

103^D CONGRESS
1ST SESSION

H. R. 2137

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide relief to local taxpayers, municipalities, and small businesses regarding the cleanup of hazardous substances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1993

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

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide relief to local taxpayers, municipalities, and small businesses regarding the cleanup of hazardous substances, 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.**

4 This Act may be cited as the “Toxic Cleanup Equity
5 Act of 1993”.

1 **SEC. 2. FINDINGS.**

2 Consistent with the policies under the Comprehensive
3 Environmental Response, Compensation, and Liability Act
4 of 1980 (CERCLA) (42 U.S.C. 9601 et seq.), the Con-
5 gress finds that—

6 (1) the polluter should pay for cleanup, and
7 cleanups must fully protect human health and the
8 environment;

9 (2) municipalities have traditionally performed
10 the public service of helping their citizens dispose of
11 ordinary garbage and sewage, and have at times
12 been required to perform this function under State
13 law;

14 (3) municipalities did not operate their waste
15 disposal services for the purpose of receiving a
16 profit;

17 (4) many municipal landfills used to dispose of
18 garbage and sewage sludge also have been used to
19 dispose of industrial hazardous waste, which has
20 contaminated the sites and created the need for
21 Superfund cleanups;

22 (5) the vast majority of the hazardous sub-
23 stances that are causing threats to human health
24 and the environment at Superfund sites were pro-
25 duced by non-municipal operations;

1 (6) third-party contribution suits based on the
2 generation or transportation of municipal solid waste
3 and sewage sludge distort the intent of CERCLA
4 and drain the precious resources of municipalities,
5 small businesses, and nonprofit associations;

6 (7) many of the Nation's local governments are
7 facing a financial crisis, and their ability to provide
8 essential public services is being threatened;

9 (8) municipalities are facing expensive man-
10 dates imposed by the Federal and State govern-
11 ments, including some related to environmental pro-
12 tection; and

13 (9) municipalities that own Superfund sites
14 bear a double burden: their citizens live near the
15 sites and these local governments may be forced to
16 cut back on important public health and safety serv-
17 ices to help pay for the cleanup.

18 **SEC. 3. MUNICIPALITIES, MUNICIPAL SOLID WASTE, AND**

19 **SEWAGE SLUDGE.**

20 (a) Section 101 of the Comprehensive Environmental
21 Response, Compensation, and Liability Act of 1980 (42
22 U.S.C. 9601) is amended by adding the following new
23 paragraphs at the end thereof:

24 “(39) The term ‘municipal solid waste’ means
25 all waste materials generated by households, includ-

1 ing single and multiple residences, and hotels and
2 motels. The term also includes waste materials gen-
3 erated by commercial, institutional, and industrial
4 sources (A) when such waste materials are essen-
5 tially the same as waste normally generated by
6 households, or (B) when such waste materials were
7 collected and disposed of with other municipal solid
8 waste or sewage sludge and, regardless of when gen-
9 erated, would be considered conditionally exempt
10 small quantity generator waste under section
11 3001(d) of the Solid Waste Disposal Act (42 U.S.C.
12 6921(d)). Examples of municipal solid waste include
13 food and yard waste, paper, clothing, appliances,
14 consumer product packaging, disposable diapers, of-
15 fice supplies, cosmetics, glass and metal food con-
16 tainers, school science laboratory waste, and house-
17 hold hazardous waste (such as painting, cleaning,
18 gardening, and automotive supplies). For the pur-
19 poses of this Act, the term ‘municipal solid waste’
20 does not include combustion ash generated by re-
21 source recovery facilities or municipal incinerators,
22 or waste from manufacturing or processing (includ-
23 ing pollution control) operations not essentially the
24 same as waste normally generated by households.

1 “(40) The term ‘sewage sludge’ refers to any
2 solid, semisolid, or liquid residue removed during the
3 treatment of municipal waste water, domestic sew-
4 age, or other waste waters at or by a publicly-owned
5 treatment works.

6 “(41) The term ‘municipality’ means any politi-
7 cal subdivision of a State and may include cities,
8 counties, villages, towns, townships, boroughs, par-
9 ishes, schools, school districts, sanitation districts,
10 water districts, and other local governmental enti-
11 ties. The term also includes any natural person act-
12 ing in his or her official capacity as an official, em-
13 ployee, or agent of a municipality.”.

14 (b) Section 113 of the Comprehensive Environmental
15 Response, Compensation, and Liability Act of 1980 (42
16 U.S.C. 9613) is amended by adding the following new sub-
17 sections at the end thereof:

18 “(m) CONTRIBUTION ACTIONS FOR GENERATORS
19 AND TRANSPORTERS OF MUNICIPAL SOLID WASTE AND
20 SEWAGE SLUDGE.—No municipality or other person shall
21 be liable to any person other than the President for claims
22 of contribution under this section or for other response
23 costs, penalties, or damages under this Act for the genera-
24 tion, transportation, or arrangement for the transpor-

1 tation, treatment, or disposal of municipal solid waste or
2 sewage sludge.

3 “(n) CONTRIBUTION ACTIONS FOR MUNICIPAL OWN-
4 ERS AND OPERATORS.—No eligible municipality as de-
5 fined in section 122(p) shall be liable to any person other
6 than the President for claims of contribution under this
7 section or for other response costs, penalties, or damages
8 under this Act for the ownership or operation of a facility
9 to the extent that the municipality is an eligible municipal-
10 ity under section 122(p)(1).

11 “(o) PUBLIC RIGHT-OF-WAY.—In no event shall a
12 municipality incur liability under this Act for the acts of
13 owning or maintaining a public right-of-way over which
14 hazardous substances are transported, or of granting a
15 business license to a private party for the transportation,
16 treatment, or disposal of municipal solid waste or sewage
17 sludge. For the purposes of this subsection, ‘public right-
18 of-way’ includes, but is not limited to, roads, streets, flood
19 control channels, or other public transportation routes,
20 and pipelines used as a conduit for sewage or other liquid
21 or semiliquid discharges.”.

22 (c) Section 122 of the Comprehensive Environmental
23 Response, Compensation, and Liability Act of 1980 (42
24 U.S.C. 9622) is amended by adding the following new sub-
25 sections at the end thereof:

1 “(n) SETTLEMENT PROCEDURES FOR GENERATORS
2 AND TRANSPORTERS OF MUNICIPAL SOLID WASTE OR
3 SEWAGE SLUDGE.—

4 “(1) ELIGIBLE PERSONS.—The term ‘eligible
5 person’ under this subsection means any person
6 against whom an administrative or judicial action is
7 brought, or to whom notice is given of potential li-
8 ability under this Act, for the generation, transpor-
9 tation, or arrangement for the transportation, treat-
10 ment, or disposal of municipal solid waste or sewage
11 sludge. An eligible person who may be liable under
12 paragraph (1) or (2) of section 107(a) or for sub-
13 stances other than municipal solid waste or sewage
14 sludge is covered by this subsection to the extent
15 that the person is liable for the generation, transpor-
16 tation, or arrangement for the transportation, treat-
17 ment, or disposal of municipal solid waste or sewage
18 sludge.

19 “(2) NEGOTIATION OF SETTLEMENTS; MORATO-
20 RIUM.—Eligible persons under this subsection may
21 offer to settle their potential liability with the Presi-
22 dent by stating in writing their ability and willing-
23 ness to settle their potential liability in accordance
24 with this subsection. Upon receipt of such good faith
25 offer to settle, no further administrative or judicial

1 action shall be taken against the eligible person, un-
2 less the President determines that the eligible per-
3 son's offer or position during negotiations is not in
4 good faith or otherwise not in accordance with this
5 subsection or that the matters addressed include li-
6 ability not related to the generation, transportation,
7 or arrangement for the transportation, treatment, or
8 disposal of municipal solid waste or sewage sludge.
9 Nothing in this subsection shall limit or modify the
10 President's authority under section 104(e).

11 “(3) TIMING.—Eligible persons may tender of-
12 fers under this subsection within 180 days after re-
13 ceiving a notice of potential liability or becoming
14 subject to administrative or judicial action, or within
15 180 days after a record of decision is issued for the
16 portion of the response action that is the subject of
17 the person's settlement offer, whichever is later. If
18 the President notifies an eligible person that he or
19 she may be a potentially responsible party, no fur-
20 ther administrative or judicial action may be taken
21 by any party for 120 days against such person.

22 “(4) EXPEDITED FINAL SETTLEMENT.—The
23 President shall make a good faith effort to reach
24 final settlements as promptly as possible under this
25 subsection, and such settlements shall—

1 “(A) allocate to all generation, transpor-
2 tation, or arrangement for the transportation,
3 treatment, or disposal of municipal solid waste
4 or sewage sludge a combined total of no more
5 than four percent (4%) of the total response
6 costs for the facility: *Provided, however,* That
7 the President shall reduce this percentage when
8 the volume of municipal solid waste and sewage
9 sludge present at the facility is not significant;

10 “(B) require an eligible person under this
11 subsection to pay only for his or her equitable
12 share of the maximum four percent (4%) por-
13 tion of response costs described in subpara-
14 graph (A);

15 “(C) reduce an eligible person’s payments
16 based on such person’s inability to pay,
17 litigative risks, public interest considerations,
18 precedential value, and equitable factors;

19 “(D) permit an eligible person to provide
20 appropriate in-kind services with regard to the
21 response action in lieu of cash contributions
22 and to be credited at market rates for such
23 services;

24 “(E) reduce a publicly owned treatment
25 works’ payments if it has promoted the bene-

1 ficial reuse of sewage sludge through land appli-
2 cation when the basis of liability arises from
3 sewage sludge generated 36 months after the
4 date of enactment of this subsection or there-
5 after; and

6 “(F) be reached even in the event that an
7 eligible person may be liable under paragraph
8 (1) or (2) of section 107(a) or for substances
9 other than municipal solid waste or sewage
10 sludge.

11 “(5) COVENANT NOT TO SUE.—The President
12 may provide a covenant not to sue with respect to
13 the facility concerned to any person who has entered
14 into a settlement under this subsection unless such
15 a covenant would be inconsistent with the public in-
16 terest as determined under subsection (f).

17 “(6) EFFECT OF AGREEMENT.—A person that
18 has resolved his or her liability to the United States
19 under this subsection shall not be liable for claims
20 of contribution or for other response costs, penalties,
21 or damages under this Act regarding matters ad-
22 dressed in the settlement. Such settlement does not
23 discharge any of the other potentially responsible
24 parties unless the terms of the settlement so provide,

1 but the settlement reduces the potential liability of
2 the other parties by the amount of the settlement.

3 “(7) DE MINIMIS SETTLEMENTS.—Nothing in
4 this subsection shall alter or diminish a person’s
5 ability to reach a settlement with the President
6 under subsection (g).

7 “(8) JUDICIAL REVIEW.—Any judicial review of
8 a settlement reached with the President under this
9 subsection shall be limited to the administrative
10 record. Otherwise applicable principles of adminis-
11 trative law shall govern whether any supplemental
12 materials may be considered by the court. In consid-
13 ering objections raised to such a settlement, the
14 court shall uphold the President’s decision to enter
15 into the settlement unless the objecting party can
16 demonstrate, on the administrative record, that the
17 decision was arbitrary, capricious, or otherwise not
18 in accordance with law.

19 “(o) FUTURE DISPOSAL PRACTICES.—This sub-
20 section applies only to the generation, transportation, or
21 arrangement for the transportation, treatment, or disposal
22 of municipal solid waste or sewage sludge occurring 36
23 months after the date of enactment of this subsection or
24 thereafter. Beginning at such time and with regard to
25 such future municipal solid waste or sewage sludge, eligi-

1 ble persons who are municipalities or operators of publicly
2 owned treatment works may assert the provisions of sub-
3 section (n) only under the following circumstances:

4 “(1) If liability arises from municipal solid
5 waste collected and disposed of 36 months or later
6 after the date of enactment of this subsection and
7 the eligible person is a municipality, a qualified
8 household hazardous waste collection program must
9 have been operating while such municipal solid waste
10 was collected and disposed.

11 “(2) If liability arises from sewage sludge gen-
12 erated 36 months or later after the date of enact-
13 ment of this subsection and the eligible person is an
14 owner or operator of a publicly owned treatment
15 works, a qualified publicly owned treatment works
16 must have been operating while such sewage sludge
17 was generated at such treatment works.

18 “(3) The term ‘qualified household hazardous
19 waste collection program’ means a program that in-
20 cludes—

21 “(A) at least semiannual, well-publicized
22 collections at conveniently located collection
23 points with an intended goal of participation by
24 ten percent of community households;

1 “(B) a public education program that iden-
2 tifies potentially hazardous household products,
3 safer substitutes (source reduction), and proper
4 use and disposal of consumer products;

5 “(C) efforts to collect hazardous waste
6 from conditionally exempt small quantity gen-
7 erators under section 3001(d) of the Solid
8 Waste Disposal Act (42 U.S.C. 6921(d)), with
9 an intended goal of collecting wastes from twen-
10 ty percent of such generators doing business
11 within the jurisdiction of the municipality; and

12 “(D) a comprehensive plan, which may in-
13 clude regional compacts or joint ventures, that
14 outlines how the program will be accomplished.

15 “(4) To satisfy the criterion of having a quali-
16 fied household hazardous waste collection program
17 in operation, a municipality may operate its own
18 program or may certify that other persons are, joint-
19 ly or individually, operating each of the elements of
20 a qualified program which serves the municipality’s
21 jurisdiction, and such other persons may include,
22 but are not limited to, private contractors and busi-
23 nesses, other municipalities, and States.

24 “(5) A person that operates a ‘qualified house-
25 hold hazardous waste collection program’ and col-

1 lects hazardous waste from conditionally exempt
2 small quantity generators under section 3001(d) of
3 the Solid Waste Disposal Act (42 U.S.C. 6921(d))
4 must transport or arrange to transport such waste
5 in accordance with the Solid Waste Disposal Act (42
6 U.S.C. 6901 et seq.) and must dispose of such waste
7 at a hazardous waste treatment, storage, or disposal
8 facility with a permit under section 3005 of the
9 Solid Waste Disposal Act (42 U.S.C. 6925), but
10 such person is otherwise deemed to be handling only
11 household waste under the Solid Waste Disposal Act
12 when the person operates a qualified household haz-
13 ardous waste collection program.

14 “(6) Nothing in this Act is intended to prohibit
15 a person from assessing fees to persons whose waste
16 is accepted during household hazardous waste collec-
17 tions, or shall prohibit a person from refusing to ac-
18 cept waste that the person believes is being disposed
19 of in violation of the Solid Waste Disposal Act (42
20 U.S.C. 6901 et seq.).

21 “(7) The term ‘qualified publicly owned treat-
22 ment works’ means a publicly owned treatment
23 works that complies with section 405 of the Federal
24 Water Pollution Control Act (33 U.S.C. 1345).

1 “(8) The President may determine that a
2 household hazardous waste collection program or a
3 publicly owned treatment works is not qualified
4 under this subsection. Minor instances of noncompli-
5 ance do not render a household hazardous waste col-
6 lection program or publicly owned treatment works
7 unqualified under this subsection.

8 “(9) If the President determines that a house-
9 hold hazardous waste collection program is not
10 qualified, the provisions of subsection (n) shall not
11 apply, but only with regard to the municipal solid
12 waste disposed of during the period of disqualifica-
13 tion.

14 “(10) If a municipality or operator of a publicly
15 owned treatment works is notified by the President
16 or by a State with a program approved under sec-
17 tion 402(b) of the Federal Water Pollution Control
18 Act (33 U.S.C. 1342(b)) that the publicly owned
19 treatment works of the municipality or operator is
20 not in compliance with the requirements of para-
21 graph (7), and if such noncompliance is not rem-
22 edied within twelve months, the provisions of sub-
23 section (n) shall not apply, but only with regard to
24 the sewage sludge generated or disposed of during
25 the period of noncompliance.

1 “(p) SETTLEMENT PROCEDURES FOR MUNICIPAL
2 OWNERS AND OPERATORS.—

3 “(1) ELIGIBLE MUNICIPALITIES.—The term ‘el-
4 igible municipality’ under this subsection means any
5 municipality against which an administrative or judi-
6 cial action is brought, or to which notice is given of
7 potential liability, under paragraph (1) or (2) of sec-
8 tion 107(a) with respect to a facility that does not
9 contain, by overall volume, predominantly wastes
10 produced by municipal operations that are wastes
11 other than municipal solid waste or sewage sludge,
12 and which meets all of the following conditions:

13 “(A) Before the date of enactment of this
14 subsection, the municipality owned or operated
15 the facility or an identifiable unit at such
16 facility.

17 “(B) Such facility or identifiable unit at
18 such facility was or is subject to a response
19 action.

20 “(C) Such facility or identifiable unit at
21 such facility, with respect to which the munici-
22 pality seeks to resolve its liability under this
23 subsection, does not receive any waste after the
24 date of enactment of this subsection.

1 A municipality that may be liable under paragraph
2 (3) or (4) of section 107(a) is covered by this sub-
3 section to the extent that the municipality is eligible
4 under this paragraph.

5 “(2) NEGOTIATION OF SETTLEMENTS; MORATO-
6 RIUM.—Eligible municipalities under this subsection
7 may offer to settle their potential liability with the
8 President by stating in writing their ability and will-
9 ingness to settle their potential liability in accord-
10 ance with this subsection. Upon receipt of such good
11 faith offer to settle, no further administrative or ju-
12 dicial action shall be taken against the eligible mu-
13 nicipality, unless the President determines that the
14 eligible municipality’s offer or position during nego-
15 tiations is not in good faith or otherwise not in ac-
16 cordance with this subsection. Nothing in this sub-
17 section shall limit or modify the President’s author-
18 ity under section 104(e).

19 “(3) TIMING.—Eligible municipalities may ten-
20 der offers under this subsection within 180 days
21 after receiving a notice of potential liability or be-
22 coming subject to administrative or judicial action,
23 or within 180 days after a record of decision is is-
24 sued for the portion of the response action that is
25 the subject of the municipality’s settlement offer,

1 whichever is later. If the President notifies an eligi-
2 ble municipality that it may be a potentially respon-
3 sible party, no further administrative or judicial ac-
4 tion may be taken by any party for 120 days against
5 such municipality.

6 “(4) EXPEDITED FINAL SETTLEMENT.—The
7 President shall make a good faith effort to reach
8 final settlements as promptly as possible under this
9 subsection, and such settlements shall conform to
10 the following criteria:

11 “(A) Such settlements shall take into ac-
12 count the public interest factors normally con-
13 sidered by the President in formulating settle-
14 ments under this Act.

15 “(B) The amount demanded in settlement
16 shall not exceed the municipality’s ability to
17 pay. The municipality’s ‘ability to pay’ shall be
18 determined by the President through a consid-
19 eration of factors, including but not limited to
20 the following: (i) the ratio of debt service to op-
21 erating revenues, other than obligated or en-
22 cumbered revenues, (ii) the ratio of total funds,
23 other than dedicated funds, to total expenses,
24 (iii) the ratio of total revenues, other than obli-
25 gated or encumbered revenues, to total ex-

1 penses, (iv) the ratio of debt service to popu-
2 lation, (v) the ratio of operating revenues, other
3 than obligated or encumbered revenues, to popu-
4 lation, (vi) the ratio of total expenses to popu-
5 lation, (vii) the ratio of total funds, other than
6 dedicated funds, to total revenues, (viii) the
7 ratio of total funds, other than dedicated funds,
8 to population, (ix) the impact of the settlement
9 on essential services the municipality must pro-
10 vide, and (x) the feasibility of making delayed
11 payments and payments over time.

12 “(C) A municipality shall not be deemed to
13 possess the ability to pay to the extent that
14 such payment would create a significant, de-
15 monstrable risk that the municipality will de-
16 fault on existing debt obligations, be forced into
17 bankruptcy, be forced to dissolve, or be forced
18 to make budgetary cutbacks that unduly impede
19 the protection of public health and safety by the
20 municipality. Municipal activities that protect
21 ‘public health and safety’ include all operations
22 that can protect the environment, human and
23 animal health, and public safety, including but
24 not limited to environmental protection and res-
25 toration, police and fire protection, hospitals

1 and medical services, human services, and
2 water, sewage, and solid waste services. Such
3 municipal activities do not include operations
4 that are primarily intended to provide rec-
5 reational activities or aesthetic civic improve-
6 ments.

7 “(D) A municipality shall not be deemed to
8 possess the ability to pay to the extent that the
9 President determines that raising the funds for
10 such payment would violate legal requirements
11 or limitations of general applicability concerning
12 the assumption and maintenance of municipal
13 fiscal obligations: *Provided*, That for the pur-
14 poses of this subparagraph, a legal requirement
15 or limitation of general applicability means a
16 legislative enactment that governs a municipal-
17 ity’s financial affairs generally and that is not
18 limited to the payment of claims for costs or
19 damages under this Act.

20 “(E) If a municipality asserts that it has
21 obligations under any applicable environmental
22 law besides the municipality’s potential liability
23 under this Act, such municipality may create a
24 list of the obligations and estimate the costs of
25 complying with each obligation, and, if re-

1 requested by the municipality, the President shall
2 provide assistance with these tasks and shall
3 consider the total cost of these obligations in
4 determining whether the municipality has an
5 ability to pay.

6 “(F) Once the appropriate settlement
7 amount has been determined, the President
8 shall permit an eligible municipality to provide
9 appropriate in-kind services with regard to the
10 response action in lieu of cash contributions
11 and to be credited at market rates for such
12 services.

13 “(G) Notwithstanding the entry of consent
14 decrees by the President with other potentially
15 responsible parties, the provisions of this para-
16 graph shall apply to the remaining allocation of
17 response costs, penalties, and damages to eligi-
18 ble municipalities.

19 “(5) EFFECT OF AGREEMENT.—An eligible mu-
20 nicipality that has resolved its liability to the United
21 States under this subsection shall not be liable for
22 claims of contribution or for other response costs,
23 penalties, or damages under this Act regarding mat-
24 ters addressed in the settlement. Such settlement
25 does not discharge any of the other potentially re-

1 sponsible parties unless the terms of the settlement
2 so provide, but the settlement reduces the potential
3 liability of the other parties by the amount of the
4 settlement.

5 “(6) CONSOLIDATED SETTLEMENTS.—If a mu-
6 nicipality is an eligible municipality under this sub-
7 section and an eligible person under subsection (n)
8 with regard to the same facility, the President
9 should attempt to reach a single, expeditious settle-
10 ment with the municipality covering all liability that
11 may be addressed by settlements under subsection
12 (n) or (p).

13 “(7) ONGOING WASTE DISPOSAL; BURDEN OF
14 PROOF.—If an eligible municipality receives waste
15 after the date of enactment of this subsection at
16 units adjacent to those units of the facility for which
17 the municipality is eligible under paragraph (1), and
18 if releases or threatened releases into the environ-
19 ment on or beneath the open units are threatened or
20 occur, then the municipality shall bear the burden of
21 proving that such releases are caused by the closed
22 units in any judicial or administrative proceeding in
23 which the municipality’s liability is at issue under
24 environmental law.

1 “(8) JUDICIAL REVIEW.—Any judicial review of
2 a settlement reached with the President under this
3 subsection shall be limited to the administrative
4 record. Otherwise applicable principles of adminis-
5 trative law shall govern whether any supplemental
6 materials may be considered by the court. In consid-
7 ering objections raised to such a settlement, the
8 court shall uphold the President’s decision to enter
9 into the settlement unless the objecting party can
10 demonstrate, on the administrative record, that the
11 decision was arbitrary, capricious, or otherwise not
12 in accordance with law.”.

13 (d) Section 122(g)(1)(A)(i) of the Comprehensive En-
14 vironmental Response, Compensation, and Liability Act of
15 1980 (42 U.S.C. 9622(g)(1)(A)(i)) is amended by adding
16 the following new sentence at the end thereof: “The
17 amount of hazardous substances in municipal solid waste
18 and sewage sludge shall refer to the quantity of hazardous
19 substances which are constituents within municipal solid
20 waste and sewage sludge, not the overall volume of munici-
21 pal solid waste and sewage sludge present at the facility.”.

22 (e) Nothing in this section or the amendments made
23 by this section shall modify the meaning or interpretation
24 of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

1 (f) Nothing in this section or the amendments made
2 by this section shall modify a State's ability under the
3 Comprehensive Environmental Response, Compensation,
4 and Liability Act of 1980 (42 U.S.C. 9601 et seq.) to
5 carry out actions authorized in such Act and to enter into
6 a contract or cooperative agreement with the President to
7 carry out such actions.

8 (g) The settlement procedures and bar on judicial
9 and administrative proceedings addressed in this section
10 and the amendments made by this section shall apply even
11 if any constituent component of municipal solid waste or
12 sewage sludge may be considered a hazardous substance
13 under the Comprehensive Environmental Response, Com-
14 pensation, and Liability Act of 1980 (42 U.S.C. 9601 et
15 seq.) when the constituent component exists apart from
16 municipal solid waste or sewage sludge.

17 (h) This section and the amendments made by this
18 section shall apply to each municipality and other person
19 against whom administrative or judicial action has been
20 commenced before the date of enactment of this Act, un-
21 less a final court judgment has been rendered against such
22 municipality or other person or final court approval of a
23 settlement agreement including such municipality or other
24 person as a party has been granted. If a final court judg-
25 ment has been rendered or court-approved settlement

1 agreement has been reached that does not resolve all con-
2 tested issues, this section and the amendments made by
3 this section shall apply to all contested issues not expressly
4 resolved by such court judgment or settlement agreement.

○

HR 2137 IH——2