

[DISCUSSION DRAFT]

113TH CONGRESS
1ST SESSION

H. R. 2318

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to the applicability of the Act to Federal facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to the applicability of the Act to Federal facilities, 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 Facility Ac-
5 countability Act of 2013”.

1 **SEC. 2. FEDERAL FACILITIES.**

2 (a) APPLICATION TO FEDERAL GOVERNMENT.—Sec-
3 tion 120(a) of the Comprehensive Environmental Re-
4 sponse, Compensation, and Liability Act of 1980 (42
5 U.S.C. 9620(a)) is amended in the heading by striking
6 “OF ACT”.

7 (b) APPLICATION OF REQUIREMENTS TO FEDERAL
8 FACILITIES.—Section 120(a)(2) of the Comprehensive
9 Environmental Response, Compensation, and Liability Act
10 of 1980 (42 U.S.C. 9620(a)(2)) is amended—

11 (1) by striking “preliminary assessments” and
12 inserting “response actions”;

13 (2) by inserting “or” after “National Contin-
14 gency Plan,”;

15 (3) by striking “, or applicable to remedial ac-
16 tions at such facilities”; and

17 (4) by inserting “or have been” before “owned
18 or operated”.

19 (c) APPLICABILITY OF LAWS.—Section 120(a)(4) of
20 the Comprehensive Environmental Response, Compensa-
21 tion, and Liability Act of 1980 (42 U.S.C. 9620(a)(4))
22 is amended to read as follows:

23 “(4) APPLICABILITY OF LAWS.—

24 “(A) IN GENERAL.—Each department,
25 agency, and instrumentality of the United
26 States shall be subject to, and comply with, at

1 facilities that are or have been owned or oper-
2 ated by any such department, agency, or instru-
3 mentality, State substantive and procedural re-
4 quirements regarding response relating to haz-
5 ardous substances or pollutants or contami-
6 nants, including State hazardous waste require-
7 ments, in the same manner and to the same ex-
8 tent as any nongovernmental entity.

9 “(B) COMPLIANCE.—

10 “(i) IN GENERAL.—The United States
11 hereby expressly waives any immunity oth-
12 erwise applicable to the United States with
13 respect to any State substantive or proce-
14 dural requirement referred to in subpara-
15 graph (A).

16 “(ii) INJUNCTIVE RELIEF.—Neither
17 the United States, nor any agent, em-
18 ployee, nor officer thereof, shall be immune
19 or exempt from any process or sanction of
20 any State or Federal Court with respect to
21 the enforcement of any injunctive relief
22 under subparagraph (C)(ii).

23 “(iii) CIVIL PENALTIES.—No agent,
24 employee, or officer of the United States
25 shall be personally liable for any civil pen-

1 alty under any State substantive or proce-
2 dural requirement referred to in subpara-
3 graph (A), or this Act, with respect to any
4 act or omission within the scope of the of-
5 ficial duties of the agent, employee, or offi-
6 cer.

7 “(iv) CRIMINAL SANCTIONS.—An
8 agent, employee, or officer of the United
9 States shall be subject to any criminal
10 sanction (including any fine or imprison-
11 ment) under any State substantive or pro-
12 cedural requirement referred to in sub-
13 paragraph (A), or this Act, but no depart-
14 ment, agency, or instrumentality of the ex-
15 ecutive, legislative, or judicial branch of
16 the Federal Government shall be subject to
17 any such sanction.

18 “(C) SUBSTANTIVE AND PROCEDURAL RE-
19 QUIREMENTS.—The State substantive and pro-
20 cedural requirements referred to in subpara-
21 graph (A) include—

22 “(i) administrative orders;

23 “(ii) injunctive relief;

24 “(iii) civil and administrative penalties
25 and fines, regardless of whether such pen-

1 alties or fines are punitive or coercive in
2 nature or are imposed for isolated, inter-
3 mittent, or continuing violations;

4 “(iv) reasonable service charges or
5 oversight costs; and

6 “(v) laws or regulations requiring the
7 imposition and maintenance of engineering
8 or land use controls.

9 “(D) REASONABLE SERVICE CHARGES OR
10 OVERSIGHT COSTS.—The reasonable service
11 charges or oversight costs referred to in sub-
12 paragraph (C) include fees or charges assessed
13 in connection with—

14 “(i) the processing, issuance, renewal,
15 or modification of permits;

16 “(ii) the review of plans, reports,
17 studies, and other documents;

18 “(iii) attorney’s fees;

19 “(iv) inspection and monitoring of fa-
20 cilities or vessels; and

21 “(v) any other nondiscriminatory
22 charges that are assessed in connection
23 with a State requirement regarding re-
24 sponse relating to hazardous substances or
25 pollutants or contaminants.”.

1 **SEC. 3. AUTHORITY TO DELEGATE, ISSUE REGULATIONS.**

2 Section 115 of the Comprehensive Environmental Re-
3 sponse, Compensation, and Liability Act of 1980 (42
4 U.S.C. 9615) is amended by adding at the end the fol-
5 lowing new sentence: “If the President delegates or as-
6 signs any duties or powers under this section to a depart-
7 ment, agency, or instrumentality of the United States
8 other than the Administrator, the Administrator may re-
9 view, as the Administrator determines necessary or upon
10 request of any State, actions taken, or regulations promul-
11 gated, pursuant to such delegation or assignment, for pur-
12 poses of ensuring consistency with the guidelines, rules,
13 regulations, or criteria established by the Administrator
14 under this title.”.