

113TH CONGRESS  
1ST SESSION

# H. R. 2226

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.

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## 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

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## 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal and State  
3 Partnership for Environmental Protection Act of 2013”.

4 **SEC. 2. CONSULTATION WITH STATES.**

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

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

21 (c) SELECTION OF REMEDIAL ACTION.—Section  
22 104(c)(4) of the Comprehensive Environmental Response,  
23 Compensation, and Liability Act of 1980 (42 U.S.C.  
24 9604(c)(4)) is amended by striking “shall select remedial  
25 actions” and inserting “shall, in consultation with the af-  
26 fected State or States, select remedial actions”.

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

5 (1) by striking “shall afford to” and inserting  
6 “shall consult with”;

7 (2) by inserting “and shall provide such State  
8 and local officials” before “the opportunity to par-  
9 ticipate”; and

10 (3) by adding at the end the following: “If  
11 State or local officials make a determination not to  
12 participate in the planning and selection of the re-  
13 medial action, such determination shall be docu-  
14 mented in the administrative record regarding the  
15 selection of the response action.”.

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

17 Section 104(c)(5) of the Comprehensive Environ-  
18 mental Response, Compensation, and Liability Act of  
19 1980 (42 U.S.C. 9604(c)(5)) is amended—

20 (1) in subparagraph (A)—

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

23 (B) by striking “non-Federal funds.” and  
24 inserting “non-Federal funds, including over-  
25 sight costs and in-kind expenditures. For pur-

1           poses of this paragraph, in-kind expenditures  
2           shall include expenditures for, or contributions  
3           of, real property, equipment, goods, and serv-  
4           ices, valued at a fair market value, that are  
5           provided for the removal or remedial action at  
6           the facility, and amounts derived from mate-  
7           rials recycled, recovered, or reclaimed from the  
8           facility, valued at a fair market value, that are  
9           used to fund or offset all or a portion of the  
10          cost of the removal or remedial action.”; and

11          (2) in subparagraph (B), by inserting “removal  
12          or” after “under this paragraph shall include ex-  
13          penses for”.

14 **SEC. 4. STATE CONCURRENCE WITH LISTING ON THE NA-**  
15 **TIONAL PRIORITIES LIST.**

16          (a) **BASIS FOR RECOMMENDATION.**—Section  
17 105(a)(8)(B) of the Comprehensive Environmental Re-  
18 sponse, Compensation, and Liability Act of 1980 (42  
19 U.S.C. 9605(a)(8)(B)) is amended—

20           (1) by inserting “Not later than 90 days after  
21           any revision of the national list, with respect to a  
22           priority not included on the revised national list,  
23           upon request of the State that submitted the priority  
24           for consideration under this subparagraph, the  
25           President shall provide to such State, in writing, the

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

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

22 (b) STATE INVOLVEMENT.—Section 121(f)(1)(C) of  
23 the Comprehensive Environmental Response, Compensa-  
24 tion, and Liability Act of 1980 (42 U.S.C. 9621(f)(1)(C))

- 1 is amended by striking “deleting sites from” and inserting
- 2 “adding sites to, and deleting sites from,”.

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