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103D CONGRESS
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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Urban Environmental Initiative Act''.

SEC. 2. EPA STUDIES.

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

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

health for the cleanup of sites at which any hazardous substance was released or disposed of. In conducting the study, the Administrator shall consider reports prepared by the Association of State Territorial Solid Waste Management Officials and the Environmental Law Institute.

(2) RECOMMENDATIONS TO STATES.—As part of the study, the Administrator shall make recommendations to the States on health-based cleanup standards. Such recommendations shall include guidance to the States on the development of health-based standards for sites located in urban areas which are more or less restrictive depending on the future use of the site. Such guidance shall address the issue of whether facilities to be used for parking lots, warehouses, industrial parks, or other similar purposes need to be cleaned up as extensively as sites to be used for residential and retail purposes. In developing the guidance, the Administrator shall consider programs in Michigan that place different restrictions on different kinds of development at sites. The guidance also shall encourage States to place restrictions on future uses of sites to those uses which are consistent with whatever health-based standards are applied at the sites.

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

(b) STUDY ON STATE PROPERTY TRANSFER LAWS.—

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

(2) RECOMMENDATIONS TO STATES.—As part of the study, the Administrator shall make recommendations to the States on property transfer laws.

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

SEC. 3. EPA SUPERFUND INVENTORY DATA BASE.

(a) REQUIREMENT.—The Administrator shall establish and maintain in a computer data base a national superfund site inventory. The data shall be available by computer at local libraries.

(b) INFORMATION TO BE INCLUDED.—The data to be made available in the data base shall include information on any Federal action at a site or facility at which a hazardous substance was released or disposed of. Such information shall indicate, at a minimum, whether the Environmental Protection Agency has conducted a preliminary site evaluation with respect to each site listed in the inventory, whether further Federal action has been determined to be warranted, and whether the site is on the National Priorities List.

SEC. 4. SPECIAL SUPERFUND PROGRAM FOR TARGETED INDUSTRIAL SITES.

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

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

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

(c) COVENANT NOT TO SUE FOR SITES PURCHASED FOR ECONOMIC DEVELOPMENT.—(1) Subject to paragraphs (2) and (3), in any case in which a person, including a city, purchases a targeted site for the purpose of economic development, the Administrator may provide a covenant not to sue such person concerning any liability to the United States under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, including future liability, resulting from a release or threatened release of a hazardous substance at such site. Any such covenant not to sue shall not apply with respect to any release or threatened release which is caused by conduct of the person which is negligent.

(2) A covenant not to sue with respect to a site shall not take effect under paragraph (1) unless the person enters into an agreement with the Administrator to complete remedial action at the site in accordance with the National Contingency Plan.

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

ministrator to sue such person concerning future liability resulting from the release or threatened release that is the subject of the covenant where such liability arises out of conditions which are unknown at the time the Administrator enters into an agreement under paragraph (2) with respect to completion of remedial action at the site concerned.

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

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

(a) RIGHT TO PETITION.—Any city within whose jurisdiction is located a targeted site (contained on the list prepared pursuant to section 4(a)) may petition the Administrator for an expedited decision on whether a targeted site within the city will be placed on the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(b) REQUIREMENTS.—After a city submits a petition under subsection (a) with respect to a site, the Administrator shall require the owner or other potentially responsible party at the site concerned to prepare, in consultation with the Environmental Protection Agency, a preliminary assessment and evaluation of the site. Not later than 12 months after such assessment and evaluation are completed, the Administrator shall review the assessment and evaluation and determine whether the site should be placed on the National Priorities List. If the Administrator determines the site should not be placed on the List, the Administrator shall issue a certificate stating that the site is not a Superfund site.

SEC. 6. AMENDMENTS TO SUPERFUND PERTAINING TO INNOCENT LANDOWNER DEFENSE.

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

''(C)(i) The Administrator shall establish guidelines defining the actions that are necessary to fulfill the requirement to undertake all appropriate inquiry for purposes of subparagraph (B). At a minimum, 'all appropriate inquiry' means an investigation of the real property,

conducted by environmental professionals, to determine or discover the obviousness of the presence or likely presence of a release or threatened release of hazardous substances on the real property and which consists of a review of each of the following sources of information concerning the previous ownership and uses of the real property:

''(I) Recorded chain of title documents regarding the real property, including all deeds, easements, leases, restrictions, and covenants for a period of 50 years.

''(II) Aerial photographs which may reflect prior uses of the real property and which are reasonably obtainable through State or local government agencies.

''(III) Determination of the existence of recorded environmental cleanup liens against the real property which have arisen pursuant to Federal, State, and local statutes.

''(IV) Reasonably obtainable Federal, State, and local government records of sites or facilities where there has been a release of hazardous substances and which are likely to cause or contribute to a release or threatened release of hazardous substances on the real property, including investigation reports for such sites or facilities; reasonably obtain-

able Federal, State, and local government environmental records of activities likely to cause or contribute to a release or a threatened release of hazardous substances on the real property, including landfill and other disposal location records, underground storage tank records, hazardous waste handler and generator records and spill reporting records; and such other reasonably obtainable Federal, State, and local government environmental records which report incidents or activities which are likely to cause or contribute to a release or threatened release of hazardous substances on the real property. In order to be deemed 'reasonably obtainable' within the meaning of this subclause, a copy or reasonable facsimile of the record must be obtainable from the government agency by request.

''(V) A visual site inspection of the real property and all facilities and improvements on the real property, and a visual inspection of immediately adjacent properties from the real property, including an investigation of any chemical use, storage, treatment and disposal practices on the property.

''(ii) For purposes of this subparagraph, the term 'environmental professional' means an individual, or an entity managed or controlled by such individual who,

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

''(iii) In establishing the guidelines under this subparagraph, the Administrator shall consider any discussions of the American Society for Testing and Materials.''.

SEC. 7. ASSISTANCE TO STATES.

The Administrator may provide technical and financial assistance to States for carrying out activities associated with the implementation of the provisions of this Act and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

SEC. 8. DEFINITIONS.

For purposes of this Act, the following definitions apply:

(1) The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) The term ''hazardous substance'' has the meaning given that term by section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(3) The term ''release'' has the meaning given that term by section 101(22) of the Comprehensive

Environmental Response, Compensation, and Liability Act of 1980.

SEC. 9. AUTHORIZATION.

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

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