

the proposed settlement shall provide an opportunity for persons who are not parties to the proposed settlement to file written comments relating to the proposed settlement.

(3) Consideration of comments

The head of the department or agency shall consider any comments filed under paragraph (2) in determining whether or not to consent to the proposed settlement and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

(j) Natural resources

(1) Notification of trustee

Where a release or threatened release of any hazardous substance that is the subject of negotiations under this section may have resulted in damages to natural resources under the trusteeship of the United States, the President shall notify the Federal natural resource trustee of the negotiations and shall encourage the participation of such trustee in the negotiations.

(2) Covenant not to sue

An agreement under this section may contain a covenant not to sue under section 9607(a)(4)(C) of this title for damages to natural resources under the trusteeship of the United States resulting from the release or threatened release of hazardous substances that is the subject of the agreement, but only if the Federal natural resource trustee has agreed in writing to such covenant. The Federal natural resource trustee may agree to such covenant if the potentially responsible party agrees to undertake appropriate actions necessary to protect and restore the natural resources damaged by such release or threatened release of hazardous substances.

(k) Section not applicable to vessels

The provisions of this section shall not apply to releases from a vessel.

(l) Civil penalties

A potentially responsible party which is a party to an administrative order or consent decree entered pursuant to an agreement under this section or section 9620 of this title (relating to Federal facilities) or which is a party to an agreement under section 9620 of this title and which fails or refuses to comply with any term or condition of the order, decree or agreement shall be subject to a civil penalty in accordance with section 9609 of this title.

(m) Applicability of general principles of law

In the case of consent decrees and other settlements under this section (including covenants not to sue), no provision of this chapter shall be construed to preclude or otherwise affect the applicability of general principles of law regarding the setting aside or modification of consent decrees or other settlements.

(Pub. L. 96-510, title I, §122, as added Pub. L. 99-499, title I, §122(a), Oct. 17, 1986, 100 Stat. 1678; amended Pub. L. 107-118, title I, §102(b), Jan. 11, 2002, 115 Stat. 2359.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, known as the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of this title and Tables.

The Federal Rules of Evidence, referred to in subsec. (d)(1)(B), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2002—Subsec. (g)(7) to (12). Pub. L. 107-118 added pars. (7) to (12).

Statutory Notes and Related Subsidiaries

EFFECT ON CONCLUDED ACTIONS

Amendment by Pub. L. 107-118 not to apply to or in any way affect any settlement lodged in, or judgment issued by, a United States District Court, or any administrative settlement or order entered into or issued by the United States or any State, before Jan. 11, 2002, see section 103 of Pub. L. 107-118, set out as a note under section 9607 of this title.

COORDINATION OF TITLES I TO IV OF PUB. L. 99-499

Any provision of titles I to IV of Pub. L. 99-499, imposing any tax, premium, or fee; establishing any trust fund; or authorizing expenditures from any trust fund, to have no force or effect, see section 531 of Pub. L. 99-499, set out as a note under section 1 of Title 26, Internal Revenue Code.

§ 9623. Reimbursement to local governments

(a) Application

Any general purpose unit of local government for a political subdivision which is affected by a release or threatened release at any facility may apply to the President for reimbursement under this section.

(b) Reimbursement

(1) Temporary emergency measures

The President is authorized to reimburse local community authorities for expenses incurred (before or after October 17, 1986) in carrying out temporary emergency measures necessary to prevent or mitigate injury to human health or the environment associated with the release or threatened release of any hazardous substance or pollutant or contaminant. Such measures may include, where appropriate, security fencing to limit access, response to fires and explosions, and other measures which require immediate response at the local level.

(2) Local funds not supplanted

Reimbursement under this section shall not supplant local funds normally provided for response.

(c) Amount

The amount of any reimbursement to any local authority under subsection (b)(1) may not exceed \$25,000 for a single response. The reimbursement under this section with respect to a single facility shall be limited to the units of local government having jurisdiction over the political subdivision in which the facility is located.

(d) Procedure

Reimbursements authorized pursuant to this section shall be in accordance with rules promulgated by the Administrator within one year after October 17, 1986.

(Pub. L. 96-510, title I, §123, as added Pub. L. 99-499, title I, §123(a), Oct. 17, 1986, 100 Stat. 1688.)

§ 9624. Methane recovery**(a) In general**

In the case of a facility at which equipment for the recovery or processing (including recirculation of condensate) of methane has been installed, for purposes of this chapter:

(1) The owner or operator of such equipment shall not be considered an "owner or operator", as defined in section 9601(20) of this title, with respect to such facility.

(2) The owner or operator of such equipment shall not be considered to have arranged for disposal or treatment of any hazardous substance at such facility pursuant to section 9607 of this title.

(3) The owner or operator of such equipment shall not be subject to any action under section 9606 of this title with respect to such facility.

(b) Exceptions

Subsection (a) does not apply with respect to a release or threatened release of a hazardous substance from a facility described in subsection (a) if either of the following circumstances exist:

(1) The release or threatened release was primarily caused by activities of the owner or operator of the equipment described in subsection (a).

(2) The owner or operator of such equipment would be covered by paragraph (1), (2), (3), or (4) of subsection (a) of section 9607 of this title with respect to such release or threatened release if he were not the owner or operator of such equipment.

In the case of any release or threatened release referred to in paragraph (1), the owner or operator of the equipment described in subsection (a) shall be liable under this chapter only for costs or damages primarily caused by the activities of such owner or operator.

(Pub. L. 96-510, title I, §124, as added Pub. L. 99-499, title I, §124(a), Oct. 17, 1986, 100 Stat. 1688.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, known as the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of this title and Tables.

§ 9625. Section 6921(b)(3)(A)(i) waste**(a) Revision of hazard ranking system**

This section shall apply only to facilities which are not included or proposed for inclusion

on the National Priorities List and which contain substantial volumes of waste described in section 6921(b)(3)(A)(i) of this title. As expeditiously as practicable, the President shall revise the hazard ranking system in effect under the National Contingency Plan with respect to such facilities in a manner which assures appropriate consideration of each of the following site-specific characteristics of such facilities:

(1) The quantity, toxicity, and concentrations of hazardous constituents which are present in such waste and a comparison thereof with other wastes.

(2) The extent of, and potential for, release of such hazardous constituents into the environment.

(3) The degree of risk to human health and the environment posed by such constituents.

(b) Inclusion prohibited

Until the hazard ranking system is revised as required by this section, the President may not include on the National Priorities List any facility which contains substantial volumes of waste described in section 6921(b)(3)(A)(i) of this title on the basis of an evaluation made principally on the volume of such waste and not on the concentrations of the hazardous constituents of such waste. Nothing in this section shall be construed to affect the President's authority to include any such facility on the National Priorities List based on the presence of other substances at such facility or to exercise any other authority of this chapter with respect to such other substances.

(Pub. L. 96-510, title I, §125, as added Pub. L. 99-499, title I, §125, Oct. 17, 1986, 100 Stat. 1689.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, known as the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of this title and Tables.

§ 9626. Indian tribes**(a) Treatment generally**

The governing body of an Indian tribe shall be afforded substantially the same treatment as a State with respect to the provisions of section 9603(a) of this title (regarding notification of releases), section 9604(c)(2) of this title (regarding consultation on remedial actions), section 9604(e) of this title (regarding access to information), section 9604(i) of this title (regarding health authorities) and section 9605 of this title (regarding roles and responsibilities under the national contingency plan and submittal of priorities for remedial action, but not including the provision regarding the inclusion of at least one facility per State on the National Priorities List).

(b) Community relocation

Should the President determine that proper remedial action is the permanent relocation of