

DECEMBER 31, 2013

RULES COMMITTEE PRINT 113-30
TEXT OF H.R. 2279, THE REDUCING EXCESSIVE
DEADLINE OBLIGATIONS ACT OF 2013

[Showing the texts of H.R. 2279, H.R. 2226, and H.R. 2318 as reported by the Committee on Energy and Commerce.]

1 **TITLE I—REDUCING EXCESSIVE**
2 **DEADLINE OBLIGATIONS**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Reducing Excessive
5 Deadline Obligations Act of 2013”.

6 **SEC. 102. REVIEW OF REGULATIONS UNDER THE SOLID**
7 **WASTE DISPOSAL ACT.**

8 Section 2002(b) of the Solid Waste Disposal Act (42
9 U.S.C. 6912(b)) is amended to read as follows:

10 “(b) REVIEW OF REGULATIONS.—The Administrator
11 shall review, and revise, as the Administrator determines
12 appropriate, regulations promulgated under this Act.”

13 **SEC. 103. FINANCIAL RESPONSIBILITY FOR CLASSES OF FA-**
14 **CILITIES UNDER CERCLA.**

15 Section 108(b) of the Comprehensive Environmental
16 Response, Compensation, and Liability Act of 1980 (42
17 U.S.C. 9608(b)) is amended—

18 (1) in paragraph (1)—

1 (A) by striking “Not later than three years
2 after the date of enactment of the Act, the
3 President shall” and inserting “The President
4 shall, as appropriate,”; and

5 (B) by striking “first” after “for which re-
6 quirements will be”; and

7 (2) in paragraph (2)—

8 (A) by striking “Financial responsibility
9 may be established” and inserting “Owners and
10 operators may establish financial responsi-
11 bility”;

12 (B) by striking “any one, or any combina-
13 tion, of the following:” and inserting “forms of
14 security, including”; and

15 (C) by striking “or qualification” and in-
16 serting “and qualification”.

17 **SEC. 104. REPORT TO CONGRESS REGARDING FINANCIAL**
18 **RESPONSIBILITY REQUIREMENTS.**

19 Section 108(b) of the Comprehensive Environmental
20 Response, Compensation, and Liability Act of 1980 (42
21 U.S.C. 9608(b)) is further amended by adding at the end
22 the following:

23 “(6) The President may not promulgate any financial
24 responsibility requirement under this subsection without
25 first submitting to Congress a report—

1 “(A) describing each facility or class of facilities
2 to be covered by such requirement;

3 “(B) describing the development of such re-
4 quirement, why the facility or class of facilities pro-
5 posed to be covered by such requirement present the
6 highest level of risk of injury, and why the facility
7 or class of facilities is not already covered by ade-
8 quate financial responsibility requirements;

9 “(C) describing the financial responsibility re-
10 quirements promulgated by States or other Federal
11 agencies for the facility or class of facilities to be
12 covered by the financial responsibility requirement
13 proposed under this subsection and explaining why
14 the requirement proposed under this subsection is
15 necessary;

16 “(D) describing the exposure to the Fund for
17 response costs resulting from the facility or class of
18 facilities proposed to be covered; and

19 “(E) describing the capacity of the financial
20 and credit markets to provide instruments of finan-
21 cial responsibility necessary to meet such require-
22 ment.

23 The President shall update any report submitted under
24 this paragraph to reflect any revision of the facilities or

1 classes of facilities to be covered by a financial responsi-
2 bility requirement that is the subject of such report.”.

3 **SEC. 105. PREEMPTION OF FINANCIAL RESPONSIBILITY RE-**
4 **QUIREMENTS.**

5 Section 114(d) of the Comprehensive Environmental
6 Response, Compensation, and Liability Act of 1980 (42
7 U.S.C. 9614(d)) is amended to read as follows:

8 “(d) No owner or operator of a vessel or facility who
9 establishes and maintains evidence of financial responsi-
10 bility associated with the production, transportation,
11 treatment, storage, or disposal of hazardous substances
12 pursuant to financial responsibility requirements under
13 any State law or regulation, or any other Federal law or
14 regulation, shall be required to establish or maintain evi-
15 dence of financial responsibility under this title, unless the
16 President determines, after notice and opportunity for
17 public comment, that in the event of a release of a haz-
18 ardous substance that is not a federally permitted release
19 or authorized by a State permit, such other Federal or
20 State financial responsibility requirements are insufficient
21 to cover likely response costs under section 104. If the
22 President determines that such other Federal or State fi-
23 nancial responsibility requirements are insufficient to
24 cover likely response costs under section 104 in the event
25 of such a release, the President shall accept evidence of

1 compliance with such other Federal or State financial re-
2 sponsibility requirements in lieu of compliance with any
3 portion of the financial responsibility requirements pro-
4 mulgated under this title to which they correspond.”.

5 **SEC. 106. EXPLOSIVE RISKS PLANNING NOTIFICATION.**

6 Not later than 180 days after the date of enactment
7 of this Act, the owner or operator of each facility at which
8 substances listed in appendix A to part 27 of title 6, Code
9 of Federal Regulations, as flammables or explosives are
10 present above the screening threshold listed therein shall
11 notify the State emergency response commission for the
12 State in which such facility is located that such substances
13 are present at such facility and of the amount of such
14 substances that are present at such facility.

15 **TITLE II—FEDERAL AND STATE**
16 **PARTNERSHIP FOR ENVIRON-**
17 **MENTAL PROTECTION**

18 **SEC. 201. SHORT TITLE.**

19 This title may be cited as the “Federal and State
20 Partnership for Environmental Protection Act of 2013”.

21 **SEC. 202. CONSULTATION WITH STATES.**

22 (a) REMOVAL.—Section 104(a)(2) of the Comprehen-
23 sive Environmental Response, Compensation, and Liabil-
24 ity Act of 1980 (42 U.S.C. 9604(a)(2)) is amended by
25 striking “Any removal action undertaken by the President

1 under this subsection (or by any other person referred to
2 in section 122) should” and inserting “In undertaking a
3 removal action under this subsection, the President (or
4 any other person undertaking a removal action pursuant
5 to section 122) shall consult with the affected State or
6 States. Such removal action should”.

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

13 (c) SELECTION OF REMEDIAL ACTION.—Section
14 104(c)(4) of the Comprehensive Environmental Response,
15 Compensation, and Liability Act of 1980 (42 U.S.C.
16 9604(c)(4)) is amended by striking “shall select remedial
17 actions” and inserting “shall, in consultation with the af-
18 fected State or States, select remedial actions”.

19 (d) CONSULTATION WITH STATE AND LOCAL OFFI-
20 CIALS.—Section 120(f) of the Comprehensive Environ-
21 mental Response, Compensation, and Liability Act of
22 1980 (42 U.S.C. 9620(f)) is amended—

23 (1) by striking “shall afford to” and inserting
24 “shall consult with”;

1 (2) by inserting “and shall provide such State
2 and local officials” before “the opportunity to par-
3 ticipate in”; and

4 (3) by adding at the end the following: “If
5 State or local officials make a determination not to
6 participate in the planning and selection of the re-
7 medial action, such determination shall be docu-
8 mented in the administrative record regarding the
9 selection of the response action.”.

10 **SEC. 203. STATE CREDIT FOR OTHER CONTRIBUTIONS.**

11 Section 104(c)(5) of the Comprehensive Environ-
12 mental Response, Compensation, and Liability Act of
13 1980 (42 U.S.C. 9604(c)(5)) is amended—

14 (1) in subparagraph (A)—

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

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

1 rials recycled, recovered, or reclaimed from the
2 facility, valued at a fair market value, that are
3 used to fund or offset all or a portion of the
4 cost of the removal or remedial action.”; and

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

8 **SEC. 204. STATE CONCURRENCE WITH LISTING ON THE NA-**
9 **TIONAL PRIORITIES LIST.**

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

14 (1) by inserting “Not later than 90 days after
15 any revision of the national list, with respect to a
16 priority not included on the revised national list,
17 upon request of the State that submitted the priority
18 for consideration under this subparagraph, the
19 President shall provide to such State, in writing, the
20 basis for not including such priority on such revised
21 national list. The President may not add a facility
22 to the national list over the written objection of the
23 State, unless (i) the State, as an owner or operator
24 or a significant contributor of hazardous substances
25 to the facility, is a potentially responsible party, (ii)

1 the President determines that the contamination has
2 migrated across a State boundary, resulting in the
3 need for response actions in multiple States, or (iii)
4 the criteria under the national contingency plan for
5 issuance of a health advisory have been met.” after
6 “the President shall consider any priorities estab-
7 lished by the States.”; and

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

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

21 **SEC. 205. STATE ENVIRONMENTAL COVENANT LAW.**

22 Section 121(d)(2)(A)(ii) of the Comprehensive Envi-
23 ronmental Response, Compensation, and Liability Act of
24 1980 (42 U.S.C. 9621(d)(2)(A)(ii)) is amended by strik-
25 ing “State environmental or facility siting law” and insert-

1 ing “State environmental, facility siting, or environmental
2 covenant law, or under a State law or regulation requiring
3 the use of engineering controls or land use controls,”.

4 **TITLE III—FEDERAL FACILITY** 5 **ACCOUNTABILITY**

6 **SEC. 301. SHORT TITLE.**

7 This title may be cited as the “Federal Facility Ac-
8 countability Act of 2013”.

9 **SEC. 302. FEDERAL FACILITIES.**

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

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

19 (1) by striking “preliminary assessments” and
20 inserting “response actions”;

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

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

1 (4) by inserting “or have been” before “owned
2 or operated”.

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

7 “(4) APPLICABILITY OF LAWS.—

8 “(A) IN GENERAL.—Each department,
9 agency, and instrumentality of the United
10 States shall be subject to, and comply with, at
11 facilities that are or have been owned or oper-
12 ated by any such department, agency, or instru-
13 mentality, State substantive and procedural re-
14 quirements regarding response relating to haz-
15 ardous substances or pollutants or contami-
16 nants, including State hazardous waste require-
17 ments, in the same manner and to the same ex-
18 tent as any nongovernmental entity.

19 “(B) COMPLIANCE.—

20 “(i) IN GENERAL.—The United States
21 hereby expressly waives any immunity oth-
22 erwise applicable to the United States with
23 respect to any State substantive or proce-
24 dural requirement referred to in subpara-
25 graph (A).

1 “(ii) INJUNCTIVE RELIEF.—Neither
2 the United States, nor any agent, em-
3 ployee, nor officer thereof, shall be immune
4 or exempt from any process or sanction of
5 any State or Federal Court with respect to
6 the enforcement of any injunctive relief
7 under subparagraph (C)(ii).

8 “(iii) CIVIL PENALTIES.—No agent,
9 employee, or officer of the United States
10 shall be personally liable for any civil pen-
11 alty under any State substantive or proce-
12 dural requirement referred to in subpara-
13 graph (A), or this Act, with respect to any
14 act or omission within the scope of the of-
15 ficial duties of the agent, employee, or offi-
16 cer.

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

21 “(i) administrative orders;

22 “(ii) injunctive relief;

23 “(iii) civil and administrative penalties
24 and fines, regardless of whether such pen-
25 alties or fines are punitive or coercive in

1 nature or are imposed for isolated, inter-
2 mittent, or continuing violations;

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

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

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

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

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

17 “(iii) attorney’s fees;

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

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

1 **SEC. 303. 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.”.

