

113TH CONGRESS
2^D SESSION

H. R. 2279

IN THE SENATE OF THE UNITED STATES

JANUARY 13, 2014

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

To amend the Solid Waste Disposal Act relating to review of regulations under such Act and to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 relating to financial responsibility for classes of facilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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 2014”.

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)—

19 (A) by striking “Not later than three years
20 after the date of enactment of the Act, the
21 President shall” and inserting “The President
22 shall, as appropriate,”; and

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

25 (2) in paragraph (2)—

1 (A) by striking “Financial responsibility
2 may be established” and inserting “Owners and
3 operators may establish financial responsi-
4 bility”;

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

8 (C) by striking “or qualification” and in-
9 serting “and qualification”.

10 **SEC. 104. REPORT TO CONGRESS REGARDING FINANCIAL**
11 **RESPONSIBILITY REQUIREMENTS.**

12 Section 108(b) of the Comprehensive Environmental
13 Response, Compensation, and Liability Act of 1980 (42
14 U.S.C. 9608(b)) is further amended by adding at the end
15 the following:

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

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

21 “(B) describing the development of such re-
22 quirement, why the facility or class of facilities pro-
23 posed to be covered by such requirement present the
24 highest level of risk of injury, and why the facility

1 or class of facilities is not already covered by ade-
2 quate financial responsibility requirements;

3 “(C) describing the financial responsibility re-
4 quirements promulgated by States or other Federal
5 agencies for the facility or class of facilities to be
6 covered by the financial responsibility requirement
7 proposed under this subsection and explaining why
8 the requirement proposed under this subsection is
9 necessary;

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

13 “(E) describing the capacity of the financial
14 and credit markets to provide instruments of finan-
15 cial responsibility necessary to meet such require-
16 ment.

17 The President shall update any report submitted under
18 this paragraph to reflect any revision of the facilities or
19 classes of facilities to be covered by a financial responsi-
20 bility requirement that is the subject of such report.”.

21 **SEC. 105. PREEMPTION OF FINANCIAL RESPONSIBILITY RE-**
22 **QUIREMENTS.**

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

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

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

24 Not later than 180 days after the date of enactment
25 of this Act, the owner or operator of each facility at which

1 substances listed in appendix A to part 27 of title 6, Code
2 of Federal Regulations, as flammables or explosives are
3 present above the screening threshold listed therein shall
4 notify the State emergency response commission for the
5 State in which such facility is located that such substances
6 are present at such facility and of the amount of such
7 substances that are present at such facility.

8 **TITLE II—FEDERAL AND STATE**
9 **PARTNERSHIP FOR ENVIRON-**
10 **MENTAL PROTECTION**

11 **SEC. 201. SHORT TITLE.**

12 This title may be cited as the “Federal and State
13 Partnership for Environmental Protection Act of 2014”.

14 **SEC. 202. CONSULTATION WITH STATES.**

15 (a) REMOVAL.—Section 104(a)(2) of the Comprehen-
16 sive Environmental Response, Compensation, and Liabil-
17 ity Act of 1980 (42 U.S.C. 9604(a)(2)) is amended by
18 striking “Any removal action undertaken by the President
19 under this subsection (or by any other person referred to
20 in section 122) should” and inserting “In undertaking a
21 removal action under this subsection, the President (or
22 any other person undertaking a removal action pursuant
23 to section 122) shall consult with the affected State or
24 States. Such removal action should”.

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

7 (c) SELECTION OF REMEDIAL ACTION.—Section
8 104(c)(4) of the Comprehensive Environmental Response,
9 Compensation, and Liability Act of 1980 (42 U.S.C.
10 9604(c)(4)) is amended by striking “shall select remedial
11 actions” and inserting “shall, in consultation with the af-
12 fected State or States, select remedial actions”.

13 (d) CONSULTATION WITH STATE AND LOCAL OFFI-
14 CIALS.—Section 120(f) of the Comprehensive Environ-
15 mental Response, Compensation, and Liability Act of
16 1980 (42 U.S.C. 9620(f)) is amended—

17 (1) by striking “shall afford to” and inserting
18 “shall consult with”;

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

22 (3) by adding at the end the following: “If
23 State or local officials make a determination not to
24 participate in the planning and selection of the re-
25 medial action, such determination shall be docu-

1 mented in the administrative record regarding the
2 selection of the response action.”.

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

4 Section 104(c)(5) of the Comprehensive Environ-
5 mental Response, Compensation, and Liability Act of
6 1980 (42 U.S.C. 9604(c)(5)) is amended—

7 (1) in subparagraph (A)—

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

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

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

1 **SEC. 204. STATE CONCURRENCE WITH LISTING ON THE NA-**
2 **TIONAL PRIORITIES LIST.**

3 (a) BASIS FOR RECOMMENDATION.—Section
4 105(a)(8)(B) of the Comprehensive Environmental Re-
5 sponse, Compensation, and Liability Act of 1980 (42
6 U.S.C. 9605(a)(8)(B)) is amended—

7 (1) by inserting “Not later than 90 days after
8 any revision of the national list, with respect to a
9 priority not included on the revised national list,
10 upon request of the State that submitted the priority
11 for consideration under this subparagraph, the
12 President shall provide to such State, in writing, the
13 basis for not including such priority on such revised
14 national list. The President may not add a facility
15 to the national list over the written objection of the
16 State, unless (i) the State, as an owner or operator
17 or a significant contributor of hazardous substances
18 to the facility, is a potentially responsible party, (ii)
19 the President determines that the contamination has
20 migrated across a State boundary, resulting in the
21 need for response actions in multiple States, or (iii)
22 the criteria under the national contingency plan for
23 issuance of a health advisory have been met.” after
24 “the President shall consider any priorities estab-
25 lished by the States.”; and

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

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

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

15 Section 121(d)(2)(A)(ii) of the Comprehensive Envi-
16 ronmental Response, Compensation, and Liability Act of
17 1980 (42 U.S.C. 9621(d)(2)(A)(ii)) is amended by strik-
18 ing “State environmental or facility siting law” and insert-
19 ing “State environmental, facility siting, or environmental
20 covenant law, or under a State law or regulation requiring
21 the use of engineering controls or land use controls,”.

1 **TITLE III—FEDERAL FACILITY**
2 **ACCOUNTABILITY**

3 **SEC. 301. SHORT TITLE.**

4 This title may be cited as the “Federal Facility Ac-
5 countability Act of 2014”.

6 **SEC. 302. FEDERAL FACILITIES.**

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

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

16 (1) by striking “preliminary assessments” and
17 inserting “response actions”;

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

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

22 (4) by inserting “or have been” before “owned
23 or operated”.

24 (c) APPLICABILITY OF LAWS.—Section 120(a)(4) of
25 the Comprehensive Environmental Response, Compensa-

1 tion, and Liability Act of 1980 (42 U.S.C. 9620(a)(4))
2 is amended to read as follows:

3 “(4) APPLICABILITY OF LAWS.—

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

15 “(B) COMPLIANCE.—

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

22 “(ii) INJUNCTIVE RELIEF.—Neither
23 the United States, nor any agent, em-
24 ployee, nor officer thereof, shall be immune
25 or exempt from any process or sanction of

1 any State or Federal Court with respect to
2 the enforcement of any injunctive relief
3 under subparagraph (C)(ii).

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

13 “(C) SUBSTANTIVE AND PROCEDURAL RE-
14 QUIREMENTS.—The State substantive and pro-
15 cedural requirements referred to in subpara-
16 graph (A) include—

17 “(i) administrative orders;

18 “(ii) injunctive relief;

19 “(iii) civil and administrative penalties
20 and fines, regardless of whether such pen-
21 alties or fines are punitive or coercive in
22 nature or are imposed for isolated, inter-
23 mittent, or continuing violations;

24 “(iv) reasonable service charges or
25 oversight costs; and

1 “(v) laws or regulations requiring the
2 imposition and maintenance of engineering
3 or land use controls.

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

9 “(i) the processing, issuance, renewal,
10 or modification of permits;

11 “(ii) the review of plans, reports,
12 studies, and other documents;

13 “(iii) attorney’s fees;

14 “(iv) inspection and monitoring of fa-
15 cilities or vessels; and

16 “(v) any other nondiscriminatory
17 charges that are assessed in connection
18 with a State requirement regarding re-
19 sponse relating to hazardous substances or
20 pollutants or contaminants.”.

21 **SEC. 303. AUTHORITY TO DELEGATE, ISSUE REGULATIONS.**

22 Section 115 of the Comprehensive Environmental Re-
23 sponse, Compensation, and Liability Act of 1980 (42
24 U.S.C. 9615) is amended by adding at the end the fol-
25 lowing new sentence: “If the President delegates or as-

1 signs any duties or powers under this section to a depart-
2 ment, agency, or instrumentality of the United States
3 other than the Administrator, the Administrator may re-
4 view, as the Administrator determines necessary or upon
5 request of any State, actions taken, or regulations promul-
6 gated, pursuant to such delegation or assignment, for pur-
7 poses of ensuring consistency with the guidelines, rules,
8 regulations, or criteria established by the Administrator
9 under this title.”.

Passed the House of Representatives January 9,
2014.

Attest:

KAREN L. HAAS,

Clerk.