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1ST SESSION

H. R. 1005

To assist distressed cities with large, abandoned factories and hazardous waste sites.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. SHAYS (for himself, Mr. MFUME, and Mr. SANTORUM) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Public Works and Transportation

A BILL

To assist distressed cities with large, abandoned factories and hazardous waste sites.

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 “Urban Environmental
5 Initiative Act”.

6 **SEC. 2. EPA STUDIES.**

7 (a) STUDY OF STATE HEALTH-BASED CLEANUP
8 LAWS.—

9 (1) STUDY.—The Administrator shall conduct a
10 study of State laws and standards that are based on

1 health for the cleanup of sites at which any hazard-
2 ous substance was released or disposed of. In con-
3 ducting the study, the Administrator shall consider
4 reports prepared by the Association of State Terri-
5 torial Solid Waste Management Officials and the
6 Environmental Law Institute.

7 (2) RECOMMENDATIONS TO STATES.—As part
8 of the study, the Administrator shall make rec-
9 ommendations to the States on health-based cleanup
10 standards. Such recommendations shall include guid-
11 ance to the States on the development of health-
12 based standards for sites located in urban areas
13 which are more or less restrictive depending on the
14 future use of the site. Such guidance shall address
15 the issue of whether facilities to be used for parking
16 lots, warehouses, industrial parks, or other similar
17 purposes need to be cleaned up as extensively as
18 sites to be used for residential and retail purposes.
19 In developing the guidance, the Administrator shall
20 consider programs in Michigan that place different
21 restrictions on different kinds of development at
22 sites. The guidance also shall encourage States to
23 place restrictions on future uses of sites to those
24 uses which are consistent with whatever health-based
25 standards are applied at the sites.

1 (3) REPORT TO CONGRESS.—The Administrator
2 shall submit to Congress a report on the study and
3 the recommendations to States not later than 12
4 months after the date of the enactment of this Act.

5 (b) STUDY ON STATE PROPERTY TRANSFER
6 LAWS.—

7 (1) STUDY.—The Administrator shall conduct a
8 study on property transfer laws of the States to
9 evaluate such laws and assess the merits of such
10 laws. In conducting the study, the Administrator
11 shall address the issue of whether such laws promote
12 better land management practices, whether such
13 laws help locate sites on which hazardous substances
14 have been released or disposed of, and whether such
15 laws provide better protection for the buyer.

16 (2) RECOMMENDATIONS TO STATES.—As part
17 of the study, the Administrator shall make rec-
18 ommendations to the States on property transfer
19 laws.

20 (3) REPORT TO CONGRESS.—The Administrator
21 shall submit to Congress a report on the study not
22 later than 12 months after the date of the enact-
23 ment of this Act.

1 **SEC. 3. EPA SUPERFUND INVENTORY DATA BASE.**

2 (a) REQUIREMENT.—The Administrator shall estab-
3 lish and maintain in a computer data base a national
4 superfund site inventory. The data shall be available by
5 computer at local libraries.

6 (b) INFORMATION TO BE INCLUDED.—The data to
7 be made available in the data base shall include informa-
8 tion on any Federal action at a site or facility at which
9 a hazardous substance was released or disposed of. Such
10 information shall indicate, at a minimum, whether the En-
11 vironmental Protection Agency has conducted a prelimi-
12 nary site evaluation with respect to each site listed in the
13 inventory, whether further Federal action has been deter-
14 mined to be warranted, and whether the site is on the Na-
15 tional Priorities List.

16 **SEC. 4. SPECIAL SUPERFUND PROGRAM FOR TARGETED IN-**
17 **DUSTRIAL SITES.**

18 (a) TARGETED SITES.—For purposes of this section,
19 the Administrator shall prepare a list of superfund sites
20 located in urban areas that would be suitable for economic
21 development. Such sites shall be referred to in this section
22 as “targeted sites”.

23 (b) PILOT STUDY OF USE OF INNOVATIVE TECH-
24 NOLOGY.—Not later than one year after the date of the
25 enactment of this Act, the Administrator shall develop and
26 begin to carry out a pilot study of the effectiveness of in-

1 novative and cost effective technologies for conducting re-
2 sponse actions at targeted sites. The Administrator shall
3 include in the pilot study only those targeted sites that
4 are vacant and not likely to be used in the near future.

5 (c) COVENANT NOT TO SUE FOR SITES PURCHASED
6 FOR ECONOMIC DEVELOPMENT.—(1) Subject to para-
7 graphs (2) and (3), in any case in which a person, includ-
8 ing a city, purchases a targeted site for the purpose of
9 economic development, the Administrator may provide a
10 covenant not to sue such person concerning any liability
11 to the United States under the Comprehensive Environ-
12 mental Response, Compensation, and Liability Act of
13 1980, including future liability, resulting from a release
14 or threatened release of a hazardous substance at such
15 site. Any such covenant not to sue shall not apply with
16 respect to any release or threatened release which is
17 caused by conduct of the person which is negligent.

18 (2) A covenant not to sue with respect to a site shall
19 not take effect under paragraph (1) unless the person en-
20 ters into an agreement with the Administrator to complete
21 remedial action at the site in accordance with the National
22 Contingency Plan.

23 (3) A covenant not to sue a person concerning future
24 liability to the United States under paragraph (1) shall
25 include an exception to the covenant that allows the Ad-

1 administrator to sue such person concerning future liability
2 resulting from the release or threatened release that is the
3 subject of the covenant where such liability arises out of
4 conditions which are unknown at the time the Adminis-
5 trator enters into an agreement under paragraph (2) with
6 respect to completion of remedial action at the site con-
7 cerned.

8 (d) PREFERENCE FOR CLEANUP AT TARGETED
9 SITES.—In determining which sites to give priority for re-
10 sponse action under the Comprehensive Environmental
11 Response, Compensation, and Liability Act of 1980, the
12 Administrator shall give preference to targeted sites that
13 are located in the most populous areas, pose the greatest
14 threat to human health, and have the greatest potential
15 for economic development.

16 **SEC. 5. EXPEDITED DECISIONS ON SUPERFUND SITES IN**
17 **CERTAIN DISTRESSED CITIES.**

18 (a) RIGHT TO PETITION.—Any city within whose ju-
19 risdiction is located a targeted site (contained on the list
20 prepared pursuant to section 4(a)) may petition the Ad-
21 ministrator for an expedited decision on whether a tar-
22 geted site within the city will be placed on the National
23 Priorities List under the Comprehensive Environmental
24 Response, Compensation, and Liability Act of 1980.

1 (b) REQUIREMENTS.—After a city submits a petition
2 under subsection (a) with respect to a site, the Adminis-
3 trator shall require the owner or other potentially respon-
4 sible party at the site concerned to prepare, in consultation
5 with the Environmental Protection Agency, a preliminary
6 assessment and evaluation of the site. Not later than 12
7 months after such assessment and evaluation are com-
8 pleted, the Administrator shall review the assessment and
9 evaluation and determine whether the site should be
10 placed on the National Priorities List. If the Adminis-
11 trator determines the site should not be placed on the List,
12 the Administrator shall issue a certificate stating that the
13 site is not a Superfund site.

14 **SEC. 6. AMENDMENTS TO SUPERFUND PERTAINING TO IN-**
15 **NOCENT LANDOWNER DEFENSE.**

16 Section 101(35) of the Comprehensive Environmental
17 Response, Compensation and Liability Act (42 U.S.C.
18 9601 et seq.) is amended by redesignating subparagraphs
19 (C) and (D) as subparagraphs (D) and (E), respectively
20 and inserting after subparagraph (B), the following:

21 “(C)(i) The Administrator shall establish guidelines
22 defining the actions that are necessary to fulfill the re-
23 quirement to undertake all appropriate inquiry for pur-
24 poses of subparagraph (B). At a minimum, ‘all appro-
25 priate inquiry’ means an investigation of the real property,

1 conducted by environmental professionals, to determine or
2 discover the obviousness of the presence or likely presence
3 of a release or threatened release of hazardous substances
4 on the real property and which consists of a review of each
5 of the following sources of information concerning the pre-
6 vious ownership and uses of the real property:

7 “(I) Recorded chain of title documents regard-
8 ing the real property, including all deeds, easements,
9 leases, restrictions, and covenants for a period of 50
10 years.

11 “(II) Aerial photographs which may reflect
12 prior uses of the real property and which are reason-
13 ably obtainable through State or local government
14 agencies.

15 “(III) Determination of the existence of re-
16 corded environmental cleanup liens against the real
17 property which have arisen pursuant to Federal,
18 State, and local statutes.

19 “(IV) Reasonably obtainable Federal, State,
20 and local government records of sites or facilities
21 where there has been a release of hazardous sub-
22 stances and which are likely to cause or contribute
23 to a release or threatened release of hazardous sub-
24 stances on the real property, including investigation
25 reports for such sites or facilities; reasonably obtain-

1 able Federal, State, and local government environ-
2 mental records of activities likely to cause or con-
3 tribute to a release or a threatened release of haz-
4 ardous substances on the real property, including
5 landfill and other disposal location records, under-
6 ground storage tank records, hazardous waste han-
7 dler and generator records and spill reporting
8 records; and such other reasonably obtainable Fed-
9 eral, State, and local government environmental
10 records which report incidents or activities which are
11 likely to cause or contribute to a release or threat-
12 ened release of hazardous substances on the real
13 property. In order to be deemed ‘reasonably obtain-
14 able’ within the meaning of this subclause, a copy or
15 reasonable facsimile of the record must be obtainable
16 from the government agency by request.

17 “(V) A visual site inspection of the real prop-
18 erty and all facilities and improvements on the real
19 property, and a visual inspection of immediately ad-
20 jacent properties from the real property, including
21 an investigation of any chemical use, storage, treat-
22 ment and disposal practices on the property.

23 “(ii) For purposes of this subparagraph, the term
24 ‘environmental professional’ means an individual, or an
25 entity managed or controlled by such individual who,

1 through academic training, occupational experience and
2 reputation (such as engineers, environmental consultants
3 and attorneys), can objectively conduct one or more as-
4 pects of the investigation described in clause (i).

5 “(iii) In establishing the guidelines under this sub-
6 paragraph, the Administrator shall consider any discus-
7 sions of the American Society for Testing and Materials.”.

8 **SEC. 7. ASSISTANCE TO STATES.**

9 The Administrator may provide technical and finan-
10 cial assistance to States for carrying out activities associ-
11 ated with the implementation of the provisions of this Act
12 and the Comprehensive Environmental Response, Com-
13 pensation, and Liability Act of 1980.

14 **SEC. 8. DEFINITIONS.**

15 For purposes of this Act, the following definitions
16 apply:

17 (1) The term “Administrator” means the Ad-
18 ministrator of the Environmental Protection Agency.

19 (2) The term “hazardous substance” has the
20 meaning given that term by section 101(14) of the
21 Comprehensive Environmental Response, Compensa-
22 tion, and Liability Act of 1980.

23 (3) The term “release” has the meaning given
24 that term by section 101(22) of the Comprehensive

1 Environmental Response, Compensation, and Liabil-
2 ity Act of 1980.

3 **SEC. 9. AUTHORIZATION.**

4 There is authorized to be appropriated to the Admin-
5 istrator the sum of \$5,000,000 for fiscal year 1993,
6 \$10,000,000 for fiscal year 1994, and \$20,000,000 for
7 each of fiscal years 1995, 1996, and 1997 to carry out
8 the requirements of this Act and the amendments made
9 by this Act, including assistance to States under section
10 7.

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