribution shall be  
13          liable to the person against whom the claim of  
14          contribution is brought for all reasonable costs  
15          of defending against the claim, including all  
16          reasonable attorneys’ and expert witness fees,  
17          if—

18                 “(i) the action is barred by subpara-  
19                 graph (A);

20                 “(ii) the action is brought against a  
21                 person who is protected from such suits  
22                 pursuant to section 113(f)(2) by reason of  
23                 a settlement with the United States; or



1                   “(iii) the action is brought during the  
2                   moratorium pursuant to section 131 (relat-  
3                   ing to allocation).”.

4 **SEC. 307. LIABILITY OF RESPONSE ACTION CONTRACTORS.**

5           (a) **EXTENSION OF NEGLIGENCE STANDARD.**—Sub-  
6 section (a) of section 119 (42 U.S.C. 9619(a)) is  
7 amended—

8           (1) in paragraph (1) by striking “title or under  
9           any other Federal law” and inserting “title, under  
10           any other Federal law, or under the law of any State  
11           or political subdivision of a State”;

12           (2) by adding at the end of paragraph (1) the  
13           following: “Notwithstanding the preceding sentence,  
14           this section shall not apply in determining the liabil-  
15           ity of a response action contractor under the law of  
16           any State or political subdivision thereof if the State  
17           has enacted a law determining the liability of a re-  
18           sponse action contractor.”; and

19           (3) by adding at the end of paragraph (2) the  
20           following: “Such conduct shall be evaluated based on  
21           the generally accepted standards and practices in ef-  
22           fect at the time and place that the conduct oc-  
23           curred.”.

24           (b) **CLARIFICATION OF LIABILITY.**—Section 119(a)  
25 is amended by inserting after paragraph (4) the following:

1           “(5) LIABILITY.—Notwithstanding any other  
2           provision of this Act, any liability of a response ac-  
3           tion contractor under this Act shall be determined  
4           solely in accordance with this section.”.

5           (c) EXTENSION OF INDEMNIFICATION AUTHORITY.—  
6           Section 119(c) is amended by adding at the end of para-  
7           graph (1) the following: “Any such agreement may apply  
8           to claims for negligence arising under Federal law or  
9           under the law of any State or political subdivision of a  
10          State.”.

11          (d) INDEMNIFICATION FOR THREATENED RE-  
12          LEASES.—Section 119(c)(5) is amended in subparagraph  
13          (A) by inserting “or threatened release” after “release”  
14          each place it appears.

15          (e) EXTENSION OF COVERAGE TO ALL RESPONSE  
16          ACTIONS.—Section 119(e)(1) is amended—

17                 (1) by striking “carrying out an agreement  
18                 under section 106 or 122”; and

19                 (2) by striking “any remedial action under this  
20                 Act at a facility listed on the National Priorities  
21                 List, or any removal action under this Act,” and in-  
22                 serting “any response as defined by section  
23                 101(25),”.

24          (f) LIMITATION ON ACTIONS.—Section 119 is amend-  
25          ed by adding at the end the following:

1           “(h) LIMITATION ON ACTIONS AGAINST RESPONSE  
2 ACTION CONTRACTORS.—No action to recover for any in-  
3 jury to property, real or personal, or for bodily injury or  
4 wrongful death, or any other expenses or costs arising out  
5 of the performance of services under a response action  
6 contract, nor any action for contribution or indemnity for  
7 damages sustained as a result of such injury, shall be  
8 brought against any response action contractor more than  
9 6 years after the completion of work at any site under  
10 such contract. Notwithstanding the preceding sentence,  
11 this section shall not—

12                   “(1) bar recovery for a claim caused by the con-  
13 duct of the response action contractor that is grossly  
14 negligent or that constitutes intentional misconduct;

15                   “(2) affect any right of indemnification that  
16 such response action contractor may have under this  
17 section or may acquire by written agreement with  
18 any party; or

19                   “(3) apply in any State or political subdivision  
20 thereof if the State has enacted a statute of repose  
21 determining the liability of a response action con-  
22 tractor.”.

1 **SEC. 308. AMENDMENTS TO SECTION 122.**

2 (a) ADMINISTRATIVE SETTLEMENTS.—Section 122  
3 (42 U.S.C. 9622) is amended by adding at the end the  
4 following:

5 “(n) CHALLENGE TO COST RECOVERY COMPONENT  
6 OF SETTLEMENT.—Notwithstanding the limitations on re-  
7 view in section 113(h), and except as provided in sub-  
8 section (g) of this section, a person whose potential claim  
9 for response costs or contribution is limited as a result  
10 of contribution protection afforded by an administrative  
11 settlement under this section may challenge the cost recov-  
12 ery component of such settlement. Such a challenge may  
13 be made only by filing a complaint against the Adminis-  
14 trator in the United States District Court within 60 days  
15 after such settlement becomes final. Venue shall lie in the  
16 district in which the principal office of the appropriate re-  
17 gion of the Environmental Protection Agency is located.  
18 Any review of an administrative settlement shall be limited  
19 to the administrative record, and the settlement shall be  
20 upheld unless the objecting party can demonstrate on that  
21 record that the decision of the President to enter into the  
22 administrative settlement was arbitrary, capricious, or  
23 otherwise not in accordance with law.”.

24 (b) FINAL COVENANTS.—Section 122(f) is  
25 amended—

1           (1) by striking paragraph (1) and inserting the  
2 following:

3           “(1) FINAL COVENANTS.—The President shall  
4 offer potentially responsible parties who enter into  
5 settlement agreements that are in the public interest  
6 a final covenant not to sue concerning any liability  
7 to the United States under this Act, including a cov-  
8 enant with respect to future liability, for response  
9 actions or response costs addressed in the settle-  
10 ment, if all of the following conditions are met:

11           “(A) The settling party agrees to perform,  
12 or there are other adequate assurances of the  
13 performance of, a final remedial action author-  
14 ized by the Administrator for the release or  
15 threat of release that is the subject of the set-  
16 tlement.

17           “(B) The settlement agreement has been  
18 reached prior to the commencement of litigation  
19 against the settling party under section 106 or  
20 107 of this Act with respect to this facility.

21           “(C) The settling party waives all contribu-  
22 tion rights against other potentially responsible  
23 parties at the facility.

24           “(D) The settling party (other than a  
25 small business) pays a premium that com-

1           pensates for the risks of remedy failure; future  
2           liability resulting from unknown conditions; and  
3           unanticipated increases in the cost of any  
4           uncompleted response action, unless the settling  
5           party is performing the response action. The  
6           President shall have sole discretion to deter-  
7           mine the appropriate amount of any such pre-  
8           mium, and such determinations are committed  
9           to the President’s discretion. The President has  
10          discretion to waive or reduce the premium pay-  
11          ment for persons who demonstrate an inability  
12          to pay such a premium.

13                 “(E) The remedial action does not rely on  
14          institutional controls to ensure continued pro-  
15          tection of human health and the environment.

16                 “(F) The settlement is otherwise accept-  
17          able to the United States.”;

18                 (2) in paragraph (2) by striking “remedial”  
19          each place it appears and inserting “response”;

20                 (3) by striking paragraph (3) and inserting the  
21          following:

22                 “(3) DISCRETIONARY COVENANTS.—For settle-  
23          ments under this Act for which covenants under  
24          paragraph (1) are not available, the President may  
25          provide any person with a covenant not to sue con-

1       cerning any liability to the United States under this  
2       Act, if the covenant not to sue is in the public inter-  
3       est. Such covenants shall be subject to the require-  
4       ments of paragraph (5). The President may include  
5       any conditions in such covenant not to sue, including  
6       the additional condition referred to in paragraph (5).  
7       In determining whether such conditions or covenants  
8       are in the public interest, the President shall con-  
9       sider the nature and scope of the commitment by the  
10      settling party under the settlement, the effectiveness  
11      and reliability of the response action, the nature of  
12      the risks remaining at the facility, the strength of  
13      evidence, the likelihood of cost recovery, the reli-  
14      ability of any response action or actions to restore,  
15      replace, or acquire the equivalent of injured natural  
16      resources, the extent to which performance stand-  
17      ards are included in the order or decree, the extent  
18      to which the technology used in the response action  
19      is demonstrated to be effective, and any other fac-  
20      tors relevant to the protection of human health and  
21      the environment.”;

22           (4) by striking paragraph (4) and redesignating  
23      paragraphs (5) and (6) as paragraphs (4) and (5),  
24      respectively;

1           (5) in subparagraph (A) of paragraph (5) (as  
2       so redesignated)—

3           (A) by striking “remedial” and inserting  
4       “response”;

5           (B) by striking “paragraph (2)” in the  
6       first sentence and inserting “paragraph (1) or  
7       (2)”;

8           (C) by striking “de minimis settlements”  
9       and inserting “de minimis and other expedited  
10       settlements pursuant to subsection (g) of this  
11       section”; and

12          (D) by striking “the President certifies  
13       under paragraph (3) that remedial action has  
14       been completed at the facility concerned” and  
15       inserting “that the response action that is the  
16       subject of the settlement agreement is se-  
17       lected”; and

18          (6) in subparagraph (B) of paragraph (5) (as  
19       so redesignated)—

20          (A) by striking “In extraordinary cir-  
21       cumstances, the” and inserting “The”;

22          (B) by striking “those referred to in para-  
23       graph (4) and”;

24          (C) by striking “if other terms,” and in-  
25       serting “, if the agreement containing the cov-



1           enant not to sue provides for payment of a pre-  
2           mium to address possible remedy failure or any  
3           releases that may result from unknown condi-  
4           tions, and if other terms,”; and

5           (D) by adding at the end the following:  
6           “The President may waive or reduce the pre-  
7           mium payment for persons who demonstrate an  
8           inability to pay such a premium.”.

9           (c) EXPEDITED FINAL SETTLEMENTS.—Section 122  
10          is further amended—

11           (1) in subsection (g) by striking “(g)” and all  
12          that follows through the period at the end of para-  
13          graph (1) and inserting the following:

14          “(g) EXPEDITED FINAL SETTLEMENT.—

15           “(1) PARTIES ELIGIBLE FOR EXPEDITED SET-  
16          TLEMENT.—The President shall, as promptly as pos-  
17          sible, offer to reach a final administrative or judicial  
18          settlement with potentially responsible parties who,  
19          in the judgment of the President, meet the following  
20          conditions for eligibility for an expedited settlement  
21          in subparagraph (A) or (B):

22           “(A) The potentially responsible party’s in-  
23          dividual contribution to the release of haz-  
24          ardous substances at the facility as an owner or  
25          operator, arranger for disposal, or transporter

1 for disposal is de minimis. The contribution of  
2 hazardous substance to a facility by a poten-  
3 tially responsible party is de minimis if both of  
4 the following conditions are met:

5 “(i) The contribution of materials  
6 containing hazardous substances that the  
7 potentially responsible party arranged or  
8 transported for treatment or disposal, or  
9 that were treated or disposed during the  
10 potentially responsible party’s period of  
11 ownership or operation of the facility, is  
12 minimal in comparison to the total volume  
13 of materials containing hazardous sub-  
14 stances at the facility. Such individual con-  
15 tribution is presumed to be minimal if it is  
16 not more than 1 percent of the total vol-  
17 ume of such materials, unless the Adminis-  
18 trator identifies a different threshold based  
19 on site-specific factors.

20 “(ii) Such hazardous substances do  
21 not present toxic or other hazardous ef-  
22 fects that are significantly greater than  
23 those of other hazardous substances at the  
24 facility.

1           “(B)(i) The potentially responsible party is  
2 a natural person, a small business, or a munic-  
3 ipality and can demonstrate to the United  
4 States an inability or limited ability to pay re-  
5 sponse costs. A party who enters into a settle-  
6 ment pursuant to this subparagraph shall be  
7 deemed to have resolved its liability under this  
8 Act to the United States for all matters ad-  
9 dressed in the settlement.

10           “(ii) For purposes of this subparagraph,  
11 the following provisions apply:

12           “(I) In the case of a small business,  
13 the President shall take into consideration  
14 the ability to pay of the business, if re-  
15 quested by the business. The term ‘ability  
16 to pay’ means the President’s reasonable  
17 expectation of the ability of the small busi-  
18 ness to pay its total settlement amount  
19 and still maintain its basic business oper-  
20 ations. Such consideration shall include the  
21 business’s overall financial condition and  
22 demonstrable constraints on its ability to  
23 raise revenues.

24           “(II) Any business requesting such  
25 consideration shall promptly provide the

1           President with all relevant information  
2           needed to determine the business's ability  
3           to pay.

4                   “(III) If the President determines  
5           that a small business is unable to pay its  
6           total settlement amount immediately, the  
7           President shall consider alternative pay-  
8           ment methods as may be necessary or ap-  
9           propriate. The methods to be considered  
10          may include installment payments to be  
11          paid during a period of not to exceed 10  
12          years and the provision of in-kind services.

13                   “(iii) Any municipality which is a poten-  
14          tially responsible party may submit for consid-  
15          eration by the President an evaluation of the  
16          potential impact of the settlement on essential  
17          services that the municipality must provide, and  
18          the feasibility of making delayed payments or  
19          payments over time. If a municipality asserts  
20          that it has additional environmental obligations  
21          besides its potential liability under this Act,  
22          then the municipality may create a list of the  
23          obligations, including an estimate of the costs  
24          of complying with such obligations.

1           “(iv) Any municipality which is a poten-  
2           tially responsible party may establish an inabil-  
3           ity to pay through an affirmative showing that  
4           such payment of its liability under this Act  
5           would either—

6                   “(I) create a substantial demonstrable  
7                   risk that the municipality would default on  
8                   existing debt obligations, be forced into  
9                   bankruptcy, be forced to dissolve, or be  
10                  forced to make budgetary cutbacks that  
11                  would substantially reduce current levels of  
12                  protection of public health and safety; or

13                  “(II) necessitate a violation of legal  
14                  requirements or limitations of general ap-  
15                  plicability concerning the assumption and  
16                  maintenance of fiscal municipal obliga-  
17                  tions.

18           “(v) This subparagraph does not limit or  
19           affect the President’s authority to evaluate any  
20           person’s ability to pay or to enter into settle-  
21           ments with any person based on that person’s  
22           inability to pay.”;

23           (2) by striking paragraphs (2) and (3) of sub-  
24           section (g) and inserting the following:

1           “(2) BASIS OF DETERMINATION.—Any person  
2 who enters into a settlement pursuant to this sub-  
3 section shall provide any information requested by  
4 the President in accordance with section 104(e). The  
5 determination of whether a person is eligible for an  
6 expedited settlement shall be made on the basis of  
7 all information available to the President at the time  
8 the determination is made. The President’s deter-  
9 mination as to the eligibility of a party that is not  
10 a department, agency, or instrumentality of the  
11 United States for settlement pursuant to this section  
12 shall not be subject to judicial review. If the Presi-  
13 dent determines that a party is not eligible for a set-  
14 tlement pursuant to this section, the President shall  
15 explain the basis for that determination in writing to  
16 any person who requests such a settlement.

17           “(3) ADDITIONAL FACTORS RELEVANT TO SET-  
18 TLEMENTS WITH MUNICIPALITIES.—In any settle-  
19 ment with a municipality pursuant to this Act, the  
20 President may take additional equitable factors into  
21 account in determining an appropriate settlement  
22 amount, including the limited resources available to  
23 that party, and any in-kind services that the party  
24 may provide to support the response action at the  
25 facility. In considering the value of in-kind services,

1 the President shall consider the fair market value  
2 of those services.”;

3 (3) in subsection (g)(4) by striking “\$500,000”  
4 and inserting “\$2,000,000”;

5 (4) by striking paragraph (5) of subsection (g)  
6 and inserting the following:

7 “(5) SMALL BUSINESS DEFINED.—In this sec-  
8 tion, the term ‘small business’ refers to any business  
9 entity that employs no more than 100 individuals  
10 and is a ‘small business concern’ as defined under  
11 the Small Business Act (15 U.S.C. 631 et seq.).”;

12 (5) by adding at the end of subsection (g) the  
13 following:

14 “(7) DEADLINE.—If the President does not  
15 make a settlement offer to a small business on or  
16 before the 180th day following the date of the Presi-  
17 dent’s determination that such small business is eli-  
18 gible for an expedited settlement under this sub-  
19 section, or on or before the 180th day following the  
20 date of the enactment of this paragraph, whichever  
21 is later, such small business shall have no further li-  
22 ability under this Act, unless the failure to make a  
23 settlement offer on or before such 180th day is due  
24 to circumstances beyond the control of the Presi-  
25 dent.

1           “(8) PREMIUMS.—In any settlement under this  
2 Act with a small business, the President may not re-  
3 quire the small business to pay any premium over  
4 and above the small business’s share of liability.”;  
5 and

6           (6) in subsection (h)—

7           (A) by striking the subsection heading  
8 and inserting the following: “AUTHORITY TO  
9 SETTLE CLAIMS FOR FINES, CIVIL  
10 PENALTIES, PUNITIVE DAMAGES, AND COST  
11 RECOVERY.—”;

12           (B) by striking “costs incurred” in the  
13 first sentence of paragraph (1) and inserting  
14 “past and future costs incurred or that may be  
15 incurred”;

16           (C) by inserting after “if the claim has not  
17 been referred to the Department of Justice for  
18 further action.” in the first sentence of para-  
19 graph (1) the following: “The head of any de-  
20 partment or agency with the authority to seek  
21 fines, civil penalties, or punitive damages under  
22 this Act may consider, compromise, and settle  
23 claims for any such fines, civil penalties, or pu-  
24 nitive damages which may otherwise be assessed  
25 in civil administrative or judicial proceedings if



1 the claim has not been referred to the Depart-  
2 ment of Justice for further action. If the total  
3 claim for response costs, fines, civil penalties, or  
4 punitive damages exceeds \$3,000,000, such  
5 claim may be compromised and settled only  
6 with the prior written approval of the Attorney  
7 General.”;

8 (D) by striking “\$500,000 (excluding in-  
9 terest), any claim referred to in the preceding  
10 sentence” in the second sentence of paragraph  
11 (1) and inserting “\$2,000,000 (excluding inter-  
12 est), any claim for response costs referred to in  
13 this subsection”; and

14 (E) by striking paragraph (4).

15 (d) MUNICIPALITY DEFINED.—Section 101 (42  
16 U.S.C. 9601), as amended by section 302(d) of this Act,  
17 is further amended by inserting after paragraph (34) the  
18 following:

19 “(35) The term ‘municipality’ means a political  
20 subdivision of a State, including a city, county, vil-  
21 lage, town, township, borough, parish, school dis-  
22 trict, sanitation district, water district, or other pub-  
23 lic entity performing local governmental functions.  
24 The term also includes a natural person acting in  
25 the capacity of an official, employee, or agent of any

1       entity referred to in the preceding sentence in the  
2       performance of governmental functions.”.

3   **SEC. 309. CLARIFICATION OF LIABILITY FOR RECYCLING**  
4                                   **TRANSACTIONS.**

5       (a) RECYCLING TRANSACTIONS.—Title I (42 U.S.C.  
6 9601 et seq.) is amended by adding at the end the fol-  
7 lowing:

8   **“SEC. 130. RECYCLING TRANSACTIONS.**

9       “(a) LIABILITY CLARIFICATION.—As provided in  
10 subsections (b), (c), (d), (e), and (f), a person who ar-  
11 ranged for the recycling of recyclable material or trans-  
12 ported such material shall not be liable under sections  
13 107(a)(3) and 107(a)(4) with respect to such material. A  
14 determination whether or not any person shall be liable  
15 under section 107(a)(3) or 107(a)(4) for any transaction  
16 not covered by subsections (b) and (c), (d), (e), or (f) of  
17 this section shall be made, without regard to subsections  
18 (b), (c), (d), (e), and (f) of this section, on a case-by-case  
19 basis, based on the individual facts and circumstances of  
20 such transaction.

21       “(b) RECYCLABLE MATERIAL DEFINED.—For pur-  
22 poses of this section, the term ‘recyclable material’ means  
23 scrap paper, scrap plastic, scrap glass, scrap textiles,  
24 scrap rubber, scrap metal, spent lead-acid, spent nickel-  
25 cadmium, and other spent batteries, as well as minor

1 amounts of material incident to or adhering to the scrap  
2 material as a result of its normal and customary use prior  
3 to becoming scrap, and used oil; except that such term  
4 shall not include—

5           “(1) shipping containers with a capacity from  
6           30 liters to 3,000 liters, whether intact or not, hav-  
7           ing any hazardous substance (but not metal bits and  
8           pieces or hazardous substance that form an integral  
9           part of the container) contained in or adhering  
10          thereto; or

11           “(2) any item of material containing poly-  
12          chlorinated biphenyls at a concentration in excess of  
13          50 parts per million or any new standard promul-  
14          gated pursuant to applicable Federal laws.

15          “(c) TRANSACTIONS INVOLVING SCRAP PAPER,  
16 PLASTIC, GLASS, TEXTILES, OR RUBBER.—

17           “(1) IN GENERAL.—Transactions involving re-  
18          cyclable materials that consist of scrap paper, scrap  
19          plastic, scrap glass, scrap textiles, or scrap rubber  
20          shall be deemed to be arranging for recycling if the  
21          person who arranged for the transaction (by selling  
22          recyclable material or otherwise arranging for the re-  
23          cycling of recyclable material) can demonstrate by a  
24          preponderance of the evidence that all of the fol-

1       lowing criteria were met at the time of the trans-  
2       action:

3               “(A) The recyclable material met a com-  
4       mercial specification grade.

5               “(B) A market existed for the recyclable  
6       material.

7               “(C) A substantial portion of the recyclable  
8       material was made available for use as a feed-  
9       stock for the manufacture of a new saleable  
10      product.

11              “(D) The recyclable material could have  
12      been a replacement or substitute for a virgin  
13      raw material, or the product to be made from  
14      the recyclable material could have been a re-  
15      placement or substitute for a product made, in  
16      whole or in part, from a virgin raw material.

17              “(E) For transactions occurring on or  
18      after the 90th day following the date of the en-  
19      actment of this section, the person exercised  
20      reasonable care to determine that the facility  
21      where the recyclable material would be handled,  
22      processed, reclaimed, or otherwise managed by  
23      another person (hereinafter in this section re-  
24      ferred to as a ‘consuming facility’) was in com-  
25      pliance with substantive (not procedural or ad-

1           ministrative) provisions of any Federal, State,  
2           or local environmental law or regulation, or  
3           compliance order or decree issued pursuant  
4           thereto, applicable to the handling, processing,  
5           reclamation, storage, or other management ac-  
6           tivities associated with the recyclable material.

7           “(2) REASONABLE CARE.—For purposes of this  
8           subsection, ‘reasonable care’ shall be determined  
9           using criteria that include—

10                   “(A) the price paid in the recycling trans-  
11                   action;

12                   “(B) the ability of the person to detect the  
13                   nature of the consuming facility’s operations  
14                   concerning its handling, processing, reclama-  
15                   tion, or other management activities associated  
16                   with the recyclable material; and

17                   “(C) the result of inquiries made to the ap-  
18                   propriate Federal, State, or local environmental  
19                   agency (or agencies) regarding the consuming  
20                   facility’s past and current compliance with sub-  
21                   stantive (not procedural or administrative) pro-  
22                   visions of any Federal, State, or local environ-  
23                   mental law or regulation, or compliance order  
24                   or decree issued pursuant thereto, applicable to  
25                   the handling, processing, reclamation, storage,

1           or other management activities associated with  
2           the recyclable material.

3           “(3) TREATMENT OF CERTAIN REQUIREMENTS  
4           AS SUBSTANTIVE PROVISIONS.—For purposes of this  
5           subsection, a requirement to obtain a permit applica-  
6           ble to the handling, processing, reclamation, or other  
7           management activities associated with the recyclable  
8           materials shall be deemed to be a substantive provi-  
9           sion.

10          “(d) TRANSACTIONS INVOLVING SCRAP METAL.—

11           “(1) IN GENERAL.—Transactions involving re-  
12           cyclable materials that consist of scrap metal shall  
13           be deemed to be arranging for recycling if the per-  
14           son who arranged for the transaction (by selling re-  
15           cyclable material or otherwise arranging for the re-  
16           cycling of recyclable material) can demonstrate by a  
17           preponderance of the evidence that at the time of  
18           the transaction—

19                   “(A) the person met the criteria set forth  
20                   in subsection (c) with respect to the scrap  
21                   metal;

22                   “(B) the person was in compliance with  
23                   any applicable regulations or standards regard-  
24                   ing the storage, transport, management, or  
25                   other activities associated with the recycling of

1 scrap metal that the Administrator issues under  
2 the Solid Waste Disposal Act (42 U.S.C. 6901  
3 et seq.) after the date of the enactment of this  
4 section and with regard to transactions occur-  
5 ring after the effective date of such regulations  
6 or standards; and

7 “(C) the person did not melt the scrap  
8 metal prior to the transaction.

9 “(2) MELTING OF SCRAP METAL.—For pur-  
10 poses of paragraph (1)(C), melting of scrap metal  
11 does not include the thermal separation of 2 or more  
12 materials due to differences in their melting points  
13 (referred to as ‘sweating’).

14 “(3) SCRAP METAL DEFINED.—In this sub-  
15 section, the term ‘scrap metal’ means—

16 “(A) bits and pieces of metal parts (such  
17 as bars, turnings, rods, sheets, and wire) or  
18 metal pieces that may be combined together  
19 with bolts or soldering (such as radiators, scrap  
20 automobiles, and railroad box cars) which when  
21 worn or superfluous can be recycled; and

22 “(B) notwithstanding subsection (d)(1)(C),  
23 metal byproducts of the production of copper  
24 and copper based alloys that—

1           “(i) are not the sole or primary prod-  
2           ucts of a secondary production process,

3           “(ii) are not produced separately from  
4           the primary products of a secondary pro-  
5           duction process,

6           “(iii) are not and have not been  
7           stored in a pile or surface impoundment,  
8           and

9           “(iv) are sold to another recycler that  
10          is not speculatively accumulating such by-  
11          products,

12          except for any scrap metal that the Administrator  
13          excludes from this definition by regulation.

14          “(e) TRANSACTIONS INVOLVING BATTERIES.—

15                 “(1) IN GENERAL.—Transactions involving re-  
16                 cyclable materials that consist of spent lead-acid bat-  
17                 teries, spent nickel-cadmium batteries, or other  
18                 spent batteries shall be deemed to be arranging for  
19                 recycling if the person who arranged for the trans-  
20                 action (by selling recyclable material or otherwise ar-  
21                 ranging for the recycling of recyclable material) can  
22                 demonstrate by a preponderance of the evidence that  
23                 at the time of the transaction—

24                         “(A) the person met the criteria set forth  
25                         in subsection (c) with respect to the spent lead-



1 acid batteries, spent nickel-cadmium batteries,  
2 or other spent batteries but did not recover the  
3 valuable components of such batteries; and

4 “(B)(i) with respect to transactions involv-  
5 ing lead-acid batteries, the person was in com-  
6 pliance with applicable Federal environmental  
7 regulations or standards, and any amendments  
8 thereto, regarding the storage, transport, man-  
9 agement, or other activities associated with the  
10 recycling of spent lead-acid batteries;

11 “(ii) with respect to transactions involving  
12 nickel-cadmium batteries, Federal environ-  
13 mental regulations or standards were in effect  
14 regarding the storage, transport, management,  
15 or other activities associated with the recycling  
16 of spent nickel-cadmium batteries and the per-  
17 son was in compliance with such regulations or  
18 standards and any amendments thereto; or

19 “(iii) with respect to transactions involving  
20 other spent batteries, Federal environmental  
21 regulations or standards were in effect regard-  
22 ing the storage, transport, management, or  
23 other activities associated with the recycling of  
24 such batteries and the person was in compliance

1 with such regulations or standards and any  
2 amendments thereto.

3 “(2) RECOVERY OF VALUABLE BATTERY COM-  
4 PONENTS.—For purposes of paragraph (1)(A), a  
5 person who, by contract, arranges or pays for proc-  
6 essing of batteries by an unrelated third person and  
7 receives from such third person materials reclaimed  
8 from such batteries shall not thereby be deemed to  
9 recover the valuable components of such batteries.

10 “(f) TRANSACTIONS INVOLVING USED OIL.—

11 “(1) IN GENERAL.—Transactions involving re-  
12 cyclable materials that consist of used oil shall be  
13 deemed to be arranging for recycling if the person  
14 who arranged for the transaction (by selling recycla-  
15 ble material or otherwise arranging for the recycling  
16 of recyclable material) did not mix the recyclable  
17 material with a hazardous substance following the  
18 removal of the used oil from service and can dem-  
19 onstrate by a preponderance of the evidence that at  
20 the time of the transaction—

21 “(A) the recyclable material was sent to a  
22 facility that recycled used oil by using it as feed  
23 stock for the manufacture of a new saleable  
24 product;

1           “(B) the person met the criteria specified  
2           in paragraphs (1)(D) and (1)(E) of subsection  
3           (c), as modified by paragraphs (2) and (3) of  
4           subsection (c), with respect to used oil; and

5           “(C) regulations or standards for the man-  
6           agement of used oil promulgated under the  
7           Solid Waste Disposal Act (42 U.S.C. 6901 et  
8           seq.) were in effect on the date of the trans-  
9           action and the person was in compliance with  
10          such regulations or standards and any amend-  
11          ment thereto.

12          “(2) USED OIL DEFINED.—In this subsection,  
13          the term ‘used oil’ means any oil that has been re-  
14          fined from crude oil, or any synthetic oil, that has  
15          been used or stored. Such term does not include any  
16          oil that is subject to regulation under section  
17          6(e)(1)(A) of the Toxic Substances Control Act (15  
18          U.S.C. 2605(e)(1)(A)), relating to regulations pre-  
19          scribing methods for disposal of polychlorinated  
20          biphenyls.

21          “(g) EXCLUSIONS.—

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

1           “(A) the person had an objectively reason-  
2           able basis to believe at the time of the recycling  
3           transaction that—

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

6                   “(ii) in the case of recyclable mate-  
7                   rials other than used oil meeting used oil  
8                   specifications promulgated under the Solid  
9                   Waste Disposal Act (42 U.S.C. 6901 et  
10                  seq.), the recyclable material would be  
11                  burned as fuel or for energy recovery or in-  
12                  cineration; or

13                  “(iii) for transactions occurring on or  
14                  before the 90th day following the date of  
15                  the enactment of this section, the con-  
16                  suming facility was not in compliance with  
17                  a substantive (not a procedural or adminis-  
18                  trative) provision of any Federal, State, or  
19                  local environmental law or regulation, or  
20                  compliance order or decree issued pursuant  
21                  thereto, applicable to the handling, proc-  
22                  essing, reclamation, or other management  
23                  activities associated with the recyclable  
24                  material;

1           “(B) the person had reason to believe that  
2           hazardous substances had been added to the re-  
3           cyclable material for purposes other than proc-  
4           essing for recycling; or

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

13          “(2) OBJECTIVELY REASONABLE BASIS.—For  
14          purposes of paragraph (1)(A), an objectively reason-  
15          able basis for belief shall be determined using cri-  
16          teria that include the size of the person’s business,  
17          customary industry practices (including customary  
18          industry practices current at the time of the recy-  
19          cling transaction designed to minimize, through  
20          source control, contamination of the recyclable mate-  
21          rial by hazardous substances), the price paid in the  
22          recycling transaction, and the ability of the person  
23          to detect the nature of the consuming facility’s oper-  
24          ations concerning its handling, processing, reclama-

1       tion, or other management activities associated with  
2       the recyclable material.

3           “(3) TREATMENT OF CERTAIN REQUIREMENTS  
4       AS SUBSTANTIVE PROVISIONS.—For purposes of this  
5       subsection, a requirement to obtain a permit applica-  
6       ble to the handling, processing, reclamation, or other  
7       management activities associated with recyclable ma-  
8       terial shall be deemed to be a substantive provision.

9           “(h) EFFECT ON OWNER LIABILITY.—Nothing in  
10      this section shall be deemed to affect the liability of a per-  
11      son under section 107(a)(1) or 107(a)(2).

12          “(i) RELATIONSHIP TO LIABILITY UNDER OTHER  
13      LAWS.—Nothing in this section shall affect—

14           “(1) liability under any other Federal, State, or  
15      local statute or regulation promulgated pursuant to  
16      any such statute, including any requirements pro-  
17      mulgated by the Administrator under the Solid  
18      Waste Disposal Act (42 U.S.C. 6901 et seq.); or

19           “(2) the ability of the Administrator to promul-  
20      gate regulations under any other statute, including  
21      the Solid Waste Disposal Act (42 U.S.C. 6901 et  
22      seq.).

23          “(j) LIMITATION ON STATUTORY CONSTRUCTION.—  
24      Nothing in this section shall be construed to—

1           “(1) affect any rights, defenses or liabilities  
2           under section 107 of any person with respect to any  
3           transaction involving any material other than a recy-  
4           clable material subject to subsection (a) of this sec-  
5           tion; or

6           “(2) relieve a plaintiff of the burden of proof  
7           that the elements of liability under section 107 are  
8           met under the particular circumstances of any trans-  
9           action for which liability is alleged.”.

10          (b) SERVICE STATION DEALERS.—Section 114(c)  
11 (42 U.S.C. 9614(c)) is amended—

12           (1) in paragraph (1)(B) by striking “authori-  
13           ties.” and inserting “authorities that were in effect  
14           on the date of such activity.”;

15           (2) in paragraph (2)—

16           (A) by striking “a service station dealer  
17           may presume that”;

18           (B) by striking “is not mixed with” and in-  
19           serting “is presumed to be not mixed with”;  
20           and

21           (C) by striking subparagraphs (A) and (B)  
22           and inserting the following:

23           “(A) has been removed from the engine of  
24           a light duty motor vehicle or household appli-  
25           ance by the owner of such vehicle or appliance

1 and is presented by such owner to the dealer  
2 for collection, accumulation, and delivery to an  
3 oil recycling facility; or

4 “(B) has been removed from such an en-  
5 gine or appliance by the dealer for collection,  
6 accumulation, and delivery to an oil recycling  
7 facility.”; and

8 (3) by striking paragraph (4).

9 **SEC. 310. ALLOCATION.**

10 Title I (42 U.S.C. 9601 et seq.) is amended by adding  
11 at the end the following new section:

12 **“SEC. 131. ALLOCATION.**

13 “(a) PURPOSE OF ALLOCATION.—The purpose of an  
14 allocation under this section is to determine an equitable  
15 allocation of the costs of a removal or remedial action at  
16 a facility on the National Priorities List that is eligible  
17 for an allocation under this section, including the share  
18 to be borne by the Trust Fund under subsection (i).

19 “(b) ELIGIBLE RESPONSE ACTION.—

20 “(1) IN GENERAL.—A removal or remedial ac-  
21 tion is eligible for an allocation under this section if  
22 the action is at a facility on the National Priorities  
23 List and if—

24 “(A) the performance of the removal or re-  
25 medial action is not the subject of an adminis-



1 trative order or consent decree as of March 25,  
2 1999;

3 “(B) the President’s estimate of the costs  
4 for performing such removal or remedial action  
5 that have not been recovered by the President  
6 as of March 25, 1999, exceeds \$2,000,000; and

7 “(C) there are response costs attributable  
8 to the Fund share under subsection (i).

9 “(2) EXCLUDED RESPONSE ACTIONS.—

10 “(A) CHAIN OF TITLE SITES.—Notwith-  
11 standing paragraph (1), a removal or remedial  
12 action is not eligible for an allocation if—

13 “(i) the facility is located on a contig-  
14 uous area of real property under common  
15 ownership or control; and

16 “(ii) all of the parties potentially lia-  
17 ble for response costs are current or  
18 former owners or operators of such facility,  
19 unless the current owner of such facility is in-  
20 solvent or defunct.

21 “(B) CURRENT OWNER.—If the current  
22 owner of the property on which the facility is  
23 located is not liable under section 107(b)(2),  
24 the owner immediately preceding such owner

1 shall be considered to be the current owner of  
2 the property for purposes of subparagraph (A).

3 “(C) AFFILIATED PARTIES.—If the current  
4 owner is affiliated with any other person  
5 through any direct or indirect familial relation-  
6 ship or any contractual, corporate, or financial  
7 relationship other than that created by instru-  
8 ments by which title to the facility is conveyed  
9 or financed or by a contract for the sale of  
10 goods or services, and such other person is lia-  
11 ble for response costs at the facility, such other  
12 person’s assets may be considered assets of the  
13 current owner when determining under sub-  
14 paragraph (A) whether the current owner is in-  
15 solvent or defunct.

16 “(c) DISCRETIONARY ALLOCATION PROCESS.—Not-  
17 withstanding subsection (b), the President may initiate an  
18 allocation under this section for any removal or remedial  
19 action at a facility listed on the National Priorities List  
20 and may provide a Fund share under subsection (i).

21 “(d) ALLOCATION PROCESS.—For each eligible re-  
22 moval or remedial action, the President shall ensure that  
23 a fair and equitable allocation of liability is undertaken  
24 at an appropriate time by a neutral allocator selected by  
25 agreement of the parties under such process or procedures

1 as are agreed to by the parties. An allocation under this  
2 section shall apply to subsequent removal or remedial ac-  
3 tions for a facility unless the allocator determines that the  
4 allocation should address only one or more of such removal  
5 or remedial actions.

6 “(e) EARLY OFFER OF SETTLEMENT.—As soon as  
7 practicable and prior to the selection of an allocator, the  
8 President shall provide an estimate of the aggregate Fund  
9 share in accordance with subsection (i). The President  
10 shall offer to contribute to a settlement of liability for re-  
11 sponse costs on the basis of this estimate.

12 “(f) REPRESENTATION OF THE UNITED STATES AND  
13 AFFECTED STATES.—The Administrator or the Attorney  
14 General, as a representative of the Fund, and a represent-  
15 ative of any State that is or may be responsible pursuant  
16 to section 104(c)(3) for any costs of a removal or remedial  
17 action that is the subject of an allocation shall be entitled  
18 to participate in the allocation proceeding to the same ex-  
19 tent as any potentially responsible party.

20 “(g) MORATORIUM ON LITIGATION.—

21 “(1) MORATORIUM ON LITIGATION.—No person  
22 may commence any civil action or assert any claim  
23 under this Act seeking recovery of any response  
24 costs, or contribution toward such costs, in connec-  
25 tion with any response action for which the Presi-

1       dent has initiated an allocation under this section,  
2       until 150 days after issuance of the allocator’s re-  
3       port or of a report under this section.

4           “(2) STAY.—If any action or claim referred to  
5       in paragraph (1) is pending on the date of enact-  
6       ment of this section or on the date of initiation of  
7       an allocation, such action or claim (including any  
8       pendant claim under State law over which a court is  
9       exercising jurisdiction) shall be stayed until 150  
10      days after the issuance of the allocator’s report or  
11      of a report under this section, unless the court de-  
12      termines that a stay will result in manifest injustice.

13          “(3) TOLLING OF LIMITATIONS PERIOD.—Any  
14      applicable limitations period with respect to actions  
15      subject to paragraph (1) shall be tolled from the ear-  
16      lier of—

17           “(A) the date of listing of the facility on  
18      the National Priorities List, where such listing  
19      occurs after the date of enactment of this sec-  
20      tion; or

21           “(B) the commencement of the allocation  
22      process pursuant to this section, until 180 days  
23      after the President rejects or waives the Presi-  
24      dent’s right to reject the allocator’s report.

1       “(h) EFFECT ON PRINCIPLES OF LIABILITY.—The  
2 allocation process under this section shall not be construed  
3 to modify or affect in any way the principles of liability  
4 under this title as determined by the courts of the United  
5 States.

6       “(i) FUND SHARE.—For each removal or remedial  
7 action that is the subject of an allocation under this sec-  
8 tion, the allocator shall determine the share of response  
9 costs, if any, to be allocated to the Fund. The Fund share  
10 shall consist of the sum of following amounts:

11           “(1) The amount attributable to the aggregate  
12 share of response costs that the allocator determines  
13 to be attributable to parties who are not affiliated  
14 with any potentially responsible party and whom the  
15 President determines are insolvent or defunct.

16           “(2) The amount attributable to the difference  
17 in the aggregate share of response costs that the al-  
18 locator determines to be attributable to parties who  
19 have resolved their liability to the United States  
20 under section 122(g)(1)(B) (relating to limited abil-  
21 ity to pay settlements) for the removal or remedial  
22 action and the amount actually assumed by those  
23 parties in any settlement for the response action  
24 with the United States.

1           “(3) Except as provided in subsection (j), the  
2           amount attributable to the aggregate share of re-  
3           sponse costs that the allocator determines to be at-  
4           tributable to persons who are entitled to an exemp-  
5           tion from liability under subsection (o) or (p) of sec-  
6           tion 107 or section 114(c) or 130 at a facility or  
7           vessel on the National Priorities List.

8           “(4) The amount attributable to the difference  
9           in the aggregate share of response costs that an allo-  
10          cator determines to be attributable to persons sub-  
11          ject to a limitation on liability under section 107(p)  
12          or 107(q) and the amount actually assumed by those  
13          parties in accordance with such limitation.

14          “(j) CERTAIN MSW GENERATORS.—Notwith-  
15          standing subsection (i)(3), the allocator shall not attribute  
16          any response costs to any person who would have been  
17          liable under section 107(a)(3) or 107(a)(4) but for the ex-  
18          emption from liability under section 107(p)(3).

19          “(k) UNATTRIBUTABLE SHARE.—The share attrib-  
20          utable to the aggregate share of response costs incurred  
21          to respond to materials containing hazardous substances  
22          for which no generator, transporter, or owner or operator  
23          at the time of disposal or placement, can be identified shall  
24          be divided pro rata among the potentially responsible par-  
25          ties and the Fund share determined under subsection (i).

1       “(l) EXPEDITED ALLOCATION.—At the request of the  
2 potentially responsible parties or the United States, to as-  
3 sist in reaching settlement, the allocator may, prior to  
4 reaching a final allocation of response costs among all par-  
5 ties, first provide an estimate of the aggregate Fund  
6 share, in accordance with subsection (i), and an estimate  
7 of the aggregate share of the potentially responsible par-  
8 ties.

9       “(m) SETTLEMENT BEFORE ALLOCATION DETER-  
10 MINATION.—

11           “(1) SETTLEMENT OF ALL REMOVAL OR REME-  
12 DIAL COSTS.—A group of potentially responsible  
13 parties may submit to the allocator a private alloca-  
14 tion for any removal or remedial action that is with-  
15 in the scope of the allocation. If such private alloca-  
16 tion meets each of the following criteria, the allo-  
17 cator shall promptly adopt it as the allocation re-  
18 port:

19           “(A) The private allocation is a binding al-  
20 location of at least 80 percent of the past,  
21 present, and future costs of the removal or re-  
22 medial action.

23           “(B) The private allocation does not allo-  
24 cate any share to any person who is not a sig-  
25 natory to the private allocation.

1           “(C) The signatories to the private alloca-  
2           tion waive their rights to seek recovery of re-  
3           moval or remedial costs or contribution under  
4           this Act with respect to the removal or remedial  
5           action from any other party at the facility.

6           “(2) OTHER SETTLEMENTS.—The President  
7           may use the authority under section 122(g) to enter  
8           into settlement agreements with respect to any re-  
9           sponse action that is the subject of an allocation at  
10          any time.

11          “(n) SETTLEMENTS BASED ON ALLOCATIONS.—

12           “(1) IN GENERAL.—Subject to paragraph (2),  
13          the President shall accept an offer of settlement of  
14          liability for response costs for a removal or remedial  
15          action that is the subject of an allocation if—

16           “(A) the offer is made within 90 days after  
17          issuance of the allocator’s report; and

18           “(B) the offer is based on the share of re-  
19          sponse costs specified by the allocator and such  
20          other terms and conditions (other than the allo-  
21          cated share of response costs) as are acceptable  
22          to the President.

23          “(2) REJECTION OF ALLOCATION REPORT.—

24          The requirement of paragraph (1) to accept an offer  
25          of settlement shall not apply if the Administrator



1 and the Attorney General reject the allocation re-  
2 port.

3 “(o) REIMBURSEMENT FOR UAO PERFORMANCE.—

4 “(1) REIMBURSEMENT.—The Administrator  
5 shall enter into agreements to provide mixed funding  
6 to reimburse parties who satisfactorily perform, pur-  
7 suant to an administrative order issued under sec-  
8 tion 106, a removal or remedial action eligible for an  
9 allocation under subsection (b) for the reasonable  
10 and necessary costs of such removal or remedial ac-  
11 tion to the extent that—

12 “(A) the costs incurred by a performing  
13 party exceed the share of response costs as-  
14 signed to such party in an allocation that is  
15 performed in accordance with the provisions of  
16 this section;

17 “(B) the allocation is not rejected by the  
18 United States; and

19 “(C) the performing party, in consideration  
20 for such reimbursement—

21 “(i) agrees not to contest liability for  
22 all response costs not inconsistent with the  
23 National Contingency Plan to the extent of  
24 the allocated share;

1 “(ii) receives no covenant not to sue;

2 and

3 “(iii) waives contribution rights  
4 against all parties who are potentially re-  
5 sponsible parties for the response action,  
6 as well as waives any rights to challenge  
7 any settlement the President enters into  
8 with any other potentially responsible  
9 party.

10 “(2) OFFSET.—Any reimbursement provided to  
11 a performing party under this subsection shall be  
12 subject to equitable offset or reduction by the Ad-  
13 ministrator upon a finding of a failure to perform  
14 any aspect of the remedy in a proper and timely  
15 manner.

16 “(3) TIME OF PAYMENT.—Any reimbursement  
17 to a performing party under this subsection shall be  
18 paid after work is completed, but no sooner than  
19 completion of the construction of the remedial action  
20 and, subject to paragraph (5), without any increase  
21 for interest or inflation.

22 “(4) LIMIT ON AMOUNT OF REIMBURSE-  
23 MENT.—The amount of reimbursement under this  
24 subsection shall be further limited as follows:

1           “(A) Performing parties who waive their  
2 right to challenge remedy selection at the end  
3 of the moratorium following allocation shall be  
4 entitled to reimbursement of actual dollars  
5 spent by each such performing party in excess  
6 of the party’s share and attributable by the al-  
7 locator to the Fund share under subsection (i).

8           “(B) Performing parties who retain their  
9 right to challenge the remedy shall be reim-  
10 bursed (i) for actual dollars spent by each such  
11 performing party, but not to exceed 90 percent  
12 of the Fund share, or (ii) an amount equal to  
13 80 percent of the Fund share if the Fund share  
14 is less than 20 percent of responsibility at the  
15 site.

16           “(5) REIMBURSEMENT OF SHARES ATTRIB-  
17 UTABLE TO OTHER PARTIES.—If reimbursement is  
18 made under this subsection to a performing party  
19 for work in excess of the performing party’s allo-  
20 cated share that is not attributable to the Fund  
21 share, the performing party shall be entitled to all  
22 interest (prejudgment and post judgment, whether  
23 recovered from a party or earned in a site account)  
24 that has accrued on money recovered by the United

1 States from other parties for such work at the time  
2 construction of the remedy is completed.

3 “(6) REIMBURSEMENT CLAIMS.—The Adminis-  
4 trator shall require that all claims for reimburse-  
5 ment be supported by—

6 “(A) documentation of actual costs in-  
7 curred; and

8 “(B) sufficient information to enable the  
9 Administrator to determine whether such costs  
10 were reasonable.

11 “(7) INDEPENDENT AUDITING.—The Adminis-  
12 trator may require independent auditing of any  
13 claim for reimbursement.

14 “(p) POST-SETTLEMENT LITIGATION.—Following  
15 expiration of the moratorium periods under subsection (g),  
16 the United States may request the court to lift the stay  
17 and proceed with an action under this Act against any  
18 potentially responsible party that has not resolved its li-  
19 ability to the United States following an allocation, seek-  
20 ing to recover response costs that are not recovered  
21 through settlements with other persons. All such actions  
22 shall be governed by the principles of liability under this  
23 Act as determined by the courts of the United States.

24 “(q) RESPONSE COSTS.—

1           “(1) DESCRIPTION.—The following costs shall  
2           be considered response costs for purposes of this  
3           Act:

4                   “(A) Costs incurred by the United States  
5                   and the court of implementing the allocation  
6                   procedure set forth in this section, including  
7                   reasonable fees and expenses of the allocator.

8                   “(B) Costs paid from amounts made avail-  
9                   able under section 111(a)(1).

10           “(2) SETTLED PARTIES.—Any costs of alloca-  
11           tion described in paragraph (1)(A) and incurred  
12           after a party has settled all of its liability with re-  
13           spect to the response action or actions that are the  
14           subject of the allocation may not be recovered from  
15           such party.

16           “(r) FEDERAL, STATE, AND LOCAL AGENCIES.—All  
17           Federal, State, and local governmental departments, agen-  
18           cies, or instrumentalities that are identified as potentially  
19           responsible parties shall be subject to, and be entitled to  
20           the benefits of, the allocation process and allocation deter-  
21           mination provided by this section to the same extent as  
22           any other party.

23           “(s) SOURCE OF FUNDS.—Payments made by the  
24           Trust Fund, or work performed on behalf of the Trust  
25           Fund, to meet obligations incurred by the President under

1 this section to pay a Fund share or to reimburse parties  
2 for costs incurred in excess of the parties' allocated shares  
3 under subsections (e), (m), (n), or (o) shall be funded from  
4 amounts made available by section 111(a)(1).

5 “(t) SAVINGS PROVISIONS.—Except as otherwise ex-  
6 pressly provided, nothing in this section shall limit or af-  
7 fect the following:

8 “(1) The President’s—

9 “(A) authority to exercise the powers con-  
10 ferred by sections 103, 104, 105, 106, 107, or  
11 122;

12 “(B) authority to commence an action  
13 against a party where there is a contempora-  
14 neous filing of a judicial consent decree resolv-  
15 ing that party’s liability;

16 “(C) authority to file a proof of claim or  
17 take other action in a proceeding under title 11,  
18 United States Code;

19 “(D) authority to file a petition to preserve  
20 testimony under Rule 27 of the Federal Rules  
21 of Civil Procedure; or

22 “(E) authority to take action to prevent  
23 dissipation of assets, including actions under  
24 chapter 176 of title 28, United States Code.

1           “(2) The ability of any person to resolve its li-  
2           ability at a facility to any other person at any time  
3           before or during the allocation process.

4           “(3) The validity, enforceability, finality, or  
5           merits of any judicial or administrative order, judg-  
6           ment, or decree issued, signed, lodged, or entered,  
7           before the date of enactment of this paragraph with  
8           respect to liability under this Act, or authority to  
9           modify any such order, judgment, or decree with re-  
10          gard to the response action addressed in the order,  
11          judgment or decree.

12          “(4) The validity, enforceability, finality, or  
13          merits of any pre-existing contract or agreement re-  
14          lating to any allocation of responsibility or any in-  
15          demnity for, or sharing of, any response costs under  
16          this Act.”.

## 17       **TITLE IV—REMEDY SELECTION**

### 18       **SEC. 401. REMEDY SELECTION.**

19           (a) GENERAL RULES.—Section 121(b)(1) (42 U.S.C.  
20       9621(b)(1)) is amended—

21           (1) by inserting after the first sentence the fol-  
22           lowing: “The preference referred to in the preceding  
23           sentence may be implemented in accordance with the  
24           November 1991, Environmental Protection Agency,  
25           Office of Solid Waste and Emergency Response Pub-

1       lication No. 9380.3–06FS, ‘A Guide to Principal  
2       Threat and Low Level Threat Waste.’.”;

3               (2) by striking “and” at the end of subpara-  
4       graph (F);

5               (3) by striking the period at the end of sub-  
6       paragraph (G) and inserting “; and”; and

7               (4) by inserting after subparagraph (G) the fol-  
8       lowing:

9               “(H) the effectiveness of the remedial action in  
10       making contaminated property available for bene-  
11       ficial use.”.

12       (b) SITE REVIEW REQUIREMENT.—Section 121(c)  
13       (42 U.S.C. 9621(c)) is amended—

14               (1) in the first sentence by striking “the initi-  
15       ation of” and inserting “construction and installa-  
16       tion of equipment and structures to be used for”;  
17       and

18               (2) by inserting after the first sentence the fol-  
19       lowing: “The President shall review the effectiveness  
20       of and compliance with any institutional controls re-  
21       lated to the remedial action during the review.”.

22       (c) DEGREE OF CLEANUP.—Section 121(d) (42  
23       U.S.C. 9621(d)) is amended—

24               (1) by redesignating paragraphs (2), (3), and  
25       (4) as paragraphs (4), (5), and (6), respectively;



1           (2) by inserting after paragraph (1) the fol-  
2           lowing:

3           “(2) HEALTH AND ENVIRONMENTAL STAND-  
4           ARDS.—

5                   “(A) EXPOSURE INFORMATION.—In any  
6           case in which an exposure assessment is con-  
7           ducted, such assessment shall be consistent  
8           with the current and reasonably anticipated fu-  
9           ture uses of land, water, and other resources as  
10          identified under paragraph (3). Information  
11          used by the President to determine potential ex-  
12          posures shall include information made avail-  
13          able to the President on actual exposure to haz-  
14          ardous substances or pollutants or contami-  
15          nants that the President determines is valid  
16          and reliable and any other relevant information.

17                   “(B) PLANTS AND ANIMALS.—In deter-  
18          mining what is protective of plants and animals  
19          for purposes of this section, the President shall  
20          base such determinations on the significance of  
21          impacts from a release or releases of hazardous  
22          substances from a facility to local populations  
23          or communities of plants and animals or eco-  
24          systems. If a species is listed as threatened or  
25          endangered under the Endangered Species Act

1 of 1973 (16 U.S.C. 1531 et seq.) impacts to in-  
2 dividual plants or animals may be considered to  
3 be impacts to populations of plants or animals.

4 “(3) ANTICIPATED USE OF LAND, WATER, AND  
5 OTHER RESOURCES.—

6 “(A) IN GENERAL.—To assist in selecting  
7 the method or methods of remediation appro-  
8 priate for a given facility, the President shall  
9 identify the current and reasonably anticipated  
10 uses of land, water, and other resources at and  
11 around the facility and the timing of such uses.

12 “(B) REASONABLY ANTICIPATED USES OF  
13 LAND.—In identifying reasonably anticipated  
14 uses of land and the timing of such uses, the  
15 President shall consider relevant information  
16 identified through a process that includes solici-  
17 tation of the views of interested parties, includ-  
18 ing the affected local government and the af-  
19 fected local community. The President may  
20 meet this requirement through the process out-  
21 lined in the May 25, 1995, Environmental Pro-  
22 tection Agency, Office of Solid Waste and  
23 Emergency Response Directive No. 9355.7-04,  
24 pertaining to ‘Land Use in the CERCLA Rem-  
25 edy Selection Process’.

1           “(C) REASONABLY ANTICIPATED USES OF  
2 WATER.—In identifying reasonably anticipated  
3 uses of water and the timing of such uses, the  
4 President shall consider relevant information  
5 identified through a process that includes solici-  
6 tation of the views of interested parties, includ-  
7 ing the affected State, the affected local govern-  
8 ment, the affected local community, and af-  
9 fected local water suppliers.

10           “(D) SPECIAL RULES FOR GROUND  
11 WATER.—The President shall meet the require-  
12 ments of subparagraph (C) for ground water as  
13 follows:

14           “(i) If a State has a comprehensive  
15 State ground water protection program  
16 that has provisions for making site-specific  
17 determinations of use and timing of use  
18 and that has received a written endorse-  
19 ment by the President, the President shall  
20 use the State determinations of use and  
21 timing of use that are based on such pro-  
22 gram.

23           “(ii) If a State does not have a pro-  
24 gram described in clause (i), the President  
25 shall identify the reasonably anticipated

1 uses of ground water and the timing of  
2 such uses as provided in subparagraph (C).  
3 In conducting the analysis, the President  
4 shall begin with the presumption that  
5 ground water is drinking water, if the  
6 ground water is within an aquifer that is  
7 classified by a State or the Administrator  
8 as a drinking water aquifer or if the  
9 ground water is within an aquifer that has  
10 not been classified. The presumption may  
11 be rebutted through site-specific informa-  
12 tion identified through the analysis of rel-  
13 evant factors under subparagraph (C).

14 “(iii) Unless the State has made a  
15 specific determination otherwise under  
16 clause (i), a current or reasonably antici-  
17 pated beneficial use of ground water shall  
18 not be identified as drinking water if—

19 “(I) the ground water contains  
20 more than 10,000 milligrams per liter  
21 total dissolved solids;

22 “(II) the ground water is so con-  
23 taminated by naturally occurring con-  
24 ditions or by the effects of broad-scale  
25 human activity unrelated to a specific

1 activity that restoration to drinking  
2 water quality is impracticable; or

3 “(III) the potential source of  
4 drinking water is physically incapable  
5 of yielding a quantity of 150 gallons  
6 per day of water to a well or spring  
7 without adverse environmental con-  
8 sequences, unless available informa-  
9 tion indicates that such source is used  
10 as a source of drinking water.

11 “(iv) Following identification of the  
12 reasonably anticipated uses of ground  
13 water, the President may utilize the  
14 phased approach to ground water remedi-  
15 ation identified in October 1996 Environ-  
16 mental Protection Agency, Office of Solid  
17 Waste and Emergency Response Directive  
18 No. 9283.1–12, pertaining to ‘Presumptive  
19 Response Strategy and Ex-Situ Treatment  
20 Technologies for Contaminated Ground  
21 Water at CERCLA Sites’.

22 “(E) INSTITUTIONAL CONTROLS.—As-  
23 sumptions restricting future uses can be used in  
24 evaluating remedial alternatives only to the ex-

1           tent that institutional controls meeting the cri-  
2           teria of subsection (g) are identified.

3           “(F) INCLUSION IN ADMINISTRATIVE  
4           RECORD.—All information considered by the  
5           President in evaluating current and reasonably  
6           anticipated future land or water uses under this  
7           subsection shall be included in the administra-  
8           tive record under section 113(k).”;

9           (3) in paragraph (4) (as redesignated by para-  
10          graph (1) of this subsection) by inserting “LEGALLY  
11          APPLICABLE STANDARDS.—” before “With respect  
12          to”;

13          (4) in paragraph (4)(A) (as redesignated by  
14          paragraph (1) of this subsection)—

15                (A) by inserting “that is generally applica-  
16                ble, that is consistently applied to response ac-  
17                tions in the State,” after “subparagraph (A),”;

18                (B) by striking “or is relevant and appro-  
19                priate”;

20                (C) by striking “or relevant and appro-  
21                priate”;

22                (D) by striking “Level Goals” and insert-  
23                ing “Levels”;

24                (E) by striking “goals or” and inserting  
25                “levels or”; and

1 (F) by adding at the end the following:

2 “The President shall closely examine whether a require-  
3 ment is of general applicability under clause (ii) if, in  
4 practice, the requirement only applies to one facility in the  
5 State or if the requirement only applies to facilities owned  
6 or operated by the United States.”;

7 (5) in paragraph (5) (as redesignated by para-  
8 graph (1) of this subsection) by inserting “LIMITA-  
9 TION ON TRANSFERS.—” before “In the case of”;

10 (6) in paragraph (6) (as redesignated by para-  
11 graph (1) of this subsection)—

12 (A) by inserting “WAIVERS.—” before  
13 “The President”; and

14 (B) by striking “(2)” and inserting “(4)”;  
15 (7) by adding at the end the following:

16 “(7) EXCLUSIONS.—The standards, require-  
17 ments, criteria, and limitations referred to in para-  
18 graph (4) shall not include any requirement for a re-  
19 duction in concentrations of contaminants below  
20 background levels.”; and

21 (8) by aligning paragraphs (4), (5), and (6) (as  
22 so redesignated) with paragraph (7) (as added by  
23 paragraph (7) of this subsection) and the subpara-  
24 graphs, clauses, and subclauses in such paragraphs  
25 accordingly.

1 (d) STATES ADJOINING CERTAIN FACILITIES.—Sec-  
2 tion 121(f) (42 U.S.C. 9621(f)) is amended by adding at  
3 the end the following new paragraph:

4 “(4) STATES ADJOINING CERTAIN FACILI-  
5 TIES.—The President shall modify regulations pro-  
6 mulgated pursuant to paragraph (1) to provide to  
7 any adjoining State within a 50-mile radius of a fa-  
8 cility owned or operated by the Department of En-  
9 ergy the same rights as are provided by this sub-  
10 section to the State in which such facility is lo-  
11 cated.”.

12 (e) INSTITUTIONAL CONTROLS.—Section 121 (42  
13 U.S.C. 9621) is amended by adding at the end the fol-  
14 lowing:

15 “(g) INSTITUTIONAL CONTROLS.—

16 “(1) USE AND IMPLEMENTATION.—In any case  
17 in which the President selects a remedial action that  
18 allows hazardous substances to remain on-site at a  
19 facility above concentration levels that would be pro-  
20 tective for unrestricted use, the President—

21 “(A) shall include, as a component of the  
22 remedy, restrictions on the use of land, water,  
23 or other resources necessary to provide long-  
24 term protection of human health and the envi-  
25 ronment;



1           “(B) shall require, as a component of the  
2           remedy, ongoing monitoring and operation and  
3           maintenance of the remedy and such remedy  
4           shall not be determined to be complete until  
5           such monitoring and operation and mainte-  
6           nance are established;

7           “(C) shall require, as a component of the  
8           remedy, that any necessary institutional con-  
9           trols are effective, implemented, and subject to  
10          appropriate monitoring and enforcement;

11          “(D) shall ensure through authorities pro-  
12          vided under this Act, including the reviews con-  
13          ducted under subsection (c), that any necessary  
14          institutional controls remain in effect as long as  
15          necessary to protect human health and the envi-  
16          ronment, including ensuring that the enforce-  
17          ability of such institutional controls will not be  
18          adversely affected by any transfer of the prop-  
19          erty subject to the controls.

20          “(2) RESTRICTIONS ON USE.—The President  
21          may use institutional controls as a supplement to,  
22          but not as a substitute for, other response measures  
23          at a facility, except in extraordinary circumstances.

24          “(3) NOTICE.—Whenever the President selects,  
25          in accordance with paragraph (1), a remedy at a fa-

1 cility that relies on institutional controls as an inte-  
2 gral component of the remedy, the President shall—

3 “(A) clearly specify in the record of decision  
4 the anticipated restrictions on uses of land,  
5 water, or other resources or activities at the fa-  
6 cility and the terms of anticipated institutional  
7 controls to implement those restrictions;

8 “(B) specify such restrictions and controls  
9 in all other appropriate remedy decision docu-  
10 ments and other public information regarding  
11 the site, along with identification of the unit of  
12 government primarily responsible for moni-  
13 toring and enforcement of the institutional con-  
14 trols;

15 “(C) provide public notice of such controls  
16 and, in the case of a deed restriction, easement,  
17 or other similar measure, incorporate the meas-  
18 ure in the public land records for the jurisdic-  
19 tion in which the affected property is located;

20 “(D) to the extent that institutional con-  
21 trols will be implemented pursuant to an order  
22 under section 106, record, in accordance with  
23 State law, a notation on the deed to the facility  
24 property, or on some other instrument which is  
25 normally examined during a title search, that

1 will notify any potential purchaser that use re-  
2 strictions are or will be placed on the facility  
3 property pursuant to an order issued under sec-  
4 tion 106; and

5 “(E) undertake any change in the nature  
6 or form of institutional controls at the facility  
7 in a manner consistent with section 117 and  
8 give notice pursuant to the requirements of sec-  
9 tion 104.

10 “(4) REGISTRY.—The President shall establish  
11 and maintain a registry of restrictions on the use of  
12 land, water, or other resources through institutional  
13 controls that are included in final records of decision  
14 as a component of the remedy at facilities that are,  
15 or have been, on the National Priorities List. The  
16 registry shall identify the property and the nature or  
17 form of the institution controls, including any subse-  
18 quent changes in the nature or form of such con-  
19 trols.

20 “(5) ANNUAL REPORT.—On or before March 1,  
21 2000, and annually thereafter, the Administrator  
22 shall transmit to the Committee on Commerce and  
23 the Committee on Transportation and Infrastructure  
24 of the House of Representatives and the Committee  
25 on Environment and Public Works of the Senate a

1 report on each record of decision signed during the  
2 previous fiscal year, the type of institutional controls  
3 and media affected, and the unit of government des-  
4 ignated to monitor, enforce, and ensure compliance  
5 with the institutional controls.”.

6 (f) REMEDIAL DESIGN.—Section 121 is further  
7 amended by adding at the end the following:

8 “(h) REMEDIAL DESIGN.—Where appropriate and  
9 practicable, remedial designs for remedies selected under  
10 this section shall seek to accommodate existing beneficial  
11 uses of the contaminated property and shall seek to expe-  
12 dite the return of contaminated property to beneficial use,  
13 including the return to beneficial use of separate areas  
14 within a facility prior to completion of the remedial action  
15 for an entire facility.”.

16 **SEC. 402. HAZARDOUS SUBSTANCE PROPERTY USE.**

17 Section 104 (42 U.S.C. 9604) is amended by adding  
18 at the end the following:

19 “(k) HAZARDOUS SUBSTANCE PROPERTY USE.—

20 “(1) AUTHORITY OF PRESIDENT TO ACQUIRE  
21 EASEMENTS.—In connection with any remedial ac-  
22 tion under this Act, in order to prevent exposure to,  
23 reduce the likelihood of, or otherwise respond to a  
24 release or threatened release of a hazardous sub-  
25 stance, pollutant, or contaminant, the President may

1 acquire, at fair market value, or for other consider-  
2 ation as agreed to by the parties, a hazardous sub-  
3 stance easement which restricts, limits, or controls  
4 the use of land or other natural resources, including  
5 specifying permissible or impermissible uses of land,  
6 prohibiting specified activities upon property, prohib-  
7 iting the drilling of wells or use of ground water, or  
8 restricting the use of surface water.

9 “(2) USE OF EASEMENTS.—A hazardous sub-  
10 stance easement under this subsection may be used  
11 wherever institutional controls have been selected as  
12 a component of a remedial action under this Act and  
13 the National Contingency Plan.

14 “(3) PERSONS SUBJECT TO EASEMENTS.—A  
15 hazardous substance easement shall be enforceable  
16 in perpetuity (unless terminated and released as pro-  
17 vided for in this section) against any owner of the  
18 affected property and all persons who subsequently  
19 acquire an interest in the property or rights to use  
20 the property, including lessees, licensees, and any  
21 other person with an interest in the property, with-  
22 out respect to privity or lack of privity of estate or  
23 contract, lack of benefit running to any other prop-  
24 erty, assignment of the easement to another party or  
25 sale or other transfer of the burdened property, or

1 any other circumstance which might otherwise affect  
2 the enforceability of easements or similar deed re-  
3 strictions under the laws of the State. The easement  
4 shall be binding upon holders of any other interests  
5 in the property regardless of whether such interests  
6 are recorded or whether they were recorded prior or  
7 subsequent to the easement, and shall remain in ef-  
8 fect notwithstanding any foreclosure or other asser-  
9 tion of such interests.

10 “(4) CONTENTS OF EASEMENTS.—A hazardous  
11 substance easement shall contain, at a minimum—

12 “(A) a legal description of the property af-  
13 fected;

14 “(B) the name or names of all current  
15 owner or owners of the property as reflected in  
16 public land records;

17 “(C) a description of the release or threat-  
18 ened release; and

19 “(D) a statement as to the nature of the  
20 restriction, limitation, or control created by the  
21 easement.

22 “(5) RECORDING AND FILING OF EASEMENT.—  
23 Whenever the President acquires a hazardous sub-  
24 stance easement or assigns a hazardous substance  
25 easement to another party, the President shall

1 record the easement in the public land records for  
2 the jurisdiction in which the affected property is lo-  
3 cated. If the State has not by law designated an of-  
4 fice for the recording of interests in real property or  
5 claims or rights burdening real property, the ease-  
6 ment shall be filed in the office of the clerk of the  
7 United States district court for the district in which  
8 the affected property is located and added to the  
9 registry established under section 121(g)(4).

10 “(6) METHODS OF ACQUIRING EASEMENTS.—

11 The President may acquire a hazardous substance  
12 easement by purchase or other agreement, by con-  
13 demnation, or by any other means permitted by law.  
14 Compensation for such easement shall be at fair  
15 market value, or for other consideration as agreed to  
16 by the parties, for the interest acquired.

17 “(7) ASSIGNMENT OF EASEMENTS TO PARTIES  
18 OTHER THAN THE PRESIDENT.—

19 “(A) AUTHORITY TO ASSIGN.—The Presi-  
20 dent may, where appropriate and with the con-  
21 sent of the State or other governmental entity,  
22 assign an easement acquired under this sub-  
23 section to a State or other governmental entity  
24 that has the capability of effectively enforcing  
25 the easement over the period of time necessary

1 to achieve the purposes of the easement. In the  
2 case of any assignment, the easement shall also  
3 be fully enforceable by the assignee. Any assign-  
4 ment of such an easement by the President may  
5 be made by following the same procedures as  
6 are used for the transfer of an interest in real  
7 property to a State under subsection (j).

8 “(B) EASEMENTS HELD BY OTHER PER-  
9 SONS.—

10 “(i) DESIGNATION AS HAZARDOUS  
11 SUBSTANCE EASEMENTS.—Subject to  
12 clause (ii), in a case in which an institu-  
13 tional control is a component of a remedy  
14 selected under section 121 at a facility list-  
15 ed on the National Priorities List, the  
16 owner of property and the potential holder  
17 of a restrictive easement may expressly  
18 designate, in writing, any interest in prop-  
19 erty as a hazardous substance easement  
20 for the purpose of restricting or limiting  
21 the use of land, water, or other resources  
22 in order to prevent exposure to, reduce the  
23 likelihood of, or otherwise respond to a re-  
24 lease or threatened release of a hazardous



1 substance, pollutant, or contaminant from  
2 such a facility.

3 “(ii) CONDITIONS.—An interest in  
4 property may be designated as a hazardous  
5 substance easement under clause (i) only if  
6 such interest is granted to a State, an In-  
7 dian Tribe, another governmental entity,  
8 or other person that has the capability of  
9 effectively enforcing the easement over the  
10 period of time necessary to achieve the  
11 purpose of the easement, and such State,  
12 Tribe, governmental entity, or person con-  
13 sents to the transfer.

14 “(iii) EFFECT OF DESIGNATION.—  
15 When properly recorded or filed under  
16 paragraph (5), a hazardous substance  
17 easement designated under clause (i) shall  
18 create the same rights, have the same legal  
19 effect, and be enforceable in the same  
20 manner as a hazardous substance ease-  
21 ment acquired by the President regardless  
22 of whether the interest in property is oth-  
23 erwise denominated as an easement, cov-  
24 enant, or any other form of property right.

1           “(8) PUBLIC NOTICE.—Not later than 180 days  
2 after the date of the enactment of this subsection,  
3 the President shall issue regulations regarding the  
4 procedures to be used for public notice of proposed  
5 property use restrictions. Such regulations shall en-  
6 sure that before acquiring a hazardous substance  
7 easement, before recording any notice of such ease-  
8 ment, and before terminating or modifying a haz-  
9 ardous substance easement, the President will give  
10 notice and an opportunity to comment to the owner  
11 of the affected property, all other persons with re-  
12 corded interests in the property, any lessees or other  
13 authorized occupants of the property known to the  
14 President, the State and any municipalities in which  
15 the property is located, any relevant community ad-  
16 visory group, the affected community, and the gen-  
17 eral public.

18           “(9) TERMINATION OR MODIFICATION OF EASE-  
19 MENTS.—An easement acquired under this sub-  
20 section shall remain in force until the Administrator  
21 approves a modification or termination and release  
22 of the easement and, following such approval, the  
23 holder of the easement executes and records such  
24 modification or termination and release in accord-  
25 ance with the terms of the easement. Such modifica-

1       tion or termination shall be recorded in the same  
2       manner as the easement. A person may conduct ad-  
3       ditional response actions at a facility to allow for un-  
4       restricted use of the facility and may subsequently  
5       request termination of the easement. Such a request  
6       shall be granted by the holder of the easement and  
7       approved by the President, in the discretion of the  
8       holder and the President, if the holder and the  
9       President determine that the easement is no longer  
10      necessary to protect human health and the environ-  
11      ment.

12           “(10) ENFORCEMENT.—

13           “(A) EFFECT OF VIOLATIONS.—Violation  
14           of any restriction, limitation, or control imposed  
15           under a hazardous substance easement shall  
16           have the same effect as failure to comply with  
17           an order issued under section 106 and relief  
18           may be sought either in enforcement actions  
19           under section 106(b)(1) or section 120(g), by  
20           States under section 121(e)(2), or in citizens  
21           suits under section 310. No citizens suit under  
22           section 310 to enforce such a notice may be  
23           commenced if the holder of the easement has  
24           commenced and is diligently prosecuting an ac-  
25           tion in court to enforce the easement.

1           “(B) ENFORCEMENT ACTIONS.—The  
2           President may take appropriate enforcement ac-  
3           tions to ensure compliance with the terms of  
4           the easement whenever the President deter-  
5           mines that the terms set forth in the easement  
6           are being violated. If the easement is held by a  
7           party other than the President and that party  
8           has not taken appropriate enforcement actions,  
9           the President may notify the party of the viola-  
10          tion. If the party does not take appropriate en-  
11          forcement actions within 30 days of such notifi-  
12          cation, or sooner in the case of an imminent  
13          hazard, the President may initiate such enforce-  
14          ment actions.

15           “(C) SAVINGS CLAUSE.—Nothing in this  
16          section shall limit rights or remedies available  
17          under other laws.

18           “(11) APPLICABILITY OF OTHER PROVISIONS.—  
19          Holding a hazardous substance easement shall not  
20          in itself subject either the holder thereof or the  
21          owner of the affected property to liability under sec-  
22          tion 107. Any such easement acquired by the Presi-  
23          dent shall not be subject to the requirements of sub-  
24          section (j)(2) or section 120(h). Nothing in this sub-

1 section limits or modifies the authority of the Presi-  
2 dent pursuant to subsection (j)(1).”.

3 **SEC. 403. RISK ASSESSMENT STANDARDS.**

4 Title I (42 U.S.C. 9601–9626) is amended by adding  
5 at the end the following:

6 **“SEC. 132. RISK ASSESSMENT PRINCIPLES, GUIDELINES,  
7 AND REVIEWS.**

8 “Risk assessments and characterizations conducted  
9 under this Act shall—

10 “(1) provide objective assessments, estimates,  
11 and characterizations which neither minimize nor ex-  
12 aggerate the nature and magnitude of risks to  
13 human health and the environment;

14 “(2) distinguish scientific findings from other  
15 considerations;

16 “(3) be based on all reasonably available, rel-  
17 evant, and reliable scientific and technical informa-  
18 tion and shall describe the process for selecting such  
19 information; and

20 “(4) be based on an analysis of the weight of  
21 scientific evidence that supports conclusions about a  
22 problem’s potential risk to human health and the en-  
23 vironment.”.

# 1 **TITLE V—GENERAL PROVISIONS**

## 2 **SEC. 501. TRUST FUND DEFINED.**

3 Section 101(11) (42 U.S.C. 9601(11)) is amended to  
4 read as follows:

5 “(11) The term ‘Fund’ or ‘Trust Fund’ means  
6 the Hazardous Substance Superfund established by  
7 section 9507 of the Internal Revenue Code of  
8 1986.”.

## 9 **SEC. 502. INDIAN TRIBES.**

10 (a) TREATMENT GENERALLY.—Section 126(a) (42  
11 U.S.C. 9626(a)) is amended—

12 (1) by striking “and section 105” and inserting  
13 “, section 105”;

14 (2) by inserting before the period at the end the  
15 following: “, section 117 (regarding public participa-  
16 tion), section 121 (regarding selection of remedies),  
17 and section 128 (regarding State voluntary cleanup  
18 programs)”; and

19 (3) by adding at the end the following: “In ap-  
20 plying this subsection, any reference contained in a  
21 section identified in the preceding sentence to a fa-  
22 cility located in a State shall include a facility lo-  
23 cated on lands within the jurisdiction of a Federal  
24 Indian reservation under the jurisdiction of the  
25 United States government.”.

1 (b) STUDY.—Section 126(c) (42 U.S.C. 9626(c)) is  
2 amended to read as follows:

3 “(c) HEALTH IMPACTS.—

4 “(1) STUDY.—The President shall conduct a  
5 study of the health impacts on Indian tribes of pol-  
6 lutants, contaminants, and hazardous substances re-  
7 leased from facilities that have been listed or pro-  
8 posed for listing on the National Priorities List.

9 “(2) REPORT.—Not later than 2 years after the  
10 date of the enactment of the Recycle America’s  
11 Land Act of 2001, the President shall transmit to  
12 Congress a report on the results of the study con-  
13 ducted under this subsection.”.

14 **SEC. 503. GRANTS FOR TRAINING AND EDUCATION OF**  
15 **WORKERS.**

16 Section 126(g) of the Superfund Amendments and  
17 Reauthorization Act of 1986 (42 U.S.C. 9660a) is  
18 amended—

19 (1) by inserting “from the Fund” after  
20 “Grants” in each of paragraphs (1), (2), and (3);  
21 and

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

23 “(4) ALLOCATION OF AMOUNTS.—Of the  
24 amounts made available under section 111 to carry  
25 out this subsection in a fiscal year, at least 20 per-

1 cent shall be allocated to non-profit organizations  
2 described in paragraph (3) for training minority and  
3 other community-based workers who are or may be  
4 directly engaged in hazardous waste removal or con-  
5 tainment or emergency response actions.”.

6 **SEC. 504. STATE COST SHARE.**

7 Section 104(c)(3) (42 U.S.C. 9604(c)(3)) is amended  
8 to read as follows:

9 “(3) STATE COST SHARE.—The President shall not  
10 provide any remedial actions pursuant to this section un-  
11 less the State in which the release or threatened release  
12 occurs has entered into a contract or cooperative agree-  
13 ment with the President that provides assurances, deemed  
14 adequate by the President, that the State will pay or as-  
15 sure payment, in cash or through in-kind contribution, of  
16 10 percent of the cost of such remedial action (other than  
17 any cost paid by the Fund under section 111(a)(1)) and  
18 10 percent of the cost of operation and maintenance.”.

19 **SEC. 505. STATE AND LOCAL REIMBURSEMENT FOR RE-**  
20 **SPONSE ACTIONS.**

21 Section 123 (42 U.S.C. 9623) is amended to read as  
22 follows:



1 **“SEC. 123. REIMBURSEMENT TO STATE AND LOCAL GOV-**  
2 **ERNMENTS.**

3 “(a) APPLICATION.—Any State or general purpose  
4 unit of local government for a political subdivision which  
5 is affected by a release or threatened release at any facility  
6 may apply to the President for reimbursement under this  
7 section.

8 “(b) REIMBURSEMENT.—

9 “(1) EMERGENCY RESPONSE.—The President is  
10 authorized to reimburse a State or general purpose  
11 unit of local government for expenses incurred in  
12 carrying out emergency response actions necessary  
13 to prevent or mitigate injury to human health or the  
14 environment associated with the release or threat-  
15 ened release of any hazardous substance or pollutant  
16 or contaminant. Such actions may include, where ap-  
17 propriate, security fencing to limit access, response  
18 to fires and explosions, and other activities which re-  
19 quire immediate response at the State or local level.

20 “(2) STATE OR LOCAL FUNDS NOT SUP-  
21 PLANTED.—Reimbursement under this section shall  
22 not supplant State or local funds normally provided  
23 for response.

24 “(c) AMOUNT.—

25 “(1) REIMBURSEMENT TO STATES AND GEN-  
26 ERAL PURPOSE UNITS OF LOCAL GOVERNMENT.—

1 The amount of any reimbursement to a State or  
2 general purpose unit of local government under sub-  
3 section (b)(1) may not exceed \$25,000 for a single  
4 response. The reimbursement under this section with  
5 respect to a single facility shall be limited to the  
6 State or general purpose unit of local government  
7 having jurisdiction over the political subdivision in  
8 which the facility is located.

9 “(2) LIMITATION.—The amounts allowed for  
10 the State and general purpose units of local govern-  
11 ment may not be combined for any single response  
12 action.

13 “(d) PROCEDURE.—Reimbursements authorized pur-  
14 suant to this section shall be in accordance with rules pro-  
15 mulgated by the Administrator within 1 year after the  
16 date of the enactment of the Recycle America’s Land Act  
17 of 2001.”.

18 **SEC. 506. STATE ROLE AT FEDERAL FACILITIES.**

19 Section 120(g) (42 U.S.C. 9620(g)) is amended to  
20 read as follows:

21 “(g) STATE ROLE AT FEDERAL FACILITIES.—

22 “(1) ENFORCEMENT AND DISPUTE RESOLU-  
23 TION.—

24 “(A) IN GENERAL.—An interagency agree-  
25 ment under this section between a State and

1 any department, agency, or instrumentality of  
2 the United States shall be enforceable by the  
3 State or the Federal department, agency, or in-  
4 strumentality in the United States district court  
5 for the district in which the facility is located.  
6 The district court shall have the jurisdiction to  
7 enforce compliance with any provision, stand-  
8 ard, regulation, condition, requirement, order,  
9 or final determination which has become effec-  
10 tive under such agreement, and to impose any  
11 appropriate civil penalty provided for any viola-  
12 tion of the agreement, not to exceed \$25,000  
13 per day.

14 “(B) NONCONCURRENCE BY STATE.—At a  
15 Federal facility in a State to which the Presi-  
16 dent’s authorities under subsection (e)(4) have  
17 been transferred pursuant to a cooperative  
18 agreement, if the State does not concur in the  
19 remedy selection proposed by the Federal de-  
20 partment, agency, or instrumentality that owns  
21 or operates the facility, the parties shall enter  
22 into dispute resolution as provided in the inter-  
23 agency agreement. If there is no interagency  
24 agreement, the State shall, not later than 120  
25 days after the transfer of authorities under a

1 cooperative agreement, enter into an agreement  
2 with the head of the department, agency, or in-  
3 strumentality on a process for resolving dis-  
4 putes regarding remedy selection for the facil-  
5 ity. If a dispute is unresolved after using the  
6 process under the interagency agreement or dis-  
7 pute resolution agreement, the head of the Fed-  
8 eral department, agency, or instrumentality  
9 that owns the Federal facility and the Governor  
10 of the State shall attempt to resolve such dis-  
11 pute by consensus. If no agreement is reached  
12 between the head of the Federal department,  
13 agency, or instrumentality and the Governor,  
14 the State may issue the final determination. In  
15 order to compel implementation of the State's  
16 selected remedy, the State must bring a civil ac-  
17 tion in the appropriate United States district  
18 court. The district court shall have jurisdiction  
19 as provided in subparagraph (A) to issue any  
20 relief that may be necessary to implement the  
21 remedial action, to impose appropriate civil pen-  
22 alties not to exceed \$25,000 per day from the  
23 date the selected remedy becomes final, and to  
24 review any challenges to the State's final deter-

1           mination consistent with the standards set forth  
2           in section 113(j) of this Act.

3           “(2) LIMITATION.—Except as necessary to im-  
4           plement the transfer of the Administrator’s authori-  
5           ties to a State under a cooperative agreement, noth-  
6           ing in this subsection shall be construed as altering,  
7           modifying, or impairing in any manner, or author-  
8           izing the unilateral modification of, any terms of any  
9           agreement, permit, administrative or judicial order,  
10          decree, or interagency agreement existing on the ef-  
11          fective date of the Recycle America’s Land Act of  
12          2001. Any other modifications or revisions of an  
13          interagency agreement entered into under this sec-  
14          tion shall require the consent of all parties to such  
15          agreement, and absent such consent the agreement  
16          shall remain unchanged.

17          “(3) EFFECT ON OTHER AUTHORITIES.—Noth-  
18          ing in this subsection shall affect the exercise by a  
19          State of any other authorities that may be applicable  
20          to Federal facilities in the State.”.

21 **SEC. 507. FEDERAL COST STUDY.**

22          (a) IN GENERAL.—Within 18 months after the date  
23          of enactment of this Act, the Congressional Budget Office  
24          shall conduct, and submit to Congress the results of, a  
25          study of the potential costs to the Federal Government

1 over the next 20 years from Federal liability for natural  
2 resource damages under section 107 of the Comprehensive  
3 Environmental Response, Compensation, and Liability Act  
4 of 1980.

5 (b) **METHODOLOGY.**—In conducting the study, the  
6 Congressional Budget Office shall review pleadings filed  
7 by the Department of Justice on behalf of Federal natural  
8 resource trustees seeking damages for restoration of nat-  
9 ural resources and shall apply the same statutory interpre-  
10 tations and methods of calculating damages employed by  
11 the United States, as plaintiff, in determining the poten-  
12 tial liability of the United States, as defendant, in actions  
13 seeking recovery for natural resource damages.

14 **SEC. 508. NO PREEMPTION OF STATE LAW CLAIMS.**

15 Section 302 (42 U.S.C. 9652) is amended by adding  
16 at the end the following:

17 “(e) **NO PREEMPTION OF STATE LAW CLAIMS.**—Sec-  
18 tion 107 shall not be construed to preempt any claims  
19 under State law for contribution to or recovery of costs  
20 of responding to releases or threatened releases of haz-  
21 ardous substances.”.

22 **SEC. 509. PURCHASE OF AMERICAN-MADE EQUIPMENT,**  
23 **PRODUCTS, AND TECHNOLOGIES.**

24 (a) **IN GENERAL.**—If an entity that receives financial  
25 assistance under this Act or any law amended by this Act

1 is using all or any part of such assistance to purchase 1  
2 or more pieces of equipment, products, or technologies, the  
3 entity may only purchase, to the greatest extent prac-  
4 ticable, American-made equipment, products, and tech-  
5 nologies with such assistance.

6 (b) AMERICAN-MADE DEFINED.—In this section, the  
7 term “American-made” as used with respect to a piece of  
8 equipment, a product, or a technology means that the Fed-  
9 eral Trade Commission has determined that the piece of  
10 equipment, product, or technology can display a “Made  
11 in the USA” or “Made in America” inscription or label  
12 or any inscription or label with the same meaning.

13 **SEC. 510. DEVELOPMENT OF NEW TECHNOLOGIES AND**  
14 **METHODS.**

15 Not later than 1 year after the date of enactment  
16 of this Act, the Administrator of the Environmental Pro-  
17 tection Agency shall develop and submit to Congress a  
18 plan to encourage United States companies to develop new  
19 technologies and methods to clean-up sites on the National  
20 Priorities List and other hazardous waste sites. The plan  
21 shall be designed to ensure that the United States is the  
22 world leader in the development of such technologies and  
23 methods.

1 **TITLE VI—EXPENDITURES FROM**  
2 **THE HAZARDOUS SUBSTANCE**  
3 **SUPERFUND**

4 **SEC. 601. EXPENDITURES FROM THE HAZARDOUS SUB-**  
5 **STANCE SUPERFUND.**

6 (a) EXPENDITURES.—Section 111 (42 U.S.C. 9611)  
7 is amended—

8 (1) by redesignating subsections (f) and (g) as  
9 subsections (g) and (h), respectively; and

10 (2) by striking subsections (a), (b), (c), (d), and  
11 (e) and inserting the following:

12 “(a) EXPENDITURES FROM HAZARDOUS SUBSTANCE  
13 SUPERFUND.—

14 “(1) SUBSECTION (b) EXPENDITURES.—The  
15 following amounts of amounts appropriated to the  
16 Hazardous Substance Superfund after January 1,  
17 2000, pursuant to section 9507(b) of the Internal  
18 Revenue Code of 1986, and of amounts credited  
19 under section 9602(b) of such Code with respect to  
20 those appropriated amounts, shall be available for  
21 the purposes specified in subsection (b):

22 “(A) \$300,000,000 for each of fiscal years  
23 2000 through 2004.

24 “(B) \$200,000,000 for each of fiscal years  
25 2005 through 2007.



1 Such funds shall remain available until expended.

2 “(2) SUBSECTIONS (c) AND (d) EXPENDI-  
3 TURES.—There is authorized to be appropriated  
4 from the Hazardous Substance Superfund estab-  
5 lished pursuant to section 9507(b) of the Internal  
6 Revenue Code of 1986 for the purposes specified in  
7 subsections (c) and (d) of this section not more  
8 than—

9 “(A) \$1,500,000,000 for each of fiscal  
10 years 2000 through 2003;

11 “(B) \$1,400,000,000 for fiscal year 2004;

12 “(C) \$1,300,000,000 for fiscal year 2005;

13 “(D) \$1,200,000,000 for fiscal year 2006;

14 and

15 “(E) \$975,000,000 for fiscal year 2007.

16 “(b) PAYMENTS RELATED TO CERTAIN REDUC-  
17 TIONS, LIMITATIONS, AND EXEMPTIONS.—

18 “(1) FUNDING OF EXEMPT PARTY AND FUND  
19 SHARE.—The President may use amounts in the  
20 Fund made available by subsection (a)(1) for fund-  
21 ing the equitable share of liability attributable to ex-  
22 empt parties under section 107(t) and obligations in-  
23 curred by the President to pay a Fund share or to  
24 reimburse parties for costs incurred in excess of the  
25 parties’ allocated shares under section 131.

1 “(2) LIMITATIONS.—

2 “(A) FUNDING.—Amounts made available  
3 by subsection (a)(1) for the purposes of this  
4 subsection shall not exceed the following:

5 “(i) \$300,000,000 for each of fiscal  
6 years 2000 through 2004.

7 “(ii) \$200,000,000 for each of fiscal  
8 years 2005 through 2007.

9 “(B) ELIGIBLE COSTS.—No funds made  
10 available under paragraph (1) may be used for  
11 payment of, or reimbursement for, any portion  
12 of attorneys’ fees that do not constitute nec-  
13 essary costs of response consistent with the na-  
14 tional contingency plan.

15 “(C) ADDITIONAL PURPOSES.—

16 “(i) IN GENERAL.—If, in any of fiscal  
17 years 2000 through 2004, the Adminis-  
18 trator does not have available for obliga-  
19 tion for the purposes of subsections (c) and  
20 (d) the amount specified for the fiscal year  
21 in clause (iii), the Administrator, subject  
22 to clause (ii), may use funds provided  
23 under subsection (a)(1) for such purposes.

24 “(ii) LIMITATION.—The total amount  
25 of funds provided under subsection (a)(1)

1 that the Administrator may use for the  
2 purposes of subsections (c) and (d) may  
3 not exceed the amount specified for the fis-  
4 cal year in clause (iii) less the amount  
5 which (but for this subparagraph) would  
6 be available to the Administrator in such  
7 fiscal year for such purposes.

8 “(iii) AMOUNTS.—The amounts speci-  
9 fied in this clause are \$1,500,000,000 for  
10 each of fiscal years 2000 through 2003  
11 and \$1,400,000,000 for fiscal year 2004.

12 “(c) RESPONSE, REMOVAL, AND REMEDIATION.—  
13 The President may use amounts in the Fund appropriated  
14 under subsection (a)(2) for costs of response, removal, and  
15 remediation (and administrative costs directly related to  
16 such costs), including the following:

17 “(1) GOVERNMENT RESPONSE COSTS.—Pay-  
18 ment of governmental response costs incurred pursu-  
19 ant to section 104, including costs incurred pursuant  
20 to the Intervention on the High Seas Act (33 U.S.C.  
21 1471 et seq.).

22 “(2) PRIVATE RESPONSE COST CLAIMS.—Pay-  
23 ment of any claim for necessary response costs in-  
24 curred by any other person as a result of carrying  
25 out the national contingency plan established under

1 section 105, if such costs are approved under such  
2 plan, are reasonable in amount based on open and  
3 free competition or fair market value for similar  
4 available goods and services, and are certified by the  
5 responsible Federal official.

6 “(3) ACQUISITION COSTS UNDER SECTION  
7 104(j).—The costs incurred by the President in ac-  
8 quiring real estate or interests in real estate under  
9 section 104(j) (relating to acquisition of property).

10 “(4) STATE AND LOCAL GOVERNMENT REIM-  
11 BURSEMENT.—Reimbursement to States and local  
12 governments under section 123; except that during  
13 any fiscal year not more than 0.1 percent of the  
14 total amount appropriated under subsection (a)(2)  
15 may be used for such reimbursements.

16 “(5) CONTRACTS AND COOPERATIVE AGREE-  
17 MENTS.—Payment for the implementation of any  
18 contract or cooperative agreement under section  
19 104(d).

20 “(6) NATURAL RESOURCE DAMAGE ASSESS-  
21 MENTS.—The costs of assessing both short-term and  
22 long-term injury to, destruction of, or loss of any  
23 natural resources resulting from a release of a haz-  
24 ardous substance.

1       “(d) ADMINISTRATION, OVERSIGHT, RESEARCH, AND  
2 OTHER COSTS.—The President may use amounts in the  
3 Fund appropriated under subsection (a)(2) for the fol-  
4 lowing costs (and administrative costs directly related to  
5 such costs):

6           “(1) INVESTIGATION AND ENFORCEMENT.—The  
7 costs of identifying, investigating, and taking en-  
8 forcement action against releases of hazardous sub-  
9 stances.

10          “(2) OVERHEAD.—

11           “(A) IN GENERAL.—The costs of providing  
12 services, equipment, and other overhead related  
13 to the purposes of this Act and section 311 of  
14 the Federal Water Pollution Control Act and  
15 needed to supplement equipment and services  
16 available through contractors and other non-  
17 Federal entities.

18           “(B) DAMAGE ASSESSMENT CAPABILITY.—  
19 The costs of establishing and maintaining dam-  
20 age assessment capability for any Federal agen-  
21 cy involved in strike forces, emergency task  
22 forces, or other response teams under the Na-  
23 tional Contingency Plan.

24           “(3) EMPLOYEE SAFETY PROGRAMS.—The cost  
25 of maintaining programs otherwise authorized by

1 this Act to protect the health and safety of employ-  
2 ees involved in response to hazardous substance re-  
3 leases.

4 “(4) GRANTS FOR TECHNICAL ASSISTANCE.—  
5 The cost of grants under section 117(e) (relating to  
6 public participation grants for technical assistance).

7 “(5) WORKER TRAINING AND EDUCATION  
8 GRANTS.—The cost of grants under section 126(g)  
9 of the Superfund Amendments and Reauthorization  
10 Act of 1986 for training and education of workers  
11 to the extent that such costs do not exceed  
12 \$40,000,000 for each of fiscal years 2000 through  
13 2007.

14 “(6) ATSDR ACTIVITIES.—Any costs incurred  
15 in accordance with subsection (m) of this section (re-  
16 lating to ATSDR) and section 104(i), including the  
17 costs of epidemiologic and laboratory studies, public  
18 health assessments, and other activities authorized  
19 by section 104(i).

20 “(7) EVALUATION COSTS UNDER PETITION  
21 PROVISIONS OF SECTION 105(d).—Costs incurred by  
22 the President in evaluation facilities pursuant to pe-  
23 titions under section 105(d) (relating to petitions for  
24 assessment of release).

1           “(8) CONTRACT COSTS UNDER SECTION  
2           104(a)(1).—The costs of contracts or arrangements  
3           entered into under section 104(a)(1) to oversee and  
4           review the conduct of remedial investigations and  
5           feasibility studies undertaken by persons other than  
6           the President and the costs of appropriate Federal  
7           and State oversight of remedial activities at National  
8           Priorities List sites resulting from consent orders or  
9           settlement agreements.

10           “(9) RESEARCH, DEVELOPMENT, AND DEM-  
11           ONSTRATION COSTS UNDER SECTION 311.—The cost  
12           of carrying out section 311 (relating to research, de-  
13           velopment, and demonstration).

14           “(10) AWARDS UNDER SECTION 109.—The costs  
15           of any awards granted under section 109(d) (relat-  
16           ing to providing information concerning violations).

17           “(11) COMPREHENSIVE STATE GROUND WATER  
18           PROTECTION PLANS.—Costs of providing assistance  
19           to States to develop comprehensive State ground  
20           water protection plans to the extent such costs do  
21           not exceed \$3,000,000 in a fiscal year.

22           “(e) LIMITATIONS ON NATURAL RESOURCES  
23           CLAIMS.—No money in the Fund may be used for the pay-  
24           ment of any claim under subsection (c)(6) where such ex-  
25           penses are associated with injury or loss resulting from

1 long-term exposure to ambient concentrations of air pol-  
2 lutants from multiple or diffuse sources.

3 “(f) OTHER LIMITATIONS.—

4 “(1) LIMITATIONS ON PAYMENTS OF CLAIMS.—

5 Claims against or presented to the Fund shall not  
6 be valid or paid in excess of the total unobligated  
7 balance in the Fund at any one time. Such claims  
8 become valid and are payable only when additional  
9 money is collected, appropriated, or otherwise added  
10 to the Fund. Should the total claims outstanding at  
11 any time exceed the current balance of the Fund,  
12 the President shall pay such claims, to the extent  
13 authorized under this section, in full in the order in  
14 which they were finally determined.

15 “(2) REMEDIAL ACTIONS AT FEDERALLY  
16 OWNED FACILITIES.—No money in the Fund shall  
17 be available for costs of remedial action, other than  
18 costs specified in subsection (d), with respect to fed-  
19 erally owned facilities; except that money in the  
20 Fund shall be available for the provision of alter-  
21 native water supplies (including the reimbursement  
22 of costs incurred by a municipality) in any case in-  
23 volving ground water contamination outside the  
24 boundaries of a federally owned facility in which the



1 federally owned facility is not the only potentially re-  
2 sponsible party.

3 “(3) REMEDIAL ACTIONS AT FACILITIES NOT  
4 LISTED ON NPL.—No money in the Fund shall be  
5 available for response actions that are not removal  
6 actions under section 101(23) with respect to any  
7 facility that is not listed on the National Priorities  
8 List.”.

9 (b) ADDITIONAL AMENDMENTS.—

10 (1) SECTION 111.—Section 111 (42 U.S.C.  
11 9611) is further amended by striking subsections (j)  
12 and (n).

13 (2) SECTION 107.—Section 107 (42 U.S.C.  
14 9607) is amended by striking subsection (k).

15 (c) CONFORMING AMENDMENTS.—Section 112 (42  
16 U.S.C. 9612) is amended—

17 (1) in subsection (a) by striking “111(a)” and  
18 inserting “111(c)”; and

19 (2) in subsection (f) by striking “111(c)(1) or  
20 (2)” and inserting “111(c)(6)”.

21 **SEC. 602. AUTHORIZATION OF APPROPRIATIONS FROM**  
22 **GENERAL REVENUES.**

23 (a) AUTHORIZATION.—Section 111(p)(1) (42 U.S.C.  
24 9611(p)(1)) is amended to read as follows:

1           “(1) IN GENERAL.—There is authorized to be  
2           appropriated, out of any money in the Treasury not  
3           otherwise appropriated, to the Hazardous Substance  
4           Superfund \$250,000,000 for each of fiscal years  
5           2000 through 2007. In addition, there is authorized  
6           to be appropriated to the Hazardous Substance  
7           Superfund for each fiscal year an amount equal to  
8           so much of the aggregate amount authorized to be  
9           appropriated under this subsection as has not been  
10          appropriated before the beginning of the fiscal year  
11          involved.”.

12          (b) REPEAL OF DUPLICATIVE AUTHORIZATION.—  
13          Subsection (b) of section 517 of the Superfund Amend-  
14          ments and Reauthorization Act of 1986 (26 U.S.C. 9507  
15          note) is hereby repealed.

16          (c) CONFORMING AMENDMENT.—Section 9507(a)(2)  
17          of the Internal Revenue Code of 1986 is amended by strik-  
18          ing “section 517(b) of the Superfund Revenue Act of  
19          1986” and inserting “section 111(p) of the Comprehensive  
20          Environmental Response, Compensation, and Liability Act  
21          of 1980 (42 U.S.C. 9611(p))”.

22          **SEC. 603. COMPLETION OF NATIONAL PRIORITIES LIST.**

23          (a) STUDY OF 10-YEAR FUNDING NEEDS FOR IM-  
24          PLEMENTING CERCLA.—There is authorized to be ap-  
25          propriated \$1,000,000 for an independent analysis of the

1 projected 10-year costs to the Environmental Protection  
2 Agency of implementing the programs authorized by the  
3 Comprehensive Environmental Response, Compensation,  
4 and Liability Act of 1980. Such analysis shall include esti-  
5 mates of annual and cumulative costs over the next 10  
6 years associated with administering such Act by the Envi-  
7 ronmental Protection Agency, shall identify sources of un-  
8 certainty in the estimates, and shall be completed by Jan-  
9 uary 1, 2001.

10 (b) BREAKDOWN OF COSTS.—The study referred to  
11 in subsection (a) shall include estimates of the following:

12 (1) Costs for completion of all non-Federal fa-  
13 cilities currently on the National Priorities List.

14 (2) Costs for completion of all Federal facilities  
15 currently on the National Priorities List.

16 (3) Costs associated with those non-Federal  
17 sites which the Administrator of the Environmental  
18 Protection Agency expects to be added to the Na-  
19 tional Priorities List over the next 10 years.

20 (4) Costs associated with those Federal facili-  
21 ties which the Administrator expects to be added to  
22 the National Priorities List over the next 10 years.

23 (5) Costs for operations and maintenance at fa-  
24 cilities currently on, or anticipated to be added over  
25 the next 10 years to, the National Priorities List.

1           (6) Costs associated with reviews of remedies  
2           under section 121(c) of the Comprehensive Environ-  
3           mental Response, Compensation, and Liability Act  
4           of 1980, and any follow-up activities.

5           (7) Costs for removal activities.

6           The study shall not include costs associated with imple-  
7           menting section 127 of the Comprehensive Environmental  
8           Response, Compensation, and Liability Act of 1980.

9           (c) ORGANIZATIONS TO CONDUCT STUDY.—The cost  
10          analysis under subsection (a) shall be conducted by a neu-  
11          tral, nongovernmental organization with expertise in the  
12          Comprehensive Environmental Response, Compensation,  
13          and Liability Act of 1980. In conducting the analysis, the  
14          nongovernmental organization shall collect relevant infor-  
15          mation from experts and other interested persons, includ-  
16          ing experts in public budgeting and accounting.

## 17                                   **TITLE VII—REVENUES**

### 18           **SEC. 701. SENSE OF COMMITTEE ON TRANSPORTATION**

#### 19                                   **AND INFRASTRUCTURE.**

20           It is the sense of the Committee on Transportation  
21           and Infrastructure of the House of Representatives that—

22                   (1) the environmental taxes, taxes on chemicals,  
23                   and taxes on petroleum that provide revenues to the  
24                   Hazardous Substance Superfund be reinstated for

1 the period beginning January 1, 2000, and ending  
2 December 31, 2007;

3 (2) the rate of tax and combination of taxes re-  
4 ferred to in paragraph (1) be commensurate with  
5 the revenue needs, based on the amounts made  
6 available from the Hazardous Substance Superfund  
7 pursuant to section 111 of the Comprehensive Envi-  
8 ronmental Response, Compensation, and Liability  
9 Act of 1980, as amended by this Act; and

10 (3) the taxes that provide revenues to the Haz-  
11 ardous Substance Superfund may be reauthorized at  
12 a lower rate, and may decline over time, subject to  
13 meeting the requirements of paragraph (2).

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