

FARMERS UNDERTAKE ENVIRONMENTAL LAND  
STEWARDSHIP ACT

AUGUST 1, 2012.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 3158]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom  
was referred the bill (H.R. 3158) to direct the Administrator of the  
Environmental Protection Agency to change the Spill Prevention,  
Control, and Countermeasure rule with respect to certain farms,  
having considered the same, report favorably thereon without  
amendment and recommend that the bill do pass.

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PURPOSE OF THE LEGISLATION

H.R. 3158, the Farmers Undertake Environmental Land Stewards-  
ship Act, or the FUELS Act, requires the Administrator of the  
Environmental Protection Agency (EPA), in implementing the Spill

Prevention, Control, and Countermeasures rule with respect to any farm, to require certification of compliance with such rule by: (1) a professional engineer for a farm with an individual tank with a storage capacity greater than 10,000 gallons, an aggregate storage capacity of at least 42,000 gallons, or a history that includes a spill; or (2) the owner or operator of the farm (via self-certification) for a farm with an aggregate storage capacity greater than 10,000 gallons but less than 42,000 gallons and no history of spills. The bill exempts from all requirements of such rule any farm with an aggregate storage capacity that is less than or equal to 10,000 gallons and no history of spills. The bill excludes all containers on separate parcels that have a capacity that is less than 1,320 gallons from the aggregate storage capacity of a farm.

#### BACKGROUND AND NEED FOR LEGISLATION

The EPA mandated Oil Spill Prevention, Control and Countermeasures program, or SPCC, requires that oil storage facilities with a capacity of over 1,320 gallons must make infrastructure improvements to reduce the possibility of oil spills. The regulations require farmers to construct a containment facility, like a dike or a basin, which must retain 110 percent of the fuel in the container. These mandated infrastructure improvements—along with the necessary inspection and certification by a specially licensed Professional Engineer will cost many farmers tens of thousands of dollars. Sometimes compliance costs reach higher than \$60,000.

The SPCC program dates back to 1973, shortly after the Clean Water Act was signed into law. In the last decade, it has been rigorously applied to agriculture lands, and has been amended, delayed, and extended dozens of times. The Obama administration updated the rule in 2009 to expand regulation under the SPCC program—applying it to nearly all farms, and lifting a 2006 rule that suspended compliance requirements for small farms with oil storage of 10,000 gallons or less. It applied to crop oil, vegetable oil, animal fat, and even milk. Further revisions came during April of 2011 when the EPA decided to exempt milk.

The 2009 rule—minus regulating milk spills—was scheduled to go into effect in November 2011. A few weeks before the November deadline, EPA issued a statement saying they would not begin enforcement until May of 2013. While enforcement has been delayed until 2013, the underlying regulation has not been fixed.

The FUELS Act requires that EPA revise the SPCC regulations to be reflective of a producer's spill risk and financial resources. The exemption level would be adjusted upward from 1,320 gallons of oil storage to an amount that would protect small farms: 10,000 gallons. The proposal would also place a greater degree of responsibility on farmers and ranchers to self-certify compliance if their oil storage facilities exceed the exemption level. If the amount exceeds 42,000 gallons, a professional engineer must certify the SPCC plans for a farm. The bill provides another layer of protection by requiring the producer to be able to demonstrate that he or she has no history of oil spills, or to fully comply with the SPCC regulations.

The University of Arkansas, Division of Agriculture did a study that concluded that, for the entire country, H.R. 3158 would save farmers and ranchers up to \$3.36 billion.

## HEARINGS

No hearings were held on H.R. 3158.

## LEGISLATIVE HISTORY AND CONSIDERATION

On October 12, 2012, Representative Rick Crawford of Arkansas introduced H.R. 3158, a bill to direct the Administrator of the Environmental Protection Agency to change the Spill Prevention, Control, and Countermeasures rule with respect to certain farms.

On July 26, 2012, the Committee on Transportation and Infrastructure met in open session, and ordered the bill reported favorably to the House by voice vote with a quorum present.

## COMMITTEE VOTES

Clause 3(b) of rule XIII 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 record votes taken in connection with consideration of H.R. 3158, or ordering the bill reported. A motion to order H.R. 3158 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.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

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.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

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. 3158 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 31, 2012.*

Hon. JOHN L. MICA,  
*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. 3158, the Farmers Undertake Environmental Land Stewardship Act.

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

Sincerely,

ROBERT A. SUNSHINE  
(For Douglas W. Elmendorf, Director).

Enclosure.

*H.R. 3158—Farmers Undertake Environmental Land Stewardship Act*

H.R. 3158 would require the Environmental Protection Agency (EPA) to modify the Spill Prevention, Control, and Countermeasure (SPCC) rule, which regulates oil discharges into navigable waters and adjoining shorelines. A portion of the SPCC rule, effective May 10, 2013, will require farmers to develop an oil spill prevention plan that is certified by a professional engineer. Those plans could involve certain infrastructure changes to reduce the possibility of oil spills. Such plans will apply to farms that store more than 1,320 gallons of oil products in aboveground containers or more than 42,000 gallons of oil products in buried containers that could reasonably be expected to discharge oil into waters of the United States.

Enacting H.R. 3158 would ease some compliance requirements for farmers, depending on the capacity of oil product containers located on a farm and whether a farm has previously experienced any spills. Specifically, under the bill, certification of compliance with the EPA rule by a professional engineer would only be required if the farm has an individual tank with a storage capacity greater than 10,000 gallons, has an aggregate storage capacity greater than or equal to 42,000 gallons, or has previously experienced a spill. However, an owner or operator of a farm could provide self-certification with the SPCC rule if the farm has an aggregate storage capacity greater than 10,000 gallons, but less than 42,000 gallons, and has no history of spills. Farms with an aggregate capacity of less than or equal to 10,000 gallons and no history of a spill would be exempt from all requirements of the SPCC rule.

CBO estimates that enacting this legislation would have no significant net impact on the federal budget. Based on information from EPA, CBO estimates that implementing and enforcing the SPCC rule as it pertains to farmers under current law will cost \$2 million over the next five years. Enacting this bill would exempt the majority of farms from complying with the rule and also would require EPA to amend the SPCC rule for farms and develop guidance and outreach material to educate affected stakeholders. CBO estimates that resources that would have been used to support the existing rule over the next five years would instead be used to implement H.R. 3158.

Pay-as-you-go procedures do not apply to H.R. 3158 because enacting the bill would not affect direct spending or revenues.

H.R. 3158 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

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

## PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to direct the Administrator of the Environmental Protection Agency to change the Spill Prevention, Control, and Countermeasure rule with respect to certain farms.

## ADVISORY OF EARMARKS

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. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

## FEDERAL MANDATE 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. 3158 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).

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

Section 1 states that the Act may be cited as the “Farmers Undertake Environmental Lands Stewardship Act” or the “FUELS Act”.

*Section 2. Applicability of Spill Prevention, Control, and Countermeasure rule*

Section 2 requires the Administrator of the Environmental Protection Agency to implement the Spill Prevention, Control, and Countermeasures rule with respect to any farm such that certification of compliance with the rule shall be made by a professional engineer for a farm with (1) an individual tank with a storage capacity greater than 10,000, (2) an aggregate storage capacity great-

er than or equal to 42,000 gallons, or (3) a history that includes a spill. Self-certification by the owner or operator shall be required for a farm with (1) an aggregate storage capacity greater than 10,000 gallons but less than 42,000 gallons, and (2) no history of spills. The rule shall exempt from all requirements of such rule any farm (1) with an aggregate storage capacity of less than or equal to 10,000 gallons, and (2) no history of spills. For purposes of calculating aggregate storage capacity, all containers on separate parcels that have a capacity that is less than 1,320 gallons shall be excluded.

*Section 3. Definitions*

Section 3 defines the following terms: Administrator, Farm, Gallon, and Spill Prevention, Control, and Countermeasures Rule.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 3158 makes no changes in existing law.