

105TH CONGRESS
1ST SESSION

S. 765

To amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 20, 1997

Mr. ENZI (for himself, Mr. ALLARD, Mr. BURNS, Mr. CRAIG, Mr. HAGEL, Mr. McCONNELL, Mr. ROBERTS, Mr. SESSIONS, Mr. THOMAS, and Mr. HUTCHINSON) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, 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; REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the

5 “Safety and Health Advancement Act”.

6 (b) REFERENCE.—Whenever in this Act an amend-

7 ment or repeal is expressed in terms of an amendment

8 to, or repeal of, a section or other provision, the reference

9 shall be considered to be made to a section or other provi-

1 sion of the Occupational Safety and Health Act of 1970
2 (29 U.S.C. 651 et seq.).

3 **SEC. 2. PURPOSE.**

4 Section 2(b) (29 U.S.C. 651(b)) is amended—

5 (1) in paragraph (13), by striking the period
6 and inserting “; and”; and

7 (2) by adding at the end the following:

8 “(14) by increasing the joint cooperation of em-
9 ployers, employees, and the Secretary in the effort to
10 ensure safe and healthful working conditions for em-
11 ployees.”.

12 **SEC. 3. EMPLOYEE AND EMPLOYER PARTICIPATION PRO-**

13 **GRAMS.**

14 Section 4 (29 U.S.C. 653) is amended by adding at
15 the end the following:

16 “(c)(1) In order to further carry out the purpose of
17 this Act to encourage employers and employees in their
18 efforts to reduce occupational safety and health hazards,
19 employers may establish employer and employee participa-
20 tion programs which exist for the sole purpose of address-
21 ing safe and healthful working conditions.

22 “(2) An entity created under a program described in
23 paragraph (1) shall not constitute a labor organization for
24 purposes of section 8(a)(2) of the National Labor Rela-
25 tions Act (29 U.S.C. 158(a)(2)) or a representative for

1 purposes of sections 1 and 2 of the Railway Labor Act
2 (45 U.S.C. 151 and 151a).

3 “(3) Nothing in this subsection shall be construed to
4 affect employer obligations under section 8(a)(5) of the
5 National Labor Relations Act (29 U.S.C. 158(a)(5)) to
6 deal with a certified or recognized employee representative
7 with respect to health and safety matters to the extent
8 otherwise required by law.”.

9 **SEC. 4. ESTABLISHMENT OF SPECIAL ADVISORY COMMIT-**

10 **TEE.**

11 Section 7 (29 U.S.C. 656) is amended by adding at
12 the end the following:

13 “(d)(1) Not later than 6 months after the date of
14 enactment of this section, the Secretary shall establish an
15 advisory committee (pursuant to the Federal Advisory
16 Committee Act (5 U.S.C. App)) to carry the duties de-
17 scribed in paragraph (3).

18 “(2) The advisory committee shall be composed of—

19 “(A) 3 members who are employees;

20 “(B) 3 members who are employers;

21 “(C) 2 members who are members of the gen-
22 eral public; and

23 “(D) 1 member who is a State official from a
24 State plan State.

1 Each member of the advisory committee shall have exper-
2 tise in workplace safety and health as demonstrated by
3 the educational background of the member.

4 “(3) The advisory committee shall advise and make
5 recommendations to the Secretary with respect to the es-
6 tablishment and implementation of a consultation services
7 program under section 8A.”.

8 **SEC. 5. THIRD PARTY CONSULTATION SERVICES PROGRAM.**

9 (a) PROGRAM.—The Act (29 U.S.C. 651 et seq.) is
10 amended by inserting after section 8 the following:

11 **“SEC. 8A. THIRD PARTY CONSULTATION SERVICES PRO-
12 GRAM.**

13 “(a) ESTABLISHMENT OF PROGRAM.—

14 “(1) IN GENERAL.—Not later than 12 months
15 after the date of enactment of this section, the Sec-
16 retary shall establish and implement, by regulation,
17 a program that certifies individuals to provide con-
18 sultation services to employers to assist employers in
19 the identification and correction of safety and health
20 hazards in the workplaces of employers.

21 “(2) ELIGIBILITY.—Each of the following indi-
22 viduals shall be eligible to be qualified under the
23 program:

24 “(A) An individual licensed by a State au-
25 thority as a physician, industrial hygienist, pro-

1 fessional engineer, safety engineer, safety pro-
2 fessional, or occupational nurse.

3 “(B) An individual who has been employed
4 as an inspector for a State plan State or as a
5 Federal occupational safety and health inspec-
6 tor for not less than a 5-year period.

7 “(C) An individual qualified in an occupa-
8 tional health or safety field by an organization
9 whose program has been accredited by a nation-
10 ally recognized private accreditation organiza-
11 tion or by the Secretary;

12 “(3) GEOGRAPHICAL SCOPE OF CONSULTATION
13 SERVICES.—An individual certified under the pro-
14 gram may provide consultation services in any State.

15 “(b) SAFETY AND HEALTH REGISTRY.—The Sec-
16 retary shall develop and maintain a registry that includes
17 all individuals that are certified under the program to pro-
18 vide the consultation services described in subsection (a)
19 and shall publish and make such registry readily available
20 to the general public.

21 “(c) DISCIPLINARY ACTIONS.—

22 “(1) IN GENERAL.—The Secretary may revoke
23 the status of an individual certified under subsection
24 (a) if the Secretary determines that the individual—

1 “(A) has failed to meet the requirements
2 of the program; or

3 “(B) has committed malfeasance, gross
4 negligence, or fraud in connection with any con-
5 sultation services provided by the certified indi-
6 vidual.

7 “(d) CONSULTATION SERVICES.—

8 “(1) SCOPE OF CONSULTATION SERVICES.—

9 “(A) IN GENERAL.—The consultation serv-
10 ices described in subsection (a), and provided
11 by an individual certified under the program,
12 shall include an evaluation of the workplace of
13 an employer to determine if the employer is in
14 compliance with the requirements of this Act,
15 including any regulations promulgated pursuant
16 to this Act.

17 “(B) NON-FIXED WORK SITES.—With re-
18 spect to the employees of an employer who do
19 not work at a fixed site, the consultation serv-
20 ices described in subsection (a), and provided
21 by an individual certified under the program,
22 shall include an evaluation of the safety and
23 health program of the employer to determine if
24 the employer is in compliance with the require-

1 ments of this Act, including any regulations
2 promulgated under this Act.

3 “(2) CONSULTATION REPORT.—Not later than
4 10 business days after an individual certified under
5 the program provides the consultation services de-
6 scribed in subsection (a) to an employer, the individ-
7 ual shall prepare and submit a written report to the
8 employer that includes an identification of any viola-
9 tions of this Act and requirements with respect to
10 corrective measures the employer needs to carry out
11 in order for the workplace of the employer to be in
12 compliance with the requirements of this Act.

13 “(3) REINSPECTION.—Not later than 30 days
14 after an individual certified under the program sub-
15 mits a report to an employer under paragraph (2),
16 or on a date agreed on by the individual and the em-
17 ployer, the individual shall reinspect the workplace
18 of the employer to verify that any occupational safe-
19 ty or health violations identified in the report have
20 been corrected and the workplace of the employer is
21 in compliance with this Act. If, after such reinspec-
22 tion, the individual determines that the workplace is
23 in compliance with the requirements of this Act, the
24 individual shall provide the employer a declaration of
25 compliance.

1 “(4) GUIDELINES.—The Secretary, in consulta-
2 tion with an advisory committee established in sec-
3 tion (7)(d), shall develop model guidelines for use in
4 evaluating a workplace under paragraph (1).

5 “(e) ACCESS TO RECORDS.—Any records relating to
6 consultation services (as described in subsection (a)) pro-
7 vided by an individual qualified under the program shall
8 not be admissible in a court of law or administrative pro-
9 ceeding against the employer except that such records may
10 be used as evidence for purposes of a disciplinary action
11 under subsection (c).

12 “(f) EXEMPTION.—

13 “(1) IN GENERAL.—If an employer enters into
14 a contract with an individual certified under the pro-
15 gram, to provide consultation services described in
16 subsection (a), and receives a declaration of compli-
17 ance under subsection (d)(3), the employer shall be
18 exempt from the assessment of any civil penalty
19 under section 17 for a period of 2 years after the
20 date the employer receives the declaration.

21 “(2) EXCEPTIONS.—Paragraph (1) shall not
22 apply—

23 “(A) if the employer involved has not made
24 a good faith effort to remain in compliance as
25 required under the declaration of compliance; or

1 “(B) to the extent that there has been a
2 fundamental change in the hazards of the work-
3 place.

4 “(g) **DEFINITION.**—In this section, the term ‘pro-
5 gram’ means the program established by the Secretary
6 under subsection (a).”.

7 **SEC. 6. INDEPENDENT SCIENTIFIC PEER REVIEW.**

8 Section 6(b) (29 U.S.C. 655(b)(1)) is amended—

9 (1) by striking: “(4) Within” and inserting:
10 “(4)(A) Within”; and
11 (2) by adding at the end the following:
12 “(B)(i) Prior to issuing a final standard under this
13 paragraph, the Secretary shall submit the draft final
14 standard and a copy of the administrative record to the
15 National Academy of Sciences for review in accordance
16 with clause (ii).

17 “(ii)(I) The National Academy of Sciences shall ap-
18 point an independent Scientific Review Committee.

19 “(II) The Scientific Review Committee shall conduct
20 an independent review of the draft final standard and the
21 scientific literature and make written recommendations
22 with respect to the draft final standard to the Secretary,
23 including recommendations relating to the appropriateness
24 and adequacy of the scientific data, scientific methodology,
25 and scientific conclusions, adopted by the Secretary.

1 “(III) If the Secretary decides to modify the draft
2 final standard in response to the recommendations pro-
3 vided by the Scientific Review Committee, the Scientific
4 Review Committee shall be given an opportunity to review
5 and comment on the modifications before the final stand-
6 ard is issued.

7 “(IV) The recommendations of the Scientific Review
8 Committee shall be published with the final standard in
9 the Federal Register.”.

10 **SEC. 7. CONTINUING EDUCATION AND PROFESSIONAL CER-
11 TIFICATION FOR CERTAIN OCCUPATIONAL
12 SAFETY AND HEALTH ADMINISTRATION PER-
13 SONNEL.**

14 Section 8 (29 U.S.C. 657) is amended by adding at
15 the end the following:

16 “(i) Any Federal employee responsible for enforcing
17 this Act shall (not later than 2 years after the date of
18 enactment of this subsection or 2 years after the initial
19 employment of the employee) meet the eligibility require-
20 ments prescribed under subsection (a)(2) or (c).

21 “(j) The Secretary shall ensure that any Federal em-
22 ployee responsible for enforcing this Act who carries out
23 inspections or investigations under this section, receive
24 professional education and training at least every 5 years
25 as prescribed by the Secretary.”.

1 **SEC. 8. THE USE OF ALTERNATIVE METHODS AS AN AF-**2 **FIRMATIVE DEFENSE.**

3 Section 9 (29 U.S.C. 658) is amended by adding at

4 the end the following:

5 “(d) A citation issued under subsection (a) to an em-
6 ployer who violates section 5, or any standard, rule, or
7 order promulgated pursuant to section 6, or any other reg-
8 ulation promulgated under this Act shall be vacated if
9 such employer demonstrates that the employees of such
10 employer were protected by alternative methods that are
11 equally or more protective of the safety and health of the
12 employees than the methods required by such standard,
13 rule, order, or regulation in the factual circumstances un-
14 derlying the citation.”.

15 **SEC. 9. EMPLOYEE RESPONSIBILITY.**

16 The Occupational Safety and Health Act of 1970 (29
17 U.S.C. 651 et seq.) is amended by inserting after section
18 10 the following:

19 **“EMPLOYEE RESPONSIBILITY**

20 “SEC. 10A. (a) Notwithstanding any other provision
21 of this Act, an employee who willfully violates any require-
22 ment of section 5 or any standard, rule, or order promul-
23 gated pursuant to section 6, or any regulation prescribed
24 pursuant to this Act, may be assessed a civil penalty of
25 up to \$500, but not less than \$50 for each violation.

1 “(b) If, upon inspection and investigation, the Sec-
2 retary or the authorized representative of the Secretary
3 believes that an employee of an employer has violated any
4 requirement of section 5 or any standard, rule, or order
5 promulgated pursuant to section 6, or any regulation pre-
6 scribed pursuant to this Act, the Secretary shall within
7 60 days issue a citation to the employee. Each citation
8 shall be in writing and shall describe with particularity
9 the nature of the violation, including a reference to the
10 provision of this Act, standard, rule, regulation, or order
11 alleged to have been violated. No citation may be issued
12 under this section after the expiration of 6 months follow-
13 ing the occurrence of any violation.

14 “(c) The Secretary shall notify the employee by cer-
15 tified mail of the citation and proposed penalty and that
16 the employee has 15 working days within which to notify
17 the Secretary that the employee wishes to contest the cita-
18 tion or penalty. If no notice is filed by the employee within
19 15 working days, the citation and the penalty, as pro-
20 posed, shall be deemed a final order of the Commission
21 and not subject to review by any court or agency.

22 “(d) If the employee notifies the Secretary that the
23 employee intends to contest the citation or proposed pen-
24 alty, the Secretary shall immediately advise the Commis-
25 sion of such notification, and the Commission shall afford

1 an opportunity for a hearing (in accordance section 554
2 of title 5, United States Code). The Commission shall
3 thereafter issue an order, based on findings of fact, affirm-
4 ing, modifying, or vacating the Secretary's citation or pro-
5 posed penalty, or directing other appropriate relief, and
6 such order shall become final 30 days after issuance of
7 the order.”.

8 **SEC. 10. INSPECTION QUOTAS.**

9 Section 9 (29 U.S.C. 658), as amended by section
10 8, is further amended by adding at the end the following:
11 “(e) The Secretary shall not establish for any em-
12 ployee within the Occupational Safety and Health Admin-
13 istration (including any regional director, area director,
14 supervisor, or inspector) a quota with respect to the num-
15 ber of inspections conducted, the number of citations is-
16 sued, or the amount of penalties collected, in accordance
17 with this Act.

18 “(f) Not later than 12 months after the date of enact-
19 ment of this subsection and annually thereafter, the Sec-
20 retary shall report on the number of employers that are
21 inspected under this Act and determined to be in compli-
22 ance with the requirements prescribed under this Act.”.

23 **SEC. 11. REVIEW BY THE COMMISSION.**

24 Section 17 (29 U.S.C. 666) is amended by striking
25 subsection (j) and inserting the following:

1 “(j)(1) The Commission shall have the authority to
2 assess all civil penalties under this section. In assessing
3 a penalty under this section, the Commission shall give
4 due consideration to the appropriateness of the penalty
5 with respect to—

6 “(A) the size of the employer;

7 “(B) the number of employees exposed to a vio-
8 lation;

9 “(C) the likely severity of any injuries directly
10 resulting from the violation;

11 “(D) the probability that the violation could re-
12 sult in injury or illness;

13 “(E) the good faith of the employer in correct-
14 ing the violation after the violation has been identi-
15 fied;

16 “(F) the history of previous violations by an
17 employer; and

18 “(G) whether the violation is the sole result of
19 the failure of the employer to meet a requirement,
20 under this Act or prescribed by regulation, with re-
21 spect to—

22 “(i) the posting of notices;

23 “(ii) the preparation or maintenance of oc-
24 cupational safety and health records; or

1 “(iii) the preparation, maintenance, or sub-
2 mission of any written information.”.

3 **SEC. 12. TECHNICAL ASSISTANCE PROGRAM.**

4 (a) IN GENERAL.—Section 21(c) (29 U.S.C. 670(c))
5 is amended—

6 (1) by striking “(c) The” and inserting “(c)(1)
7 The”;

8 (2) by striking “(1) provide” and inserting “(A)
9 provide”;

10 (3) by striking “(2) consult” and inserting “(B)
11 consult”; and

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

13 “(2)(A) The Secretary shall, through the authority
14 granted under section 7(c) and paragraph (1), enter into
15 cooperative agreements with States for the provision of
16 consultation services by such States to employers concern-
17 ing the provision of safe and healthful working conditions.

18 A State that has a plan approved under section 18 shall
19 be eligible to enter into a cooperative agreement under this
20 paragraph only if such plan does not include provisions
21 for federally funded consultation to employers.

22 “(B)(i) Except as provided in clause (ii), the Sec-
23 retary shall reimburse a State that enters into a coopera-
24 tive agreement under subparagraph (A) in an amount that
25 equals 90 percent of the costs incurred by the State for

1 the provision of consultation services under such agree-
2 ment.

3 “(ii) A State shall be fully reimbursed by the Sec-
4 retary for—

5 “(I) training approved by the Secretary for
6 State personnel operating under a cooperative agree-
7 ment; and

8 “(II) specified out-of-State travel expenses in-
9 curred by such personnel.

10 “(iii) A reimbursement paid to a State under this
11 subparagraph shall be limited to costs incurred by such
12 State for the provision of consultation services under this
13 paragraph and the costs described in clause (ii).

14 “(C) Notwithstanding any other provisions of law,
15 not less than 15 percent of the total amount of funds ap-
16 propriated for the Occupational Safety and Health Admin-
17 istration for a fiscal year shall be used for education, con-
18 sultation, and outreach efforts.”.

19 (b) PILOT PROGRAM.—Section 21 (29 U.S.C. 670)
20 is amended by adding at the end the following:

21 “(d)(1) Not later than 90 days after the date of en-
22 actment of this subsection, the Secretary shall establish
23 and carry out a pilot program in 3 States to provide expe-
24 dited consultation services with respect to the provision
25 of safe and healthful working conditions to employers that

1 are small businesses, as defined by the Small Business Ad-
2 ministration,. The Secretary shall carry out the program
3 for a period not to exceed 2 years.

4 “(2) The Secretary shall provide consultation services
5 under paragraph (1) not later than 4 weeks after the date
6 on which the Secretary receives a request from an em-
7 ployer.

8 “(3) The Secretary may impose a nominal fee to an
9 employer requesting consultation services under para-
10 graph (1). The fee shall be in an amount determined by
11 the Secretary. Employers paying a fee shall receive prior-
12 ity consultation services by the Secretary.

13 “(4) In lieu of issuing a citation under section 9 to
14 an employer for a violation found by the Secretary during
15 a consultation under paragraph (1), the Secretary shall
16 permit the employer to carry out corrective measures to
17 correct the conditions causing the violation. The Secretary
18 shall conduct not more than 2 visits to the workplace of
19 the employer to determine if the employer has carried out
20 the corrective measures. The Secretary shall issue a cita-
21 tion as prescribed under section 5 if, after such visits, the
22 employee has failed to carry out the corrective measures.

23 “(5) Not later than 90 days after the termination of
24 the program under paragraph (1), the Secretary shall pre-
25 pare and submit a report to the appropriate committees

1 of Congress that contains an evaluation of the implemen-
2 tation of the pilot program.”.

3 **SEC. 13. PREVENTION OF ALCOHOL AND SUBSTANCE
4 ABUSE.**

5 The Occupational Safety and Health Act of 1970 (29
6 U.S.C. 651 et seq.) is amended—

- 7 (1) by striking sections 29, 30, and 31;
- 8 (2) by redesignating sections 32, 33, and 34 as
9 sections 30, 31, and 32, respectively; and
- 10 (3) by inserting after section 28 (29 U.S.C.
11 676) the following:

12 **“SEC. 29. ALCOHOL AND SUBSTANCE ABUSE TESTING.**

13 “(a) PROGRAM PURPOSE.—In order to secure a safe
14 workplace, employers may establish and carry out an alco-
15 hol and substance abuse testing program in accordance
16 with subsection (b).

17 “(b) FEDERAL GUIDELINES.—An alcohol and sub-
18 stance abuse testing program described in subsection (a)
19 shall meet the following requirements:

20 “(1) SUBSTANCE ABUSE.—A substance abuse
21 testing program shall permit the use of an onsite or
22 offsite urine screening or other recognized screening
23 methods, so long as the confirmation tests are per-
24 formed in accordance with the mandatory guidelines
25 for Federal workplace testing programs published by

1 the Secretary of Health and Human Services on
2 April 11, 1988, at section 11979 of title 53, Code
3 of Federal Regulations (including any amendments
4 to such guidelines), in a lab that is subject to the
5 requirements of subpart B of such mandatory guide-
6 lines.

7 “(2) ALCOHOL.—The alcohol testing component
8 of the program shall take the form of alcohol breath
9 analysis and shall conform to any guidelines devel-
10 oped by the Secretary of Transportation for alcohol
11 testing of mass transit employees under the Depart-
12 ment of Transportation and Related Agencies Ap-
13 propriations Act, 1992.

14 “(c) TEST REQUIREMENTS.—This section shall not
15 be construed to prohibit an employer from requiring—

16 “(1) an applicant for employment to submit to
17 and pass an alcohol or substance abuse test before
18 employment by the employer; or

19 “(2) an employee, including managerial person-
20 nel, to submit to and pass an alcohol or substance
21 abuse test—

22 “(A) on a for-cause basis or where the em-
23 ployer has reasonable suspicion to believe that
24 such employee is using or is under the influence
25 of alcohol or a controlled substance;

1 “(B) where such test is administered as
2 part of a scheduled medical examination;

3 “(C) in the case of an accident or incident,
4 involving the actual or potential loss of human
5 life, bodily injury, or property damage;

6 “(D) during the participation of an em-
7 ployee in an alcohol or substance abuse treat-
8 ment program, and for a reasonable period of
9 time (not to exceed 5 years) after the conclu-
10 sion of such program; or

11 “(E) on a random selection basis in work
12 units, locations, or facilities.

13 “(d) CONSTRUCTION.—Nothing in this section shall
14 be construed to require an employer to establish an alcohol
15 and substance abuse testing program for applicants or em-
16 ployees or make employment decisions based on such test
17 results.

18 “(e) PREEMPTION.—The provisions of this section
19 shall preempt any provision of State law to the extent that
20 such State law is inconsistent with this section.

21 “(f) INVESTIGATIONS.—The Secretary is authorized
22 to conduct testing of employees (including managerial per-
23 sonnel) of an employer for use of alcohol or controlled sub-
24 stances during any investigations of a work-related fatality
25 or serious injury.”.

1 **SEC. 14. VOLUNTARY PROTECTION PROGRAMS.**

2 (a) COOPERATIVE AGREEMENTS.—The Secretary of

3 Labor shall establish cooperative agreements with employ-

4 ers to encourage the establishment of comprehensive safe-

5 ty and health management systems that include—

6 (1) requirements for systematic assessment of

7 hazards;

8 (2) comprehensive hazard prevention, mitiga-

9 tion, and control programs;

10 (3) active and meaningful management and em-

11 ployee participation in the voluntary program de-

12 scribed in subsection (b); and

13 (4) employee safety and health training.

14 (b) VOLUNTARY PROTECTION PROGRAM.—

15 (1) IN GENERAL.—The Secretary of Labor shall

16 establish and carry out a voluntary protection pro-

17 gram (consistent with subsection (a)) to encourage

18 and recognize the achievement of excellence in both

19 the technical and managerial protection of employees

20 from occupational hazards. The Secretary of Labor

21 shall encourage small businesses (as the term is de-

22 fined by the Administrator of the Small Business

23 Administration) to participate in the voluntary pro-

24 tection program by carrying out outreach and assist-

25 ance initiatives and developing program require-

26 ments that address the needs of small businesses.

10 (B) ONSITE EVALUATIONS.—There shall
11 be onsite evaluations by representatives of the
12 Secretary of Labor to ensure a high level of
13 protection of employees. The onsite visits shall
14 not result in enforcement of citations under the
15 Occupational Safety and Health Act of 1970
16 (29 U.S.C. 651 et seq.), unless representatives
17 of the Secretary of Labor observe hazards for
18 which no agreement can be made to abate the
19 hazards in a reasonable amount of time.

20 (C) INFORMATION.—Volunteers who are
21 approved by the Secretary of Labor for partici-
22 pation in the program shall assure the Sec-
23 retary of Labor that information about the
24 safety and health program of the volunteers

1 shall be made readily available to the Secretary
2 of Labor to share with employees.

3 (D) REEVALUATIONS.—Periodic reevalua-
4 tions by the Secretary of Labor of the volun-
5 teers shall be required for continued participa-
6 tion in the program.

7 (3) EXEMPTIONS.—A site with respect to which
8 a program has been approved shall, during partici-
9 pation in the program be exempt from inspections or
10 investigations and certain paperwork requirements
11 to be determined by the Secretary of Labor, except
12 that this paragraph shall not apply to inspections or
13 investigations arising from employee complaints, fa-
14 talities, catastrophes, or significant toxic releases.

○