

105TH CONGRESS
1ST SESSION

H. R. 1206

To require the Administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs for low and medium priority sites to protect human health and the environment and promote economic development.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

Mr. VISCLOSKY 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

A BILL

To require the Administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs for low and medium priority sites to protect human health and the environment and promote economic development.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Brownfield Cleanup
3 and Redevelopment Act”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—The Congress finds:

6 (1) Nationwide, older abandoned or under-used
7 commercial and industrial sites known as
8 brownfields are often overlooked for redevelopment
9 because of real or perceived contamination from past
10 commercial or industrial activities.

11 (2) Reuse of these sites often requires site as-
12 sessment and cleanup, adding costs and uncertain-
13 ties to the redevelopment process, and prompting
14 many developers to pursue cheaper, less complicated
15 development options on undeveloped sites.

16 (3) Industrialized metropolitan areas and small
17 towns alike are affected adversely by these compet-
18 ing pressures, as loss of tax revenues and job oppor-
19 tunities for community residents lead to a deteriora-
20 tion of the urban environment, including the pres-
21 ence of unremediated environmental contamination.

22 (4) States have created remedial action pro-
23 grams to allow a person to respond voluntarily to a
24 release or suspected release of hazardous substances
25 at low and medium priority facilities. Such programs
26 have flourished due to the States’ ability to stream-

1 line duplicative State and Federal regulatory re-
2 quirements and affect a timely, cost-effective, and
3 environmentally protective cleanup of sites.

4 (5) The benefits of State voluntary cleanup pro-
5 grams would be significantly enhanced in the context
6 of a Federal system that encourages Federal-State
7 partnerships, provides legal finality to the cleanup
8 process, and removes Federal requirements for cer-
9 tain procedural permits for cleanups conducted
10 under certified State voluntary cleanup programs.

11 (b) PURPOSE.—The purpose of this Act is to ensure
12 the quality of State brownfield cleanup and redevelopment
13 efforts by establishing Federal criteria for State voluntary
14 cleanup programs and to provide certainty by removing
15 the cleanup of eligible brownfield facilities and properties
16 remediated through certified State voluntary cleanup pro-
17 grams from coverage under certain other Federal laws.

18 **SEC. 3. CERTIFICATION OF STATE VOLUNTARY CLEANUP**
19 **PROGRAMS.**

20 (a) IN GENERAL.—Not later than one year after the
21 date of the enactment of this Act, the Administrator of
22 the Environmental Protection Agency (hereinafter in this
23 Act referred to as the “Administrator”) shall establish,
24 and publish in the Federal Register, certification criteria
25 under subsection (d) for State programs for the voluntary

1 cleanup of eligible facilities. If a State meets the criteria
2 for certification, the Administrator shall certify the State
3 to carry out the cleanup program in such State at eligible
4 Facilities in lieu of any Federal program that addresses
5 the cleanup of such facilities under the Comprehensive En-
6 vironmental Response, Compensation, and Liability Act of
7 1980 or the Solid Waste Disposal Act.

8 (b) CERTIFICATION OF STATE PROGRAMS.—The Ad-
9 ministrator shall certify a State program for the voluntary
10 cleanup of eligible facilities within 120 days after the Ad-
11 ministrator receives adequate documentation from the
12 State indicating that the State program meets the certifi-
13 cation criteria established under subsection (d).

14 (c) FEDERAL-STATE COOPERATION AND STATE CER-
15 TIFICATION.—The Administrator shall cooperate with the
16 State to ensure that State programs continue to meet the
17 terms of the certification issued pursuant to subsection
18 (b). The Administrator shall convene annual meetings to
19 discuss the status of the State program and to encourage
20 continuing dialogue. The Administrator shall notify the
21 State of any failure of the State program to continue to
22 meet the certification criteria established under subsection
23 (d) and shall assist the State in remedying such deficiency.
24 If any such deficiency is substantial and is not remedied
25 in a timely manner, the Administrator may withdraw the

1 certification. Withdrawal of certification shall not affect
2 any cleanup completed and approved by the State as of
3 the date of such withdrawal.

4 (d) CERTIFICATION CRITERIA.—In order for a State
5 voluntary cleanup program to be certified under this sec-
6 tion, the program shall meet each of the following criteria:

7 (1) The program shall provide that only eligible
8 facilities, as described in subsection (d), may partici-
9 pate in the program.

10 (2) The program shall provide adequate oppor-
11 tunities for meaningful public participation in the
12 development and implementation of cleanup plans
13 for eligible facilities. Public participation require-
14 ments shall include, but not be limited to, providing
15 opportunity for affected parties to review and com-
16 ment on cleanup documents and plans, and provid-
17 ing opportunity for public input to the remedy selec-
18 tion process. Affected parties shall include, but not
19 be limited to, local work force representatives, adja-
20 cent community residents, and local environmental
21 and health officials and other public interest organi-
22 zations.

23 (3) The program shall ensure that technical as-
24 sistance is available throughout each voluntary
25 cleanup.

1 (4) The program shall ensure that adequate re-
2 sources are available to carry out cleanup under the
3 program and to administer the program.

4 (5) The program shall ensure adequate over-
5 sight and enforcement authority.

6 (6) The program shall provide for a certifi-
7 cation from the State to the owner or prospective
8 purchaser of an eligible facility that the cleanup is
9 complete.

10 (e) ELIGIBLE FACILITIES.—For purposes of this Act,
11 the term “eligible facility” means a facility or property
12 that is a low- or medium-priority environmental hazard
13 for the State, but whose environmental contamination is
14 thought to be preventing the timely use, redevelopment,
15 or reuse of the facility or property, and is thought to be
16 limited in scope and readily assessable, except that such
17 term shall not include any of the following:

18 (1) A facility for which an abatement action has
19 been taken or is scheduled to be taken under section
20 106 of the Comprehensive Environmental Response,
21 Compensation, and Liability Act of 1980 or for
22 which an action has been taken or is scheduled to
23 be taken under section 7003 of the Solid Waste Dis-
24 posal Act.

1 (2) A facility that is the subject of a Federal
2 response action under section 104 of the Com-
3 prehensive Environmental Response, Compensation,
4 and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

5 (3) A facility included on the National Prior-
6 ities List or proposed for inclusion and for which
7 documentation for listing has been prepared by the
8 State or the Administrator.

9 (4) A facility required to have a permit under
10 section 3005 of the Solid Waste Disposal Act that
11 does not have a permit under that section and does
12 not qualify for authorization to operate in interim
13 status under subsection (e) of that section.

14 (5) A land disposal unit with respect to which
15 a closure requirement under subtitle C of the Solid
16 Waste Disposal Act (42 U.S.C. 6921 et seq.) is sub-
17 mitted and closure requirements are specified in a
18 closure plan or permit.

19 (6) A facility that is the subject of a corrective
20 action under section 3004(u) or 3008(h) of the Solid
21 Waste Disposal Act (42 U.S.C. 5924(u) or 6928(h))
22 that has been evaluated as high priority under the
23 Environmental Protection Agency's National Correc-
24 tive Action Priority System as set forth in regula-

1 tions under subtitle C of the Solid Waste Disposal
2 Act.

3 (7) A facility at which assistance for response
4 activities may be obtained pursuant to subtitle I of
5 the Solid Waste Disposal Act (42 U.S.C. 6991 et
6 seq.) from the Leaking Underground Storage Tank
7 Trust Fund established under section 9508 of the
8 Internal Revenue Code of 1986.

9 (8) A facility owned or operated by a depart-
10 ment, agency, or instrumentality of the United
11 States.

12 (f) RELATIONSHIP TO PERMIT REQUIREMENTS.—
13 For any cleanup conducted under a State voluntary clean-
14 up program certified under this section, if the cleanup is
15 carried out in compliance with the certified program the
16 State may modify any procedural permit requirement in
17 order to expedite the cleanup.

18 **SEC. 4. AUTHORITY UNDER CERCLA.**

19 Notwithstanding subsection (a) of section 3, the Ad-
20 ministrator may—

21 (1) take any action authorized by section 103
22 of the Comprehensive Environmental Response,
23 Compensation, and Liability Act of 1980 (42 U.S.C.
24 9603), or

1 (2) carry out investigations, monitoring, sur-
2 veys, testing, or other information gathering author-
3 ized under section 104(b) of such Act (42 U.S.C.
4 9604(b)) with respect to facilities that are subject to
5 a State voluntary response program, but only for
6 purposes of determining whether the facility quali-
7 fies for listing on the National Priorities List pursu-
8 ant to section 105 (42 U.S.C. 9605) of that Act.

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