

111TH CONGRESS  
1ST SESSION

# H. R. 1005

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to improve public notification and community relations concerning actions for the removal of environmental hazards.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2009

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on Energy and 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 improve public notification and community relations concerning actions for the removal of environmental hazards.

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 “National Public Notifi-  
5 cation of Environmental Hazards Act of 2009”.

1 **SEC. 2. REQUIREMENT FOR PUBLIC NOTICE OF REMOVAL**  
2 **OF ENVIRONMENTAL HAZARDS.**

3 Title I of the Comprehensive Environmental Re-  
4 sponse, Compensation, and Liability Act of 1980 (42  
5 U.S.C. 9601 et seq.) is amended by adding at the end  
6 the following:

7 **“SEC. 129. REQUIREMENT FOR PUBLIC NOTICE OF RE-**  
8 **MOVAL OF ENVIRONMENTAL HAZARDS.**

9 “(a) REVISION OF NATIONAL CONTINGENCY  
10 PLAN.—Not later than 12 months after the date of enact-  
11 ment of this section, the President shall revise the national  
12 contingency plan in accordance with the requirements of  
13 this section to provide for improved public notification and  
14 community relations in the case of a response action.

15 “(b) REQUIREMENTS FOR ALL RESPONSE AC-  
16 TIONS.—

17 “(1) APPLICABILITY.—The head of the lead  
18 agency for a response action shall take the actions  
19 specified in this subsection for each response action  
20 conducted by the lead agency.

21 “(2) DESIGNATION OF SPOKESPERSON; PRESS  
22 RELEASES.—

23 “(A) IN GENERAL.—The head of the lead  
24 agency shall designate a spokesperson for the  
25 response action.

26 “(B) DUTIES.—The spokesperson shall—

1 “(i) provide notice of the response ac-  
2 tion to—

3 “(I) civil defense and emergency  
4 management agencies, as the head of  
5 the lead agency determines appro-  
6 priate;

7 “(II) immediately affected resi-  
8 dents;

9 “(III) other members of the com-  
10 munity surrounding the response site;  
11 and

12 “(IV) State and local officials;

13 “(ii) respond to inquiries from the  
14 public concerning the response action; and

15 “(iii) provide information to the public  
16 concerning the release resulting in the re-  
17 sponse action.

18 “(C) PRESS RELEASE.—The head of the  
19 lead agency shall—

20 “(i) issue a press release containing  
21 information about the response action not  
22 later than 10 days after the President de-  
23 termines that the response action is appro-  
24 priate; and

1 “(ii) ensure the coordination of all  
2 press releases and other statements made  
3 by agencies participating in the response  
4 action with the on-scene coordinator or re-  
5 medial project manager appointed for the  
6 response action under the national contin-  
7 gency plan.

8 “(3) ESTABLISHMENT OF PUBLIC INFORMATION  
9 OFFICE.—

10 “(A) IN GENERAL.—The head of the lead  
11 agency shall establish a public information of-  
12 fice for the response action.

13 “(B) LOCATION.—The public information  
14 office shall be located at or near the response  
15 site and may be housed in a trailer or other fa-  
16 cility.

17 “(C) STAFFING.—The public information  
18 office shall be staffed by individuals selected by  
19 the head of the agency.

20 “(D) DUTIES.—Individuals staffing the  
21 public information office shall—

22 “(i) provide information to the public  
23 on the actions taken with regard to the re-  
24 sponse action;

1           “(ii) respond to inquiries from the  
2           public concerning the response action; and

3           “(iii) provide information to the public  
4           concerning the release resulting in the re-  
5           sponse action.

6           “(E) DEADLINE.—The head of the lead  
7           agency shall establish the public information of-  
8           fice not later than the date of initiation of on-  
9           site activities for the response action. The pub-  
10          lic information office shall remain available to  
11          the public for the duration of the response ac-  
12          tion.

13          “(4) INFORMATION REPOSITORY.—

14               “(A) IN GENERAL.—The head of the lead  
15               agency shall establish, at or near the response  
16               site, at least one local information repository  
17               that contains items made available for public  
18               information.

19               “(B) PUBLIC NOTICE.—The head of the  
20               lead agency shall inform the public of the estab-  
21               lishment of the information repository.

22               “(C) PUBLIC ACCESS.—The head of the  
23               lead agency shall ensure that all items in the  
24               information repository are available for public  
25               inspection and copying.

1           “(D) DEADLINE.—The head of the lead  
2           agency shall complete all actions required by  
3           this paragraph on or before the last day of the  
4           60-day period beginning on the date of initi-  
5           ation of on-site activities for the response ac-  
6           tion.

7           “(5) ADMINISTRATIVE RECORD FILE.—

8           “(A) IN GENERAL.—The head of the lead  
9           agency shall make available for public inspec-  
10          tion the administrative record file for the re-  
11          sponse action.

12          “(B) PUBLIC NOTICE.—The head of the  
13          lead agency shall publish a prominent notice of  
14          availability of the administrative record file for  
15          public inspection and comment in a newspaper  
16          of general circulation in the area including the  
17          response site. The notice shall also include the  
18          following:

19               “(i) Information about the response  
20               site, including the location of the site and  
21               the hazardous substance present at the  
22               site.

23               “(ii) The location of the information  
24               repository established under paragraph (4)

1 and the hours that the repository is open  
2 to the public.

3 “(iii) The time, date, and location of  
4 the next scheduled public meeting to be  
5 conducted under paragraph (7).

6 “(iv) The dates of the public comment  
7 period established under paragraph (6).

8 “(v) The name of the agency contact  
9 to whom individuals may submit written  
10 comments concerning the response action.

11 “(C) LOCATION.—The head of the lead  
12 agency shall place the administrative record file  
13 in at least one of the information repositories  
14 established under paragraph (4).

15 “(D) DEADLINE.—The head of the lead  
16 agency shall publish the notice required by sub-  
17 paragraph (A) on or before the last day of the  
18 60-day period beginning on the date of initi-  
19 ation of on-site activities for the response ac-  
20 tion.

21 “(6) PUBLIC COMMENT PERIOD.—

22 “(A) IN GENERAL.—The head of the lead  
23 agency shall provide a public comment period  
24 that allows for the submission of written and  
25 oral comments concerning the response action.

1           “(B) RESPONSE TO COMMENTS.—The  
2 head of the lead agency shall prepare a written  
3 response to significant comments submitted  
4 during the comment period.

5           “(C) LENGTH OF PERIOD.—The public  
6 comment period shall begin on the date the ad-  
7 ministrative record file is made available for  
8 public inspection and continue for at least 30  
9 days. Upon timely request, the head of the lead  
10 agency shall extend the public comment period  
11 by a minimum of 15 days.

12           “(7) PUBLIC MEETINGS.—

13           “(A) IN GENERAL.—The head of the lead  
14 agency for a response action shall conduct pub-  
15 lic meetings concerning the response action.

16           “(B) LOCATION.—The meetings shall be  
17 held in a location in close proximity to the re-  
18 sponse site.

19           “(C) PUBLIC NOTICE.—The head of the  
20 lead agency shall publish a prominent notice  
21 that informs the public about the public meet-  
22 ing. The notice shall include the following:

23                   “(i) Information about the response  
24 site, including the location of the site and



1 the hazardous substance present at the  
2 site.

3 “(ii) The time, date, location, and  
4 purpose of the public meeting.

5 “(D) DEADLINE.—The head of the lead  
6 agency shall—

7 “(i) conduct an initial meeting under  
8 subparagraph (A) not later than 30 days  
9 after the President determines that the re-  
10 sponse action is appropriate; and

11 “(ii) conduct additional meetings  
12 under subparagraph (A) quarterly  
13 throughout the duration of the response  
14 action.

15 “(8) ESTABLISHMENT OF TOLL-FREE TELE-  
16 PHONE NUMBER.—

17 “(A) IN GENERAL.—The head of the lead  
18 agency for a response action shall establish a  
19 toll-free telephone number to provide informa-  
20 tion to the public about the response action.

21 “(B) AUTOMATION.—If the provision of in-  
22 formation through the telephone number is  
23 automated, the information shall include a tele-  
24 phone number for contacting a representative of

1 the lead agency who can answer further ques-  
2 tions about the response action.

3 “(C) DEADLINES.—The head of the lead  
4 agency shall—

5 “(i) establish such telephone number  
6 not later than 30 days after the date on  
7 which the President determines that the  
8 response action is appropriate; and

9 “(ii) update information provided  
10 through such telephone number at least  
11 weekly.

12 “(9) ESTABLISHMENT OF WEB SITE.—

13 “(A) IN GENERAL.—The head of the lead  
14 agency shall establish a public Internet Web  
15 site (or comparable facility using a successor  
16 protocol or technology) to provide information  
17 to the public about the response action.

18 “(B) UPDATES.—The head of the lead  
19 agency shall update the information on the Web  
20 site (or comparable facility) frequently.

21 “(C) LINK FROM EPA WEB SITE.—The  
22 head of the lead agency shall ensure that a link  
23 to the Web site (or comparable facility) is pro-  
24 vided on the public Internet Web site (or com-

1           parable facility) of the Environmental Protec-  
2           tion Agency.

3           “(D) DEADLINE.—The head of the lead  
4           agency shall make the Web site (or comparable  
5           facility) required by subparagraph (A) available  
6           to the public not later than 30 days after the  
7           date on which the President determines that  
8           the response action is appropriate.

9           “(10) VISITS TO RESIDENCES AND BUSI-  
10          NESSES.—

11           “(A) IN GENERAL.—The head of the lead  
12           agency shall ensure that each residence and  
13           business located within a ½ mile radius of the  
14           response site is visited by a representative of  
15           the lead agency.

16           “(B) DUTIES.—A representative con-  
17           ducting a visit under subparagraph (A) shall—

18                   “(i) provide the residence or business  
19                   with information, including printed mate-  
20                   rials, on actions taken at the response site;

21                   “(ii) respond to inquiries from the  
22                   residence or business concerning the re-  
23                   sponse action; and

1 “(iii) provide information to the resi-  
2 dence or business concerning the release  
3 resulting in the response action.

4 “(C) DEADLINES.—The head of the lead  
5 agency shall ensure that—

6 “(i) the visits required by subpara-  
7 graph (A) occur not later than 30 days  
8 after the President determines that the re-  
9 sponse action is appropriate; and

10 “(ii) such visits reoccur quarterly  
11 throughout the duration of the response  
12 action.

13 “(11) PRINTED INFORMATION.—

14 “(A) IN GENERAL.—The head of the lead  
15 agency for a response action shall mail printed  
16 materials containing information about the re-  
17 moval action to all residences and businesses lo-  
18 cated within a 1/2 mile radius of the response  
19 site.

20 “(B) DEADLINES.—The head of the lead  
21 agency shall—

22 “(i) mail the materials required by  
23 subparagraph (A) not later than 30 days  
24 after the President determines that re-  
25 sponse action is appropriate; and

1 “(ii) update and mail the materials  
2 quarterly throughout the duration of the  
3 response action.

4 “(c) REQUIREMENT FOR RESPONSE ACTIONS WITH  
5 PLANNING PERIODS OF AT LEAST 180 DAYS.—

6 “(1) APPLICABILITY.—The head of the lead  
7 agency for a response action shall take the actions  
8 specified in this subsection, in addition to the ac-  
9 tions specified in subsection (b), if the President de-  
10 termines, based on a site evaluation, that a response  
11 action is appropriate and the head of the lead agen-  
12 cy determines that a planning period of at least 180  
13 days exists prior to the date of initiation of on-site  
14 activities for the response action. If subsection (d)  
15 applies to the response action, the head of the lead  
16 agency shall also take the actions specified in that  
17 subsection.

18 “(2) ENGINEERING EVALUATION AND COST  
19 ANALYSIS.—

20 “(A) IN GENERAL.—The head of the lead  
21 agency shall make the engineering evaluation  
22 and cost analysis prepared for the response ac-  
23 tion available to the public.

24 “(B) NOTICE.—The head of the lead agen-  
25 cy shall publish a prominent notice of avail-

1 ability of the engineering evaluation and cost  
2 analysis in a local newspaper of general circula-  
3 tion in the community where the response site  
4 is located. Such notice shall contain a brief de-  
5 scription of the contents of the engineering  
6 evaluation and cost analysis and a description  
7 of the location where the evaluation and anal-  
8 ysis is located.

9 “(C) DEADLINE.—The head of the lead  
10 agency shall complete the actions required  
11 under subparagraphs (A) and (B) not later  
12 than the date on which an engineering evalua-  
13 tion and cost analysis approval memorandum  
14 for the response action is signed.

15 “(d) REQUIREMENTS FOR RESPONSE ACTIONS LAST-  
16 ING MORE THAN 120 DAYS.—

17 “(1) APPLICABILITY.—The head of the lead  
18 agency for a response action shall take the actions  
19 specified in this subsection, in addition to the ac-  
20 tions specified in subsection (b), for a response ac-  
21 tion that the head of the lead agency determines will  
22 continue after the end of the 120-day period begin-  
23 ning on the date of initiation of on-site activities for  
24 the response action. If subsection (c) applies to the

1 response action, the head of the lead agency shall  
2 also take the actions specified in that subsection.

3 “(2) INTERVIEWS.—

4 “(A) IN GENERAL.—The head of the lead  
5 agency shall conduct interviews with local offi-  
6 cials, community residents, public interest  
7 groups, and other interested or affected per-  
8 sons, as appropriate, to solicit their concerns,  
9 information needs, and how and when such per-  
10 sons would like to be involved in the response  
11 action.

12 “(B) DEADLINE.—The head of the lead  
13 agency shall complete the interviews required by  
14 subparagraph (A) on or before the last day of  
15 the 90-day period beginning on the date of ini-  
16 tiation of on-site activities for the response ac-  
17 tion.

18 “(3) COMMUNITY RELATIONS PLAN.—

19 “(A) IN GENERAL.—The head of the lead  
20 agency shall prepare a formal community rela-  
21 tions plan based on the interviews conducted  
22 under paragraph (2) and other relevant infor-  
23 mation.

24 “(B) CONTENTS.—The community rela-  
25 tions plan shall specify the community relations

1 activities that the head of the lead agency ex-  
2 pects to undertake during the response action.

3 “(C) DEADLINE.—The head of the lead  
4 agency shall develop the community relations  
5 plan on or before last day of the 120-day period  
6 beginning on the date of initiation of on-site ac-  
7 tivities for the response action.

8 “(e) DEFINITIONS.—In this section, the following  
9 definitions apply:

10 “(1) ENGINEERING EVALUATION AND COST  
11 ANALYSIS.—The term ‘engineering evaluation and  
12 cost analysis’ means an engineering evaluation and  
13 cost analysis required by section 300.415(a)(4)(i) of  
14 title 40, Code of Federal Regulations, as in effect on  
15 October 1, 2007.

16 “(2) LEAD AGENCY.—The term ‘lead agency’  
17 means the agency responsible for planning and im-  
18 plementing a response action under the national con-  
19 tingency plan.

20 “(3) SIGNIFICANT COMMENT.—The term ‘sig-  
21 nificant comment’ means a public comment deter-  
22 mined to be significant by the head of the lead agen-  
23 cy responsible for the response action.

24 “(4) RESPONSE ACTION.—The term ‘response  
25 action’ means a response carried out under the na-



1        tional contingency plan, including a response as de-  
2        fined by section 101 of this Act and a removal as  
3        defined by section 311(a) of the Federal Water Pol-  
4        lution Control Act (33 U.S.C. 1321(a)).

5            “(5) RESPONSE SITE.—The term ‘response site’  
6        means the location of a response.”.

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