

Union Calendar No. 182

113TH CONGRESS
1ST SESSION**H. R. 2226****[Report No. 113–178, Part I]**

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 relating to State consultation on removal and remedial actions, State concurrence with listing on the National Priorities List, and State credit for contributions to the removal or remedial action, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 2013

Mr. JOHNSON of Ohio introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 30, 2013

Reported from the Committee on Energy and Commerce with an amendment
[Strike out all after the enacting clause and insert the part printed in italic]

JULY 30, 2013

Referral to the Committee on Transportation and Infrastructure extended for
a period ending not later than November 1, 2013

NOVEMBER 1, 2013

Additional sponsor: Mr. CRAMER

NOVEMBER 1, 2013

The Committee on Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on June 3, 2013]

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 relating to State consultation on removal and remedial actions, State concurrence with listing on the National Priorities List, and State credit for contributions to the removal or remedial action, 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 “Federal and State Part-*
 5 *nership for Environmental Protection Act of 2013”.*

6 **SEC. 2. CONSULTATION WITH STATES.**

7 (a) *REMOVAL.*—Section 104(a)(2) of the Comprehen-
 8 *sive Environmental Response, Compensation, and Liability*
 9 *Act of 1980 (42 U.S.C. 9604(a)(2)) is amended by striking*
 10 *“Any removal action undertaken by the President under*
 11 *this subsection (or by any other person referred to in section*
 12 *122) should” and inserting “In undertaking a removal ac-*
 13 *tion under this subsection, the President (or any other per-*
 14 *son undertaking a removal action pursuant to section 122)*
 15 *shall consult with the affected State or States. Such removal*
 16 *action should”.*

17 (b) *REMEDIAL ACTION.*—Section 104(c)(2) of the Com-
 18 *prehensive Environmental Response, Compensation, and*
 19 *Liability Act of 1980 (42 U.S.C. 9604(c)(2)) is amended*
 20 *by striking “before determining any appropriate remedial*
 21 *action” and inserting “during the process of selecting, and*
 22 *in selecting, any appropriate remedial action”.*

23 (c) *SELECTION OF REMEDIAL ACTION.*—Section
 24 *104(c)(4) of the Comprehensive Environmental Response,*
 25 *Compensation, and Liability Act of 1980 (42 U.S.C.*

1 9604(c)(4)) is amended by striking “shall select remedial
 2 actions” and inserting “shall, in consultation with the af-
 3 fected State or States, select remedial actions”.

4 (d) CONSULTATION WITH STATE AND LOCAL OFFI-
 5 CIALS.—Section 120(f) of the Comprehensive Environ-
 6 mental Response, Compensation, and Liability Act of 1980
 7 (42 U.S.C. 9620(f)) is amended—

8 (1) by striking “shall afford to” and inserting
 9 “shall consult with”;

10 (2) by inserting “and shall provide such State
 11 and local officials” before “the opportunity to partici-
 12 pate in”; and

13 (3) by adding at the end the following: “If State
 14 or local officials make a determination not to partici-
 15 pate in the planning and selection of the remedial ac-
 16 tion, such determination shall be documented in the
 17 administrative record regarding the selection of the
 18 response action.”.

19 **SEC. 3. STATE CREDIT FOR OTHER CONTRIBUTIONS.**

20 Section 104(c)(5) of the Comprehensive Environmental
 21 Response, Compensation, and Liability Act of 1980 (42
 22 U.S.C. 9604(c)(5)) is amended—

23 (1) in subparagraph (A)—

24 (A) by inserting “removal at such facility,
 25 or for” before “remedial action”; and

(B) by striking “non-Federal funds.” and inserting “non-Federal funds, including oversight costs and in-kind expenditures. For purposes of this paragraph, in-kind expenditures shall include expenditures for, or contributions of, real property, equipment, goods, and services, valued at a fair market value, that are provided for the removal or remedial action at the facility, and amounts derived from materials recycled, recovered, or reclaimed from the facility, valued at a fair market value, that are used to fund or offset all or a portion of the cost of the removal or remedial action.”; and

(2) in subparagraph (B), by inserting “removal or” after “under this paragraph shall include expenses for”.

SEC. 4. STATE CONCURRENCE WITH LISTING ON THE NATIONAL PRIORITIES LIST.

(a) *BASIS FOR RECOMMENDATION.*—Section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)) is amended—

(1) by inserting “Not later than 90 days after any revision of the national list, with respect to a priority not included on the revised national list,

1 upon request of the State that submitted the priority
2 for consideration under this subparagraph, the Presi-
3 dent shall provide to such State, in writing, the basis
4 for not including such priority on such revised na-
5 tional list. The President may not add a facility to
6 the national list over the written objection of the
7 State, unless (i) the State, as an owner or operator
8 or a significant contributor of hazardous substances
9 to the facility, is a potentially responsible party, (ii)
10 the President determines that the contamination has
11 migrated across a State boundary, resulting in the
12 need for response actions in multiple States, or (iii)
13 the criteria under the national contingency plan for
14 issuance of a health advisory have been met.” after
15 “the President shall consider any priorities estab-
16 lished by the States.”; and

17 (2) by striking “To the extent practicable, the
18 highest priority facilities shall be designated individ-
19 ually and shall be referred to as” and all that follows
20 through the semicolon at the end, and inserting “Not
21 more frequently than once every 5 years, a State may
22 designate a facility that meets the criteria set forth in
23 subparagraph (A) of this paragraph, which shall be
24 included on the national list;”.

1 (b) *STATE INVOLVEMENT.*—Section 121(f)(1)(C) of the
2 *Comprehensive Environmental Response, Compensation,*
3 *and Liability Act of 1980 (42 U.S.C. 9621(f)(1)(C)) is*
4 *amended by striking “deleting sites from” and inserting*
5 *“adding sites to, and deleting sites from,”.*

6 **SEC. 5. STATE ENVIRONMENTAL COVENANT LAW.**

7 Section 121(d)(2)(A)(ii) of the *Comprehensive Envi-*
8 *ronmental Response, Compensation, and Liability Act of*
9 *1980 (42 U.S.C. 9621(d)(2)(A)(ii)) is amended by striking*
10 *“State environmental or facility siting law” and inserting*
11 *“State environmental, facility siting, or environmental cov-*
12 *enant law, or under a State law or regulation requiring*
13 *the use of engineering controls or land use controls,”.*

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