

DISCHARGES INCIDENTAL TO NORMAL OPERATION OF
VESSELS

JULY 15, 2010.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. OBERSTAR, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5301]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5301) to extend the period during which the Administrator of the Environmental Protection Agency and States are prohibited from requiring a permit under section 402 of the Federal Water Pollution Control Act for certain discharges that are incidental to normal operation of vessels, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

H.R. 5301 extends the existing moratorium for an owner or operator of a vessel less than 79 feet in length or a fishing vessel to obtain a Federal Water Pollution Control Act permit for discharges incidental to the normal operation of such vessel until December 18, 2013.

BACKGROUND AND NEED FOR LEGISLATION

In July 2008, Congress enacted a two-year moratorium for an owner or operator of a vessel less than 79 feet in length or a fishing vessel (as defined in section 2101 of title 46 United States Code) to obtain a National Pollutant Discharge Elimination System (NPDES) permit (under section 402 of the Act) for discharges incidental to the normal operation of such vessel. P.L. 110-299.

P.L. 110-299 also directed the Administrator of the Environmental Protection Agency (EPA), in consultation with the U.S.

Coast Guard, to conduct a study to evaluate the impacts of discharges incidental to the normal operation of commercial and charter fishing vessels and other commercial vessels less than 79 feet long. The results of this study will be used to determine whether and how various incidental discharges will be addressed by EPA through the Clean Water Act.

The two-year moratorium expires on July 31, 2010. While EPA has made the determination that incidental discharges from covered vessels are not universally benign, EPA has acknowledged that it will be unable to develop and issue NPDES permits for incidental discharges from vessels less than 79 feet in length or fishing vessels before the current moratorium expires.

By extending the current moratorium through December 18, 2013, EPA will have additional time necessary to complete its analysis of the study on incidental discharges and to develop and issue appropriate guidelines to address such discharges consistent with the goals of the Clean Water Act.

In addition, extending this moratorium through December 18, 2013, will align the expiration of this moratorium with the expiration date of EPA's existing Vessel General Permit (VGP) (79 Fed. Reg. 79473). The Committee intends that EPA address appropriate discharges from vessels less than 79 feet in length, fishing vessels, and other commercial vessels in its five-year renewal of the VGP.

SUMMARY OF THE LEGISLATION

H.R. 5301 extends the period during which a permit under section 402 of the Federal Water Pollution Control Act (Clean Water Act) is not required for discharges incidental to the normal operation of a vessel less than 79 feet in length or a fishing vessel. This extension of the current moratorium expires on December 18, 2013.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

On May 13, 2010, Representative Frank LoBiondo introduced H.R. 5301.

On July 1, 2010, the Committee on Transportation and Infrastructure met in open session to consider H.R. 5301. The Committee on Transportation and Infrastructure ordered H.R. 5301 reported favorably to the House by voice vote with a quorum present.

RECORD VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 5301 or ordering the bill reported. A motion to order H.R. 5301 reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to extend the existing moratorium for an owner or operator of a vessel less than 79 feet in length or a fishing vessel to obtain a Federal Water Pollution Control Act permit for discharges incidental to the normal operation of such vessel until December 18, 2013.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 5301 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 8, 2010.

Hon. JAMES L. OBERSTAR,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5301, a bill to extend the period during which the Administrator of the Environmental Protection Agency and states are prohibited from requiring a permit under section 402 of the Federal Water Pollution Control Act for certain discharges that are incidental to normal operation of vessels.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 5301—A bill to extend the period during which the Administrator of the Environmental Protection Agency and states are prohibited from requiring a permit under section 402 of the Federal Water Pollution Control Act for certain discharges that are incidental to normal operation of vessels

Under current law, permit requirements related to certain discharges from fishing vessels and nonrecreational vessels less than 79 feet in length will become effective on July 31, 2010. H.R. 5301 would extend that date until December 18, 2013. CBO estimates that enacting this legislation would have no significant budgetary effect.

Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

H.R. 5301 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On May 24, 2010, CBO transmitted a cost estimate for S. 3372, a bill to modify the date on which the Administrator of the Environmental Protection Agency and applicable states may require permits for discharges on certain vessels, as ordered reported by the Senate Committee on Environment and Public Works on May 20, 2010. S. 3372 and H.R. 5301 are similar, and the CBO cost estimates are the same.

The CBO staff contact for this estimate is Susanne S. Mehlman. This estimate was approved by Sam Papenfuss, Unit Chief for Income Security and Education Cost Estimates Unit, Budget Analysis Division.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits, as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. H.R. 5301 does not contain any earmarks, limited tax benefits, or limited tariff benefits under clause 9(e), 9(f), or 9(g) of rule XXI.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (P.L. 104-4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 5301 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104-1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF JULY 31, 2008

(Public Law 110-299)

AN ACT To clarify the circumstances during which the Administrator of the Environmental Protection Agency and applicable States may require permits for discharges from certain vessels, and to require the Administrator to conduct a study of discharges incidental to the normal operation of vessels.

* * * * *

SEC. 2. DISCHARGES INCIDENTAL TO NORMAL OPERATION OF VESSELS.

(a) NO PERMIT REQUIREMENT.—Except as provided in subsection (b), *during the 2-year period beginning on the date of enactment of this Act and ending December 18, 2013*, the Administrator, or a State in the case of a permit program approved under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), shall not require a permit under that section for a covered vessel for—

(1) * * *

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