



Legislative Bulletin.....January 9, 2014

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H.R. 2279 - Reducing Excessive Deadline Obligations Act of 2013

**H.R. 2279 - Reducing Excessive Deadline Obligations Act of 2013
(Gardner, R-CO)**

Order of Business: The bill is scheduled to be considered on January 9, 2014, under a rule, H.Res. 455. This is a combined rule that provides for the consideration of H.R. 2279, H.R. 3362, and H.R. 3811.

With respect to H.R. 2279, the rule provides for its consideration in the Committee of the Whole House for the state of the Union. The rule waives all points of order against consideration of the bill, and provides for one hour of general debate equally divided and controlled by the chair and ranking minority member of the Energy and Commerce Committee. After general debate, the bill shall be considered for amendment under the five-minute rule. The rule makes in order those amendments summarized below in this document. After amendment debate, the Committee shall rise and report the bill to the House. At that time, any Member may demand a separate vote in the House on any amendment that was adopted in the Committee. The rule provides for one motion to recommit with or without instructions. The text of the rule can be [viewed here](#).

Summary: The legislation amends existing laws that govern the Environmental Protection Agency’s (EPA) oversight of hazardous substances, namely the Solid Waste Disposal Act (known as the Resource Conservation and Recovery Act) and the Comprehensive Environmental Response Compensation and Liability Act.

The legislation is a combination of the text of three bills: H.R. 2279, H.R. 2226, and H.R. 2318.

Title I: This text is similar to that of H.R. 2279, introduced by Rep. Gardner:

The legislation removes the requirement that the EPA revise regulations under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) every three years. Instead, the legislation requires the EPA to revise those regulations when appropriate.

Additionally, before promulgating any financial responsibility, the President must submit a report to Congress describing the new requirements, affected facilities, as well as existing requirements issued by the states or other federal agencies.

The legislation requires owners or operators of each facility that houses certain flammables or explosives (above a screening threshold) to notify the state emergency response commission that those substances are present at the facility.

Title II: This text is similar to that of H.R. 2226, introduced by Rep. Bill Johnson:

The legislation directs the EPA to consult with state entities regarding the removal of hazardous chemicals on sites within the state. The legislation directs the President to consult with the states regarding which contaminated sites should be addresses, as well as the appropriate remedial action that should be taken.

Current law allows the President to grant a state a credit against the share of certain remedial actions. This legislation expands eligible state actions for a credit to include the removal of hazardous chemicals from a contaminated facility, as well as the cost of equipment and services.

Current law allows states to submit recommendations of sites to be included on the National Priorities List for cleanup. Under this legislation, in cases where a state's recommendation is not included on the National Priorities List, the President is required to provide the state an explanation in writing. Additionally, the President may not add a facility to the National Priorities List over the written object of the state unless the contamination crosses a state line, or unless the state is the owner or contributor of the hazardous substances to the facility.

Title III: This text is similar to that of H.R. 2318, introduced by Rep. Latta:

The legislation directs federal facilities that house hazardous substances or pollutants to be subject to the laws of the particular states where they are located. This is meant to hold federal facilities to the same environmental standards that apply to non-federal facilities. The legislation waives any immunity applicable to the U.S. with respect to any state substantive or procedural requirement.

The legislation also waives any immunity of the U.S., any agent or employee, from any process or sanction of any state or federal court with respect to the enforcement of CERCLA.

Amendments Made In Order:

Tonko (D-NY): The amendment adds a new section to the bill. The amendment would prevent the bill from taking effect if any provision “would increase the potential for litigation, reduce the amount of funds available for the cleanup of contaminated sites, or delay the implementation of any such cleanup.” The text of the amendment can be [viewed here](#).

Sinema (D-AZ): The amendment strikes language in the bill that allows a state to, not more than every five years, designate a facility for listing on the National Priorities List (NPL) for cleanup.

Current law gives EPA broad authority for listing sites on the NPL and the underlying legislation grants greater input to the states. The text of the amendment can be [viewed here](#).

Committee Action: H.R. 2279 was introduced on June 6, 2013, and was referred to the House Energy and Commerce Subcommittee on Environment and the Economy, as well as the House

Transportation and Infrastructure Subcommittee on Water Resources and Environment. The Energy and Commerce Committee [held a markup](#) on June 19, 2013, and favorably reported H.R. 2279 to the House, as amended, by a [roll call vote of 25 – 18](#).

Administration Position: No Statement of Administration Policy is available.

Outside Groups:

- American Chemistry Council - *supports H.R. 2279 (Title I)*
- American Coke & Coal Chemicals Institute - *supports H.R. 2279 (Title I)*
- American Iron and Steel Institute - *supports H.R. 2279 (Title I)*
- American Petroleum Institute - *supports H.R. 2279 (Title I)*
- Environmental Council of the States (ECOS) – *supports entire bill*
- National Association of Manufacturers - *supports H.R. 2279 (Title I)*
- National Mining Association - *supports H.R. 2279 (Title I)*
- Oregon Women in Timber - *supports H.R. 2279 (Title I)*
- Society of Chemical Manufacturers and Affiliates - *supports H.R. 2279 (Title I)*
- The Fertilizer Institute - *supports H.R. 2279 (Title I)*
- Society of Chemical Manufacturers and Affiliates - *supports H.R. 2279 (Title I)*
- State of Alaska Department of Environmental Conservation – *supports H.R. 2318 (Title III)*
- U.S. Chamber of Commerce – *supports entire bill*
- Utility Solid Waste Activities Group - *supports H.R. 2279 (Title I)*

Cost to Taxpayers: A CBO showing the combination of Titles II and III is not available. Individual CBO scores for the three titles are highlighted below.

Title I: According to CBO, removing the current requirement to review certain regulations every three years would reduce administrative costs. However, some of those savings in administrative expenses would be offset by spending on the new requirement to report to the Congress any financial responsibility requirements. CBO estimates that, on balance, implementing this legislation would not have a significant net impact on spending that is subject to appropriation over the 2014-2018 period. Enacting H.R. 2279 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO's report can be [viewed here](#).

Title II: CBO estimates that, in some cases, implementing this legislation could affect the pace of discretionary spending if priorities for cleanup activities change. However, CBO expects that total costs to fulfill federal responsibilities under CERCLA would be little changed under this legislation. Giving states credit for removal activities that they would have performed in any event could increase EPA's remedial costs. However, if states perform additional or more extensive removal actions because of the availability of the credit, the cost to the federal government of subsequent remedial actions could decrease. On balance, CBO estimates that expanding the credit available to states to include certain removal expenses would not have a significant impact on the federal budget. CBO's report can be [viewed here](#).

Title III: CBO estimates that enacting this legislation could increase the pace of discretionary spending to the extent that federal agencies accelerate spending related to cleanup activities or pay

additional fines and penalties imposed by states. However, CBO expects that aggregate, long-term costs to fulfill federal responsibilities under CERCLA would be little changed under the legislation.

In addition, H.R. 2318 could increase direct spending to the extent that fines and penalties were paid from the Treasury's Judgment Fund. However, CBO expects that any incremental spending from that fund would probably be insignificant. CBO's full report can be [viewed here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to CBO, H.R. 2279 contains an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). The bill would require some owners or operators of facilities that store flammable or explosive substances to provide information about the amount of such substances at the facility to state emergency response commissions. Because those owners and operators submit similar information to federal agencies, CBO estimates that the cost to submit information to state commissions would be minimal. Consequently, CBO estimates that the costs of the mandate would fall well below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$75 million and \$150 million in 2013, respectively, adjusted annually for inflation).

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Rep. Gardner states "Congress has the power to enact this legislation pursuant to the following: According to Article I, Section 8, Clause 3 of the Constitution: The Congress shall have power to enact this legislation to regulate commerce with foreign nations, and among the several states, and with the Indian tribes." The statement can be [found here](#).

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