

106TH CONGRESS
1ST SESSION

H. R. 617

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 1999

Ms. DEGETTE (for herself, Mr. NORWOOD, Ms. SCHAKOWSKY, Mr. SHOWS, Mr. UNDERWOOD, Mr. ENGLISH, Ms. RIVERS, and Mr. STRICKLAND) 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 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 Super-
5 fund Compliance Act of 1999”.

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) IN GENERAL.—(A) Each department,
10 agency, and instrumentality of the executive, legisla-
11 tive, and judicial branches of the United States shall
12 be subject to, and comply with, this Act and all
13 other Federal, State, interstate, and local require-
14 ments, both substantive and procedural (including
15 any requirement for permits or reporting or any pro-
16 vision for injunctive relief and such sanctions as may
17 be imposed by a court to enforce such relief), re-
18 garding response or restoration actions related to
19 the release or potential release of hazardous sub-
20 stances, pollutants, or contaminants in the same
21 manner, and to the same extent, as any nongovern-
22 mental entity is subject to such requirements, in-
23 cluding enforcement and liability under sections 106
24 and 107 of this title and the payment of reasonable
25 service charges.

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

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

1 “(D) Neither the United States, nor any agent,
2 employee, or officer thereof, shall be immune or ex-
3 empt from any process or sanction of any State or
4 Federal court with respect to the enforcement of any
5 injunctive relief.

6 “(E) No agent, employee, or officer of the
7 United States shall be personally liable for any civil
8 penalty under any Federal or State law regarding
9 response or restoration actions relating to the re-
10 lease or potential release of hazardous substances,
11 pollutants, or contaminants, with respect to any act
12 or omission within the scope of their official duties.
13 An agent, employee, or officer of the United States
14 shall be subject to any criminal sanction (including,
15 but not limited to, any fine or imprisonment) under
16 any such Federal or State law, but no department,
17 agency, or instrumentality of the executive, legisla-
18 tive, or judicial branch of the United States shall be
19 subject to any such sanction.

20 “(F) The waiver of sovereign immunity pro-
21 vided in this paragraph shall not apply to the extent
22 a State law would apply any standard or require-
23 ment to such Federal department, agency, or instru-
24 mentality in a manner that is more stringent than

1 such standard or requirement would be applied to
2 any other person.

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

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

17 “(iii) Unless a State law in effect on the date
18 of enactment of the Federal Facility Superfund
19 Compliance Act of 1999, or a State constitution, re-
20 quires the funds to be used in a different manner,
21 all funds collected by a State from the Federal Gov-
22 ernment from penalties and fines imposed for viola-
23 tion of any substantive or procedural requirement
24 referred to in subsection (a) of this section shall be
25 used by the State only for projects designed to im-

1 prove or protect the environment or to defray the
 2 costs of environmental protection or enforcement.

3 “(H) Each such department, agency, and in-
 4 strumentality shall have the right to contribution
 5 protection set forth in section 113, when such de-
 6 partment, agency, or instrumentality resolves its li-
 7 ability under this Act.”.

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

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

12 (5) By adding at the end of subsection (e) the
 13 following new paragraph:

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

20 “(A) addressed; or

21 “(B) waived;

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

○