

105TH CONGRESS
1ST SESSION

S. 1224

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 1997

Mr. ALLARD (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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”.

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

7 Section 120 of the Comprehensive Environmental Re-
8 sponse, Compensation, and Liability Act of 1980 (42
9 U.S.C. 9620) is amended—

1 (1) by striking the section heading and insert-
 2 ing the following:

3 **“SEC. 120. FEDERAL ENTITIES AND FACILITIES.”;**

4 (2) in subsection (a)—

5 (A) by striking paragraph (1) and insert-
 6 ing the following:

7 “(1) IN GENERAL.—

8 “(A) DEFINITION OF SERVICE CHARGES.—

9 In this paragraph, the term ‘service charge’ in-
 10 cludes—

11 “(i) a fee or charge assessed in con-
 12 nection with—

13 “(I) the processing or issuance of
 14 a permit, renewal of a permit, or
 15 amendment of a permit;

16 “(II) review of a plan, study, or
 17 other document; or

18 “(III) inspection or monitoring of
 19 a facility; and

20 “(ii) any other charge that is assessed
 21 in connection with a State, interstate, or
 22 local response program.

23 “(B) APPLICATION OF FEDERAL, STATE,
 24 INTERSTATE, AND LOCAL LAW.—

1 “(i) IN GENERAL.—Each department,
2 agency, and instrumentality of the execu-
3 tive, legislative, or judicial branch of the
4 United States shall be subject to, and shall
5 comply with this Act and all other Federal,
6 State, interstate, and local substantive and
7 procedural requirements and other provi-
8 sions of law relating to a response action
9 or restoration action or the management of
10 a hazardous waste, pollutant, or contami-
11 nant in the same manner, and to the same
12 extent, as any nongovernmental entity is
13 subject to those provisions of law.

14 “(ii) PROVISIONS INCLUDED.—The
15 provisions of law referred to in clause (i)
16 include—

17 “(I) a permit requirement;

18 “(II) a reporting requirement;

19 “(III) a provision authorizing in-
20 junctive relief (including such sanc-
21 tions as a court may impose to en-
22 force injunctive relief);

23 “(IV) sections 106 and 107 and
24 similar provisions of Federal, State,
25 or local law relating to enforcement

1 and liability for cleanup, reimburse-
2 ment of response costs, contribution,
3 and payment of damages;

4 “(V) a requirement to pay rea-
5 sonable service charges; and

6 “(VI) all administrative orders
7 and all civil and administrative pen-
8 alties and fines, regardless of whether
9 the penalties or fines are punitive or
10 coercive in nature or are imposed for
11 an isolated, intermittent, or continu-
12 ing violation.

13 “(C) WAIVER OF IMMUNITY.—

14 “(i) IN GENERAL.—The United States
15 waives any immunity applicable to the
16 United States with respect to any provision
17 of law described in subparagraph (B).

18 “(ii) LIMITATION.—The waiver of sov-
19 ereign immunity under clause (i) does not
20 apply to the extent that a State law would
21 apply any standard or requirement to the
22 Federal department, agency, or instrumen-
23 tality in a manner that is more stringent
24 than the manner in which the standard or

1 requirement would apply to any other per-
2 son.

3 “(D) CIVIL AND CRIMINAL LIABILITY.—

4 “(i) INJUNCTIVE RELIEF.—Neither
5 the United States nor any agent, employee,
6 or officer of the United States shall be im-
7 mune or exempt from any process or sanc-
8 tion of any Federal or State court with
9 respect to the enforcement of injunctive
10 relief referred to in subparagraph
11 (B)(ii)(III).

12 “(ii) NO PERSONAL LIABILITY FOR
13 CIVIL PENALTY.—No agent, employee, or
14 officer of the United States shall be per-
15 sonally liable for any civil penalty under
16 any Federal or State law relating to a re-
17 sponse action or to management of a haz-
18 ardous substance, pollutant, or contami-
19 nant with respect to any act or omission
20 within the scope of the official duties of
21 the agent, employee, or officer.

22 “(iii) CRIMINAL LIABILITY.—An
23 agent, employee, or officer of the United
24 States shall be subject to any criminal
25 sanction (including a fine or imprison-

1 ment) under any Federal or State law re-
2 lating to a response action or to manage-
3 ment of a hazardous substance, pollutant,
4 or contaminant, but no department, agen-
5 cy, or instrumentality of the executive, leg-
6 islative, or judicial branch of the United
7 States shall be subject to any such sanc-
8 tion.

9 “(E) ENFORCEMENT.—

10 “(i) ABATEMENT ACTIONS.—The Ad-
11 ministrator may issue an order under sec-
12 tion 106 to any department, agency, or in-
13 strumentality of the executive, legislative,
14 or judicial branch of the United States.
15 The Administrator shall initiate an admin-
16 istrative enforcement action against such a
17 department, agency, or instrumentality in
18 the same manner and under the same cir-
19 cumstances as an action would be initiated
20 against any other person.

21 “(ii) CONSULTATION.—No adminis-
22 trative order issued to a department, agen-
23 cy, or instrumentality of the United States
24 shall become final until the department,

agency, or instrumentality has had the opportunity to confer with the Administrator.

“(iii) USE OF PENALTIES AND FINES.—Unless a State law in effect on the date of enactment of this clause requires the funds to be used in a different manner, all funds collected by a State from the Federal Government as penalties or fines imposed for violation of a provision of law referred to in subparagraph (B) shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.

“(F) CONTRIBUTION.—A department, agency, or instrumentality of the United States shall have the right to contribution under section 113 if the department, agency, or instrumentality resolves its liability under this Act.”;

(B) in the second sentence of paragraph (3), by inserting “(other than the indemnification requirements of section 119)” after “responsibility”; and

(C) by striking paragraph (4); and

1 (3) in subsection (e), by adding at the end the
2 following:

3 “(7) STATE REQUIREMENTS.—Notwithstanding
4 any other provision of this Act, an interagency
5 agreement under this section shall not impair or di-
6 minish the authority of a State, political subdivision
7 of a State, or any other person or the jurisdiction
8 of any court to enforce compliance with require-
9 ments of State or Federal law, unless those require-
10 ments have been specifically addressed in the agree-
11 ment or waived without objection after notice to the
12 State before or on the date on which the response
13 action is selected.”.

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