

105TH CONGRESS  
1ST SESSION

# H. R. 1195

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to ensure full Federal compliance with that Act.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

Mr. DAN SCHAEFER of Colorado introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, 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 ensure full Federal compliance with that Act.

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.**

4 This Act may be cited as the “Federal Facility  
5 Superfund Compliance Act of 1997”.

1 **SEC. 2. FEDERAL ENTITIES AND FACILITIES.**

2 Section 120 of the Comprehensive Environmental Re-  
3 sponse, Compensation, and Liability Act of 1980 (42  
4 U.S.C. 9620) is amended as follows:

5 (1) By amending the heading to read as follows:

6 **“SEC. 120. FEDERAL ENTITIES AND FACILITIES.”.**

7 (2) By amending paragraph (1) of subsection  
8 (a) to read as follows:

9 “(1)(A) Each department, agency, and instru-  
10 mentality of the executive, legislative, and judicial  
11 branches of the United States shall be subject to,  
12 and comply with, all Federal, State, interstate and  
13 local requirements, both substantive and procedural  
14 (including any requirements for permits, reporting,  
15 or any provisions for injunctive relief and such sanc-  
16 tions as may be imposed by a court to enforce such  
17 relief), regarding response actions related to, or  
18 management of, hazardous substances, pollutants, or  
19 contaminants in the same manner, and to the same  
20 extent, as any nongovernmental entity is subject to  
21 such requirements, including enforcement and liabil-  
22 ity under sections 106 and 107 of this title and the  
23 payment of reasonable service charges.

24 “(B) The Federal, State, interstate, and local  
25 substantive and procedural requirements referred to  
26 in subparagraph (A) include, but are not limited to,

1 all administrative orders and all civil and adminis-  
2 trative penalties and fines, regardless of whether  
3 such penalties and fines are punitive or coercive in  
4 nature or are imposed for isolated, intermittent, or  
5 continuing violations. The United States hereby ex-  
6 pressly waives any immunity otherwise applicable to  
7 the United States with respect to any such sub-  
8 stantive or procedural requirement (including, but  
9 not limited to, any injunctive relief, administrative  
10 order or civil or administrative penalty or fine re-  
11 ferred to in the preceding sentence, or reasonable  
12 service charge).

13 “(C) The reasonable service charges referred to  
14 in this paragraph include, but are not limited to,  
15 fees or charges assessed in connection with the proc-  
16 essing and issuance of permits, renewal of permits,  
17 amendments to permits, review of plans, studies,  
18 and other documents, and inspection and monitoring  
19 of facilities, as well as any other nondiscriminatory  
20 charges that are assessed in connection with a State,  
21 interstate, or local response program.

22 “(D) Neither the United States, nor any agent,  
23 employee, or officer thereof, shall be immune or ex-  
24 empt from any process or sanction of any State or

1 Federal court with respect to the enforcement of any  
2 injunctive relief.

3 “(E) No agent, employee, or officer of the Unit-  
4 ed States shall be personally liable for any civil pen-  
5 alty under any Federal or State response law with  
6 respect to any act or omission within the scope of  
7 their official duties. An agent, employee, or officer of  
8 the United States shall be subject to any criminal  
9 sanction (including, but not limited to, any fine or  
10 imprisonment) under any Federal or State response  
11 law, but no department, agency, or instrumentality  
12 of the executive, legislative, or judicial branch of the  
13 United States shall be subject to any such sanctions.

14 “(F) The waiver of sovereign immunity pro-  
15 vided in this paragraph shall not apply to the extent  
16 a State law would apply any standard or require-  
17 ment to such Federal department, agency, or instru-  
18 mentality in a manner which is more stringent than  
19 such standard or requirement would be applied to  
20 any other person.

21 “(G) Nothing in this section shall be construed  
22 to affect the liability of any person or entity other  
23 than a department, agency, or instrumentality of the  
24 United States under sections 106 and 107 of this  
25 Act.

1           “(H)(i) The Administrator may issue an order  
2           under section 106 of this Act to any department,  
3           agency, or instrumentality of the executive, legisla-  
4           tive, or judicial branch of the United States. The  
5           Administrator shall initiate an administrative en-  
6           forcement action against such a department, agency,  
7           or instrumentality in the same manner and under  
8           the same circumstances as action would be initiated  
9           against any other person.

10           “(ii) No administrative order issued to such de-  
11           partment, agency, or instrumentality shall become  
12           final until such department, agency, or instrumentality  
13           has had the opportunity to confer with the Ad-  
14           ministrator.

15           “(iii) Unless a State law in effect on the date  
16           of enactment of the Federal Facility Superfund  
17           Compliance Act of 1997, or a State Constitution, re-  
18           quires the funds to be used in a different manner,  
19           all funds collected by a State from the Federal Gov-  
20           ernment from penalties and fines imposed for viola-  
21           tion of any substantive or procedural requirement  
22           referred to in subsection (a) of this section shall be  
23           used by the State only for projects designed to im-  
24           prove or protect the environment or to defray the  
25           costs of environmental protection or enforcement.

1           “(I) Each such department, agency, and instru-  
2           mentality shall have the right to contribution protec-  
3           tion set forth in section 113, when such department,  
4           agency, or instrumentality resolves its liability under  
5           this Act.”.

6           (3) By striking paragraph (4) of subsection (a).

7           (4) By inserting “(other than the indemnifica-  
8           tion requirements of section 119)” after “respon-  
9           sibility” in subsection (a)(3).

10          (5) By adding at the end of subsection (e) the  
11          following new paragraph:

12          “(7) STATE REQUIREMENTS.—Notwithstanding  
13          any other provision of this Act, an interagency  
14          agreement under this section shall in no way impair  
15          or diminish the authority of any State to enforce  
16          compliance with requirements of State law, unless  
17          such requirements have been specifically—

18                  “(A) addressed; or

19                  “(B) waived;

20          without objection from the State before or on the  
21          date on which the response action is selected.”.

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