

1. URGING CONGRESS TO AUTHORIZE A STATE CERTIFIED CLEAN UP PROGRAM FOR SUPERFUND SITES

Background

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) created a \$1.6 billion "Superfund" to clean up abandoned and inactive hazardous waste sites around the nation. The United States Environmental Protection Agency (EPA) was given both administrative and programmatic responsibility for the clean up operations.

The national approach to abandoned hazardous waste site clean up has proven unwieldy and expensive to administer. Five years after creating the Superfund, the entire \$1.6 billion authorization has been spent - with clean up operations completed at a mere five sites. The Congress' inability to reauthorize CERCLA demonstrates the inherent impracticability of a national solution to address the environmental concerns of the individual states. By excluding state participation, the current approach denigrates the states' expertise and disregards the benefit of the states' in-depth knowledge of the geo-logic and demographic characteristics of the sites and their surrounding areas.

The Southern Legislative Conference proposes that the Congress authorize a state certification program, based on the successful Resource Conservation and Recovery Act model, whereby a company subject to assessment under CERCLA could clean up a site in conformance with the current CERCLA requirements of the clean up a site approved and funded under CERCLA. The state, under EPA supervision, would designate or approve the methodology utilized in the clean up operation. The state would be required to inspect and to monitor the work progress and to certify completion and costs incurred.

Eligible sites must be drawn from those that have been qualified and submitted for preliminary assessment site investigation under CERCLA, or have been approved for funding under CERCLA. The program would be prospective only. Specifically excluded from eligibility are those sites subject to any judgment or order by any state of federal court or agency requiring clean up.

The incentive for the industry would be a tax credit to be used on the next succeeding years' Superfund tax liability. The applicant would be required to pay the state an administrative fee not to exceed five percent of the credit claimed and would be permitted to deduct that sum from its tax liability. Only those actual costs which have been certified by the state would be eligible for the credit and the amount of credit cannot exceed the Superfund tax liability.

A state-administered program would stimulate and encourage clean up of hazardous waste sites. Consonant with the principles of federalism, a state-administered program would shift the burden of responsibility for local environmental problems from the federal government to the affected states'.

Recommendation

The Southern Legislative Conference urges the Congress to amend CERCLA to provide the authority for the state program and to grant the tax credit.

Adopted by the Southern Legislative Conference on July 16, 1986.

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