

[DISCUSSION DRAFT]

113TH CONGRESS
1ST SESSION

H. R. _____

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

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 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
5 Partnership for Environmental Protection Act of 2013”.

1 **SEC. 2. CONSULTATION WITH STATES.**

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

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

18 (c) SELECTION OF REMEDIAL ACTION.—Section
19 104(c)(4) of the Comprehensive Environmental Response,
20 Compensation, and Liability Act of 1980 (42 U.S.C.
21 9604(c)(4)) is amended by striking “shall select remedial
22 actions” and inserting “shall, in consultation with the af-
23 fected State or States, select remedial actions”.

24 (d) CONSULTATION WITH STATE AND LOCAL OFFI-
25 CIALS.—Section 120(f) of the Comprehensive Environ-

1 mental Response, Compensation, and Liability Act of
2 1980 (42 U.S.C. 9620(f)) is amended—

3 (1) by striking “shall afford to” and inserting
4 “shall consult with”; and

5 (2) by inserting “and shall provide such State
6 and local officials” before “the opportunity to par-
7 ticipate”.

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

9 Section 104(c)(5) of the Comprehensive Environ-
10 mental Response, Compensation, and Liability Act of
11 1980 (42 U.S.C. 9604(c)(5)) is amended—

12 (1) in subparagraph (A)—

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

15 (B) by striking “non-Federal funds.” and
16 inserting “non-Federal funds, including over-
17 sight costs and in-kind expenditures. For pur-
18 poses of this paragraph, in-kind expenditures
19 shall include expenditures for, or contributions
20 of, real property, equipment, goods, and serv-
21 ices, valued at a fair market value, that are
22 provided for the removal or remedial action at
23 the facility, and amounts derived from mate-
24 rials recycled, recovered, or reclaimed from the
25 facility, valued at a fair market value, that are

1 used to fund or offset all or a portion of the
2 cost of the removal or remedial action.”; and

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

6 **SEC. 4. STATE CONCURRENCE WITH LISTING ON THE NA-**
7 **TIONAL PRIORITIES LIST.**

8 (a) BASIS FOR RECOMMENDATION.—Section
9 105(a)(8)(B) of the Comprehensive Environmental Re-
10 sponse, Compensation, and Liability Act of 1980 (42
11 U.S.C. 9605(a)(8)(B)) is amended—

12 (1) by inserting “Not later than 90 days after
13 any revision of the national list, with respect to a
14 priority not included on the revised national list,
15 upon request of the State that submitted the priority
16 for consideration under this subparagraph, the
17 President shall provide to such State, in writing, the
18 basis for not including such priority on such revised
19 national list. The President may not add a facility
20 to the national list over the written objection of the
21 State.” after “the President shall consider any prior-
22 ities established by the States.”; and

23 (2) by striking “To the extent practicable, the
24 highest priority facilities shall be designated individ-
25 ually and shall be referred to as” and all that follows

1 through the semicolon at the end, and inserting
2 “Not more frequently than once every 5 years, a
3 State may designate a facility that meets the criteria
4 set forth in subparagraph (A) of this paragraph,
5 which shall be included on the national list;”.

6 (b) STATE INVOLVEMENT.—Section 121(f)(1)(C) of
7 the Comprehensive Environmental Response, Compensa-
8 tion, and Liability Act of 1980 (42 U.S.C. 9621(f)(1)(C))
9 is amended by striking “deleting sites from” and inserting
10 “adding sites to, and deleting sites from,”.

11 **SEC. 5. REVIEW OF REMEDY SELECTION.**

12 Section 113(h) of the Comprehensive Environmental
13 Response, Compensation, and Liability Act of 1980 (42
14 U.S.C. 9613(h)) is amended by adding at the end the fol-
15 lowing:

16 “(6) An action by the President under section
17 104(c)(4) (relating to selection of remedial action),
18 if the President selects a remedial action under such
19 section over the written objection of the affected
20 State or States.”.