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SENATE

{ REPORT
113-284

A BILL TO REMOVE A LIMITATION ON A PROHIBITION RELATING TO PERMITS FOR DISCHARGES INCIDENTAL TO NORMAL OPERATION OF VESSELS

DECEMBER 4, 2014.—Ordered to be printed

Mrs. BOXER, from the Committee on Environment and Public
Works, submitted the following

R E P O R T

[To accompany S. 2963]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 2963) to a bill to remove a limitation on a prohibition relating to permits for discharges incidental to normal operation of vessels, having considered the same, reports favorably thereon and recommends that the bill do pass.

GENERAL STATEMENT AND BACKGROUND

P.L. 110-299 (as amended) established a moratorium on Clean Water Act National Pollutant Discharge Elimination System (NPDES) permitting of non-ballast water discharges from 1) fishing vessels and 2) commercial vessels less than 79 feet. The current moratorium ends on December 18, 2014. At that time, these vessels would be required to hold a permit for any discharge. S. 2963 would strike the existing moratorium expiration date on NPDES permits for these vessel types.

A 2006 federal court ruling vacated a long-standing Environmental Protection Agency (EPA) rule that exempted discharges incidental to the normal operation of vessels from permitting requirements of the Clean Water Act. This exemption had been challenged over concerns about the effects of invasive species transported by vessels and the lack of requirements in place to address this problem.

In response to the Court decision, multiple actions were taken to address vessel discharges:

- In July 2008, Public Law 110–288 reduced the scope of vessels subject to Clean Water Act permitting by establishing a permanent exclusion of recreational vessels from permit requirements and directing EPA to instead develop mandatory Best Management Practices applicable to these vessels.
- EPA addressed new permitting requirements for most large, non-recreational vessels, when it issued its Final Vessel General Permit (VGP) on December 18, 2008. On March 28, 2013, EPA re-issued the VGP for another five years, which took effect December 19, 2013.

Congress has extended the initial 2-year permit moratorium for small commercial vessels and fishing vessels multiple times since it was originally enacted on July 31, 2008. S. 2963 would permanently exempt these vessels from the requirement to obtain an NPDES permit.

OBJECTIVES OF THE LEGISLATION

This bill will amend Public Law 110–299 to permanently exempt discharges incidental to the normal operation of fishing vessels and commercial vessels less than 79 feet.

SECTION-BY-SECTION ANALYSIS

Section 1. Discharges incidental to normal operation of vessels

Section 1 amends Section 2(a) of Public Law 110–299 (33 U.S.C. 1342) by permanently extending the moratorium on NPDES permitting requirements, for non-ballast water discharges from 1) fishing vessels and 2) commercial vessels less than 79 feet.

LEGISLATIVE HISTORY

S. 2963 was introduced by Senator Barbara Boxer (D–CA) on November 20, 2014 with 11 co-sponsors. The bill was received, read twice, and referred to the Senate Committee on Environment and Public Works.

On December 2, 2014, the full Committee on Environment and Public Works met to consider the bill. The bill was ordered reported favorably without amendment by voice vote. All ten majority members were present and recorded as “yea”. Eight members were recorded as “nay”.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 2963 on December 2, 2014. The bill was ordered to be reported favorably by voice vote.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 2963 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the committee notes that the Congressional Budget Office (CBO) has found, “S. 2963 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.”

DECEMBER 4, 2014.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2963, a bill to remove a limitation on a prohibition relating to permits for discharges 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.

S. 2963—A bill to remove a limitation on a prohibition relating to permits for discharges incidental to normal operation of vessels

S. 2963 would permanently extend an existing rule prohibiting the Environmental Protection Agency (or a state administering the Clean Water Act) from requiring a permit for incidental discharges from fishing vessels or commercial vessels less than 79 feet long. 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.

S. 2963 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.

The CBO staff contact for his estimate is Susanne S. Mehlman. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, 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:

* * * * *

[PUBLIC LAW 110–299]

[33 U.S.C. 1342]

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

(a) **NO PERMIT REQUIREMENT.**—Except as provided in subsection (b), **[during the period beginning on the date of the enactment of this Act and ending on December 18, 2014,]** 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—

