

DELAWARE RIVER PROTECTION ACT OF 2005

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JUNE 16, 2005.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
—————

Mr. YOUNG of Alaska, from the Committee on Transportation and  
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1412]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom  
was referred the bill (H.R. 1412) to amend the Ports and Water-  
ways Safety Act to require notification of the Coast Guard regard-  
ing obstructions to navigation, and for other purposes, having con-  
sidered the same, report favorably thereon with an amendment and  
recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Delaware River Protection Act of 2005”.

**SEC. 2. REQUIREMENT TO NOTIFY COAST GUARD OF RELEASE OF OBJECTS INTO THE NAVI-  
GABLE WATERS OF THE UNITED STATES.**

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by add-  
ing at the end the following:

**“SEC. 15. REQUIREMENT TO NOTIFY COAST GUARD OF RELEASE OF OBJECTS INTO THE NAVI-  
GABLE WATERS OF THE UNITED STATES.**

“(a) REQUIREMENT.—As soon as a person has knowledge of any release from a ves-  
sel or facility into the navigable waters of the United States of any object that cre-  
ates an obstruction prohibited under section 10 of the Act of March 3, 1899, popu-  
larly known as the Rivers and Harbors Appropriations Act of 1899 (chapter 425; 33  
U.S.C. 403), such person shall notify the Secretary and the Secretary of the Army  
of such release.

“(b) RESTRICTION ON USE OF NOTIFICATION.—Any notification provided by an indi-  
vidual in accordance with subsection (a) shall not be used against such individual  
in any criminal case, except a prosecution for perjury or for giving a false state-  
ment.”.

**SEC. 3. LIMITS ON LIABILITY.**

(a) ADJUSTMENT OF LIABILITY LIMITS.—

(1) TANK VESSELS.—Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended—

- (A) by redesignating subparagraph (B) as subparagraph (C);
- (B) by striking subparagraph (A) and inserting the following:
  - “(A) with respect to a single-hull vessel, including a single-hull vessel fitted with double sides only or a double bottom only—
    - “(i) \$1,550 per gross ton for an incident that occurs in 2005;
    - “(ii) \$1,900 per gross ton for an incident that occurs in 2006; or
    - “(iii) \$2,250 per gross ton for an incident that occurs in 2007 or in any year thereafter; or
  - “(B) with respect to a double-hull vessel (other than any vessel referred to in subparagraph (A))—
    - “(i) \$1,350 per gross ton for an incident that occurs in 2005;
    - “(ii) \$1,500 per gross ton for an incident that occurs in 2006; and
    - “(iii) \$1,700 per gross ton for any incident that occurs in 2007 or in any year thereafter; or”;
- (C) in subparagraph (C), as redesignated by subparagraph (A) of this paragraph—

- (i) in clause (i) by striking “\$10,000,000” and inserting “\$14,000,000”; and

- (ii) in clause (ii) by striking “\$2,000,000” and inserting “\$2,500,000”.

(2) LIMITATION ON APPLICATION.—In the case of an incident occurring before the date of the enactment of this Act, section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) shall apply as in effect immediately before the effective date of this subsection.

(b) ADJUSTMENT TO REFLECT CONSUMER PRICE INDEX.—Section 1004(d)(4) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(d)(4)) is amended to read as follows:

“(4) ADJUSTMENT TO REFLECT CONSUMER PRICE INDEX.—The President shall, by regulations issued no later than 3 years after the date of the enactment of the Delaware River Protection Act of 2005 and no less than every 3 years thereafter, adjust the limits on liability specified in subsection (a) to reflect significant increases in the Consumer Price Index.”.

#### SEC. 4. REQUIREMENT TO UPDATE PHILADELPHIA AREA CONTINGENCY PLAN.

The Philadelphia Area Committee established under section 311(j)(4) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(4)) shall, by not later than 12 months after the date of the enactment of this Act and not less than annually thereafter, review and revise the Philadelphia Area Contingency Plan to include available data and biological information on environmentally sensitive areas of the Delaware River and Delaware Bay that has been collected by Federal and State surveys.

#### SEC. 5. SUBMERGED OIL REMOVAL.

(a) AMENDMENTS.—Title VII of the Oil Pollution Act of 1990 is amended—

- (1) in section 7001(c)(4)(B) (33 U.S.C. 2761(c)(4)(B)) by striking “RIVERA,” and inserting “RIVERA and the T/V ATHOS I;”; and
- (2) by adding at the end the following:

#### “SEC. 7002. SUBMERGED OIL PROGRAM.

“(a) PROGRAM.—

“(1) ESTABLISHMENT.—The Undersecretary of Commerce for Oceans and Atmosphere, in conjunction with the Commandant of the Coast Guard, shall establish a program to detect, monitor, and evaluate the environmental effects of submerged oil. Such program shall include the following elements:

- “(A) The development of methods to remove, disperse or otherwise diminish the persistence of submerged oil.

- “(B) The development of improved models and capacities for predicting the environmental fate, transport, and effects of submerged oil.

- “(C) The development of techniques to detect and monitor submerged oil.

“(2) REPORT.—The Secretary of Commerce shall, no later than 3 years after the date of the enactment of the Delaware River Protection Act of 2005, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate a report on the activities carried out under this subsection and activities proposed to be carried out under this subsection.

“(3) FUNDING.—There is authorized to be appropriated to the Secretary of Commerce \$1,000,000 for each of fiscal years 2006 through 2010 to carry out this subsection.

“(b) DEMONSTRATION PROJECT.—

“(1) REMOVAL OF SUBMERGED OIL.—The Commandant of the Coast Guard, in conjunction with the Undersecretary of Commerce for Oceans and Atmosphere, shall conduct a demonstration project for the purpose of developing and demonstrating technologies and management practices to remove submerged oil from the Delaware River and other navigable waters.

“(2) FUNDING.—There is authorized to be appropriated to the Commandant of the Coast Guard \$2,000,000 for each of fiscal years 2006 through 2010 to carry out this subsection.”

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of such Act is amended by inserting after the item relating to section 7001 the following:

“Sec. 7002. Submerged oil program.”

**SEC. 6. DELAWARE RIVER AND BAY OIL SPILL ADVISORY COMMITTEE.**

(a) ESTABLISHMENT.—There is established the Delaware River and Bay Oil Spill Advisory Committee (in this section referred to as the “Committee”).

(b) FUNCTIONS.—

(1) IN GENERAL.—The Committee shall, by not later than 1 year after the date the Commandant of the Coast Guard (in this section referred to as the “Commandant”) completes appointment of the members of the Committee, make recommendations to the Commandant, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate on methods to improve the prevention of and response to future oil spills in the Delaware River and Delaware Bay.

(2) MEETINGS.—The Committee—

(A) shall hold its first meeting not later than 60 days after the completion of the appointment of the members of the Committee; and

(B) shall meet thereafter at the call of the Chairman.

(c) MEMBERSHIP.—The Committee shall consist of 15 members who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the Delaware River and Delaware Bay, as follows:

(1) Three members who are employed by port authorities that oversee operations on the Delaware River or have been selected to represent these entities, of whom—

(A) one member must be an employee or representative of the Port of Wilmington;

(B) one member must be an employee or representative of the South Jersey Port Corporation; and

(C) one member must be an employee or representative of the Philadelphia Regional Port Authority.

(2) Two members who represent organizations that operate tugs or barges that utilize the port facilities on the Delaware River and Delaware Bay.

(3) Two members who represent shipping companies that transport cargo by vessel from ports on the Delaware River and Delaware Bay.

(4) Two members who represent operators of oil refineries on the Delaware River and Delaware Bay.

(5) Two members who represent environmental and conservation interests.

(6) Two members who represent State-licensed pilots who work on the Delaware River and Delaware Bay.

(7) One member who represents labor organizations that load and unload cargo at ports on the Delaware River and Delaware Bay.

(8) One member who represents the general public.

(d) APPOINTMENT OF MEMBERS.—The Commandant shall appoint the members of the Committee, after soliciting nominations by notice published in the Federal Register.

(e) CHAIRMAN AND VICE CHAIRMAN.—The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence of or incapacity of the Chairman, or in the event of vacancy in the Office of the Chairman.

(f) PAY AND EXPENSES.—

(1) PROHIBITION ON PAY.—Members of the Committee who are not officers or employees of the United States shall serve without pay. Members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee.

(2) EXPENSES.—While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem,

in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(g) TERMINATION.—The Committee shall terminate one year after the completion of the appointment of the members of the Committee.

**SEC. 7. MARITIME FIRE AND SAFETY ACTIVITIES.**

The Maritime Transportation Security Act of 2002 (Public Law 107–295) is amended—

(1) in section 407—

(A) in the heading by striking “**LOWER COLUMBIA RIVER**”; and

(B) by striking “\$987,400” and inserting “\$1,500,000”; and

(2) in the table of contents in section 1(b) by striking the item relating to section 407 and inserting the following:

“Sec. 407. Maritime fire and safety activities.”.

PURPOSE OF THE LEGISLATION

H.R. 1412, the Delaware River Protection Act, makes several amendments to current law to improve the Federal government’s capability to prevent and respond to future oil spills in the Delaware River and other waters of the United States including the territorial sea.

BACKGROUND AND NEED FOR THE LEGISLATION

On Friday, November 26, 2004, the T/V ATHOS I, a 750-foot, single-hull tank vessel, struck a submerged object while being maneuvered to a berth on the Delaware River near Paulsboro, New Jersey. The grounding caused the vessel to lose power and resulted in a release of heavy crude oil from the vessel’s oil storage tanks. An investigation of the river bottom found a large section of iron pump housing and several other objects that were partially submerged in river sediments in the area of the vessel’s grounding. The existence of the bottom debris was unknown to the maritime community and was not included on any navigational chart or in any notice to mariners.

The Coast Guard has estimated that total cleanup costs and natural resources damages resulting from the grounding of the ATHOS I could cost more than \$200 million. Under current liability limits, the owners of the vessel are potentially responsible for costs of up to approximately \$45 million. Despite requirements in current law, oil spill liability limits have not been adjusted to reflect inflation since the passage of the Oil Pollution Act of 1990.

As part of the Service’s Maritime Safety mission, the Coast Guard is designated as the lead Federal agency in responding to oil spills in coastal and marine waters. Under the Oil Pollution Act of 1990, the Coast Guard established specialized district response groups to respond to oil spills as quickly as possible. The Act requires the creation of Area Committees throughout the nation to develop and implement Area Contingency Plans for responding to oil spills in a particular location and requires vessel and facility operators to develop detailed response plans for incidents involving those vessels or facilities.

The Coast Guard, in conjunction with Federal, State, local and private sector partners, followed the OPA requirements and the local implementation plan in responding to the ATHOS I spill. However, the response efforts highlighted some shortfalls in the law and in Federal regulations regarding the declaration of a release of an object that may create an obstruction to navigation in

U.S. waterways, the content of information included in Area Contingency Plans, and the focus of the Federal oil spill research program established under the Oil Pollution Act of 1990. H.R. 1412 includes provisions that address these shortfalls.

#### SUMMARY OF THE LEGISLATION

H.R. 1412 makes several amendments to current law to improve the Federal government's capability to prevent and respond to future oil spills in the Delaware River and other navigable waters of the United States.

Section 1 states that the legislation may be referred to as the "Delaware River Protection Act of 2005".

Section 2 establishes a requirement to notify the Coast Guard of a release of an object from a vessel or facility that creates an obstruction to navigation. Individuals who fail to "promptly" notify the Coast Guard of a loss of such an object will be subject to existing civil and criminal penalties under the Ports and Waterways Safety Act. These penalties include a fine of up to \$25,000 per day and criminal penalties of up to 5–10 years for willful and knowing violation of the notification requirement.

Under Subchapter C of title 33, Code of Federal Regulations, owners of vessels that could obstruct navigation in U.S. waters must mark and report the existence of the obstruction. However, there is no current statutory or regulatory requirement that an owner of an object, other than a vessel, notify the Coast Guard after the release of such an object into the navigable waterways of the United States.

Section 3 amends the Oil Pollution Act of 1990 (OPA) to adjust oil spill liability limits to reflect the change in the Consumer Price Index since the Act's passage in 1990. OPA established liability limits for tank vessels at a level of \$1,200 per gross ton. Under OPA, liability for cleanup costs and damages resulting from oil spills rests with a "responsible party" who is usually the owner or operator of a vessel. In the event of a spill, the responsible party must pay removal costs incurred by the government or others, and damages to claimants who are injured by the spill. Damages may include natural resources damages, damages to real or personal property, damages for loss of use of a natural resource (fishery, etc.), damages for lost revenue or profit caused by a spill, and damages for the cost of government response necessitated by the spill. Under OPA, the President is required to adjust these limits every three years according to changes in the Consumer Price Index (CPI). The Coast Guard has not made these adjustments as required by law and currently insists that the Service has no authority to adjust the limits as the authority resides at the Department level. The authority was delegated by the President first to the Department of Transportation and was later transferred to the Department of Homeland Security.

The provision implements these adjustments. The provision would increase liability limits to the current CPI-adjusted level (approximately \$1,700 per gross ton) over a three year period. The provision makes distinctions between single-hull vessels and double-hull vessels. Liability levels for double-hull vessels would be increased by \$500 per gross ton over 3 years, while liability levels for single-hull vessels would be increased by \$1,050 per gross ton over

three years. This amount is equal to twice the adjustment (approximately \$525 per gross ton) based on the increase in the CPI from 1990–2004. The provision also requires the President to adjust the liability limits within three years of the enactment of the Act and every three years thereafter.

Section 4 requires the Philadelphia Area Committee to annually update its area contingency plan to include the most recent environmental sensitivity data that has been collected by State and Federal agencies. At the time of the spill in the Delaware River, the Philadelphia Area Contingency Plan did not include updated environmental sensitivity data that had been collected by annual surveys conducted by the New Jersey Department of Environmental Protection.

Under the Oil Pollution Act of 1990, the Coast Guard has established 46 Area Committees nationwide. These committees act as preparedness and planning bodies and are composed of representatives from Federal, state, and local government agencies with definitive responsibilities for each area's environmental integrity. Each Area Committee has developed an Area Contingency Plan and is charged with periodically updating the Plan with information from Committee members and interested parties to further prevent and improve response to future oil spills in each Area.

Section 5 requires the National Oceanic and Atmospheric Administration (NOAA), in conjunction with the Coast Guard, to establish a submerged oil research program to research methods to detect, monitor and remove submerged oil and improve modeling capabilities to better predict the movement and behavior of submerged oil. The provision also requires the Coast Guard to carry out a demonstration project to demonstrate technologies and processes to detect and remove submerged oil from waterways including the Delaware River.

Title VII of the Oil Pollution Act establishes an Oil Pollution Research and Development Program and an Interagency Coordinating Committee on Oil Pollution Research to carry out the Program. The program established under this section would carry out specific research on the effects and persistence of submerged oil in addition to the research program that is carried out by the Committee. A large percentage of the oil that was released from the ATHOS I was or still remains submerged at the bottom of the river, and little work has been done to increase capabilities to predict the persistence of or vertical and horizontal movement of oil within the water column.

The Committee recommends that the efforts of the research program be focused on developing methods and technologies to remove or diminish the persistence of submerged oil that is currently found in the Delaware River and other U.S. waterways. Further, the Committee recommends that the effort of the demonstration program be concentrated on evaluating methods and technologies of removing submerged oil of the type that was released into the Delaware River as a result of the grounding of the ATHOS I and under the conditions that are observed in the area of the Delaware River that was impacted by such oil.

Section 6 establishes an advisory committee composed of representatives from port authorities, shipping interests, oil refineries, labor, river pilots, environmental groups and the general public.

The Committee is tasked with developing recommendations for Congress on the prevention of and response to future oil spills on the Delaware River and Bay. The Committee will provide an additional outlet for interested parties and the general public to provide information and make recommendations to improve preparedness in the area. The Committee's term will expire one year after the Committee's members are appointed by the Commandant of the Coast Guard.

Section 7 amends section 407 of the Maritime Transportation Security Act of 2002 (P.L. 107-295) to increase the authorized funding for maritime fire and safety activities carried out by non-profit organizations in direct cooperation with the Coast Guard to an amount of \$1.5 million.

#### LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

H.R. 1412, the Delaware River Protection Act was introduced by Coast Guard and Maritime Transportation Subcommittee Chairman Frank A. LoBiondo on March 17, 2005 and is co-sponsored by Rep. Jim Saxton (New Jersey), Rep. Rob Andrews (New Jersey), Rep. Mike Castle (Delaware) and Rep. Allyson Schwartz (Pennsylvania).

The bill was referred to the Committee on Transportation and Infrastructure. The Subcommittee held a field hearing on the Coast Guard's response to the ATHOS I oil spill in the Delaware River in Philadelphia, Pennsylvania on January 18, 2005.

On April 27, 2005 the Subcommittee on Coast Guard and Maritime Transportation and the Subcommittee on Water Resources and the Environment were discharged from consideration of the bill, and the bill was considered during a mark-up session of the Full Committee. At this mark-up, Coast Guard and Maritime Transportation Subcommittee Chairman, Mr. LoBiondo, offered an amendment to strike the sections of the bill that authorized activities of the U.S. Army Corps of Engineers and made certain technical amendments to section 5 of the bill. The amendment was adopted unanimously by voice vote.

H.R. 1412, as amended, was approved unanimously by voice vote and was ordered favorably reported to the House.

#### ROLLCALL 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 rollcall 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. No rollcall votes were ordered during the consideration of H.R. 1412.

#### 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(d)(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 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

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 authorize funding for the submerged oil research program and demonstration program established under section 5 and for maritime fire and safety activities carried out by non-profit organizations in direct cooperation with the Coast Guard.

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 following cost estimate for H.R. 1412 from the Director of the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 15, 2005.*

Hon. DON YOUNG,  
*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. 1412, the Delaware River Protection Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs), Sara Puro (for the state and local impact), and Craig Cammarata (for the private-sector impact).

Sincerely,

ELIZABETH M. ROBINSON  
(For Douglas Holtz-Eakin, Director).

Enclosure.

*H.R. 1412—Delaware River Protection Act of 2005*

Summary: H.R. 1412 would address oil spills from tank vessels (tankers and tanker barges) into United States waters. The bill would amend the Oil Pollution Act of 1990 (OPA) to raise the statutory limits on liability that owners or operators of such vessels face when a spill occurs. The bill also would authorize the appropriation of \$16 million to the U.S. Coast Guard and the National Oceanic and Atmospheric Administration (NOAA) over the next five years, primarily for activities to detect and remove submerged oil in navigable waters. Finally, the bill would address a recent oil

spill into the Delaware River by requiring new oil spill contingency plans for the Philadelphia area and by establishing an advisory committee to recommend improvements in oil spill response and prevention in the Delaware River and Bay.

CBO estimates that the higher liability limits that would be mandated by H.R. 1412 would reduce direct spending from the Oil Spill Liability Trust Fund (OSLTF) by \$1 million in fiscal year 2006, by \$3 million in 2007, and by \$4 million annually thereafter. In addition, we estimate that carrying out the submerged oil program and other activities required by the bill would increase discretionary spending by \$2 million in 2006 and by \$16 million over the 2006–2010 period, assuming appropriation of the authorized amounts.

H.R. 1412 contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the cost of complying with the mandates would be minimal and would not exceed the thresholds established in UMRA. Those thresholds are \$62 million in 2005 for intergovernmental mandates and \$123 million in 2005 for private-sector mandates, both adjusted annually for inflation.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1412 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

By fiscal year, in millions of dollars—											
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	
<b>DIRECT SPENDING</b>											
<b>Spending Under Current Law for Oil Spill Response and Damage Claims <sup>1</sup>:</b>											
Estimated Budget Authority .....	60	60	60	60	60	60	60	60	60	60	60
Estimated Outlays .....	60	60	60	60	60	60	60	60	60	60	60
<b>Proposed Changes:</b>											
Estimated Budget Authority <sup>2</sup> .....	0	0	-1	-1	-1	-1	-1	-1	-1	-1	-1
Estimated Outlays .....	-1	-3	-4	-4	-4	-4	-4	-4	-4	-4	-4
<b>Spending Under H.R. 1412 for Oil Spill Response and Damage Claims:</b>											
Estimated Budget Authority .....	60	60	59	59	59	59	59	59	59	59	59
Estimated Outlays .....	59	57	56	56	56	56	56	56	56	56	56
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>											
<b>Spending for Submerged Oil Program and Fire and Safety Grants:</b>											
Authorization Level .....	4	3	3	3	3	3	3	3	3	3	3
Estimated Outlays .....	2	4	3	3	3	3	3	3	3	3	3

<sup>1</sup> For each year, spending under current law includes permanent budget authority of \$50 million specified for oil spill response activities and an estimated \$10 million for the payment of damage claims. These amounts are used to pay the costs of spills from facilities and vessels of all types. Budget authority for claims depends on the number and amount of payments approved and can vary significantly from year to year.

<sup>2</sup> The higher liability limits specified by H.R. 1412 would reduce both response costs and claims payments. The effect on response costs would only be reflected in outlays because budget authority for this activity is specified at \$50 million a year under OPA. Any savings in response costs would thus increase OSLTF unobligated balances available for future spills. The effect on payments of claims, in contrast, would reduce both budget authority and outlays by about \$1 million annually beginning in 2008.

Basis of estimate: For this estimate CBO assumes that H.R. 1412 will be enacted by the beginning of fiscal year 2006 and that the amounts authorized by the legislation will be appropriated for each year. The estimate of discretionary outlays is based on spending patterns for similar programs.

#### DIRECT SPENDING

H.R. 1412 would raise existing limits on the liability of owners or operators of tank vessels that are responsible for oil spills into U.S. navigable waters.

Under OPA, specified liability limits determine the total amount that a responsible party must pay to respond to an oil spill and to compensate third parties for damages. If the costs of a spill exceed those limits, the federal government generally pays any remaining costs and claims from the OSLTF. Current liability limits generally vary with the type of vessel. For example, the liability limit for most tank barges is \$2 million per spill. The liability limit for most tankers is the greater of \$1,200 per gross ton or \$10 million per spill.

Under H.R. 1412, liability limits for tank vessels would vary by year, type of vessel, and whether the vessel is single-hulled or double-hulled. The liability limit for most tank barges would increase to \$2.5 million in 2006 and beyond. For single-hulled tankers, the liability limit would increase to the greater of \$14 million per spill or \$1,900 per gross ton in 2006 and \$2,250 per gross ton in 2007 and beyond. For double-hulled tankers, the liability limit would increase to the greater of \$14 million per spill or \$1,500 per gross ton in 2006 and \$1,700 per gross ton in 2007 and beyond. In future years, the new limits would be increased to reflect anticipated inflation.

The savings to the federal government associated with raising private liability limits for tank vessels is uncertain because significant oil spills are relatively rare; in fact, since the implementation of OPA in 1991, only six spills from such vessels have exceeded the existing liability limits. (In total, those spills have accounted for about \$45 million—around 10 percent—of the roughly \$490 million that has been spent from the OSLTF through 2004.) Moreover, the cost of such spills depends on a variety of factors besides the type and size of a vessel—the location of a spill, for example, is an important factor that cannot be predicted.

Assuming that the frequency and severity of future oil spills from tanker vessels will be similar to those experienced since OPA was implemented, CBO estimates that increasing the existing liability limits for tanker vessels by the amounts specified by H.R. 1412 would reduce average annual spending from the OSLTF for spills from tank vessels from about \$17 million (in 2005 dollars) to \$16 million in fiscal year 2006, \$14 million in 2007, and \$13 million annually thereafter. Savings would be lower in 2006 and 2007 because the increases in limits would be phased in over the 2006–2007 period and because savings from spills in 2006 and 2007 would be realized over the three- or four-year period that it typically takes to clean up spills and pay claims. Most of the savings from the new limits would result from reductions in the share of clean-up and other response costs that are paid from the OSLTF.

## SPENDING SUBJECT TO APPROPRIATION

H.R. 1412 would direct NOAA to establish a program to detect submerged oil, evaluate its environmental effects, and develop methods to remove or disperse it. In conjunction with this program, the Coast Guard would be required to conduct a demonstration project to develop methods of removing submerged oil from the Delaware River and other navigable waters. For these purposes, the bill would authorize the appropriation of \$1 million for NOAA and \$2 million for the Coast Guard for each of fiscal years 2006 through 2010. Finally, the bill would increase the existing authorization level for Coast Guard maritime fire and safety grants by just over \$500,000. Assuming appropriation of the authorized amounts, CBO estimates that implementing these provisions would cost \$2 million in fiscal year 2006 and \$16 million over the 2006–2010 period.

CBO estimates that establishing and operating the Delaware River and Bay Oil Spill Advisory Committee and updating the Philadelphia-area contingency plan would have no significant effect on the federal budget.

Estimated impact on State, local, and tribal governments: H.R. 1412 contains an intergovernmental mandate as defined in UMRA because it would require public entities, including port authorities, to notify the Coast Guard if such an entity released an object that might obstruct the navigable waters of the Delaware River. According to information from industry sources, the likelihood that a public entity would release an obstructing object is small, and any resulting notification would impose minimal costs on state, local, or tribal governments. Therefore, CBO estimates that the cost of complying with the mandate would not exceed the threshold established in UMRA (\$62 million in 2005, adjusted annually for inflation).

Estimated impact on the private sector: H.R. 1412 would impose private-sector mandates as defined in UMRA on certain owners and operators of tank vessels and persons aware of an obstruction to navigation in U.S. waters. Based on information provided by industry and government sources, CBO expects that the aggregate direct costs of complying with those mandates would fall below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

Section 2 would require owners of objects other than vessels to notify the Coast Guard and the U.S. Army Corps of Engineers if those objects become obstructions to navigation in U.S. waters. (Under current law, notification of such obstructions is voluntary.) CBO expects that the costs to comply with this mandate would be minimal if any.

Section 3 would increase the federal limits on liability for tank vessels. An increase in liability for vessel owners and operators would tend to increase their premium payments for coverage of the greater amount. Premium payments for coverage of liability depend on many factors including the amount of coverage, the size of the vessel, the value of the cargo, and the experience rating of the tanker crew. Industry experts estimate that premium increases could vary from 10 percent to as much as 40 percent for some owners of tank vessels to pay for an increase in coverage. According to

industry contacts, however, a large part of the industry already carries liability coverage above the federal limit required in the bill. Consequently, CBO expects that the incremental cost to comply with this mandate would not exceed UMRA's annual threshold.

Estimate prepared by: Federal Costs: Deborah Reis and Gregory Hitz. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### 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. (Public Law 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. 1412 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. (Public Law 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):

#### PORTS AND WATERWAYS SAFETY ACT

\* \* \* \* \*

**SEC. 15. REQUIREMENT TO NOTIFY COAST GUARD OF RELEASE OF OBJECTS INTO THE NAVIGABLE WATERS OF THE UNITED STATES.**

(a) *REQUIREMENT.*—As soon as a person has knowledge of any release from a vessel or facility into the navigable waters of the United States of any object that creates an obstruction prohibited under section 10 of the Act of March 3, 1899, popularly known as the Rivers and Harbors Appropriations Act of 1899 (chapter 425; 33 U.S.C. 403), such person shall notify the Secretary and the Secretary of the Army of such release.

(b) *RESTRICTION ON USE OF NOTIFICATION.*—Any notification provided by an individual in accordance with subsection (a) shall not be used against such individual in any criminal case, except a prosecution for perjury or for giving a false statement.

**OIL POLLUTION ACT OF 1990**

\* \* \* \* \*

**SEC. 2. TABLE OF CONTENTS.**

The contents of this Act are as follows:

\* \* \* \* \*

**TITLE VII—OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM**

Sec. 7001. Oil pollution research and development program.

Sec. 7002. Submerged oil program.

\* \* \* \* \*

**TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION**

\* \* \* \* \*

**SEC. 1004. LIMITS ON LIABILITY.**

(a) *GENERAL RULE.*—Except as otherwise provided in this section, the total of the liability of a responsible party under section 1002 and any removal costs incurred by, or on behalf of, the responsible party, with respect to each incident shall not exceed—

(1) for a tank vessel, the greater of—

**[(A) \$1,200 per gross ton; or]**

    (A) with respect to a single-hull vessel, including a single-hull vessel fitted with double sides only or a double bottom only—

        (i) \$1,550 per gross ton for an incident that occurs in 2005;

        (ii) \$1,900 per gross ton for an incident that occurs in 2006; or

        (iii) \$2,250 per gross ton for an incident that occurs in 2007 or in any year thereafter; or

    (B) with respect to a double-hull vessel (other than any vessel referred to in subparagraph (A))—

        (i) \$1,350 per gross ton for an incident that occurs in 2005;

        (ii) \$1,500 per gross ton for an incident that occurs in 2006; and

(iii) \$1,700 per gross ton for any incident that occurs in 2007 or in any year thereafter; or  
**[(B)]** (C)(i) in the case of a vessel greater than 3,000 gross tons, **[\$10,000,000]** \$14,000,000; or  
(ii) in the case of a vessel of 3,000 gross tons or less, **[\$2,000,000]** \$2,500,000;

\* \* \* \* \*

(d) ADJUSTING LIMITS OF LIABILITY.—

(1) \* \* \*

\* \* \* \* \*

**[(4) ADJUSTMENT TO REFLECT CONSUMER PRICE INDEX.—**The President shall, by regulations issued not less often than every 3 years, adjust the limits of liability specified in subsection (a) to reflect significant increases in the Consumer Price Index.]

*(4) ADJUSTMENT TO REFLECT CONSUMER PRICE INDEX.—The President shall, by regulations issued no later than 3 years after the date of the enactment of the Delaware River Protection Act of 2005 and no less than every 3 years thereafter, adjust the limits on liability specified in subsection (a) to reflect significant increases in the Consumer Price Index.*

\* \* \* \* \*

**TITLE VII—OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM**

**SEC. 7001. OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.**

(a) \* \* \*

\* \* \* \* \*

(c) OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.—

(1) \* \* \*

\* \* \* \* \*

(4) OIL POLLUTION EFFECTS RESEARCH.—(A) \* \* \*

(B) The Department of Commerce in consultation with the Environmental Protection Agency shall monitor and scientifically evaluate the long-term environmental effects of oil discharges if—

(i) \* \* \*

\* \* \* \* \*

Areas for study may include the following sites where oil discharges have occurred: the New York/New Jersey Harbor area, where oil was discharged by an Exxon underwater pipeline, the T/B CIBRO SAVANNAH, and the M/V BT NAUTILUS; Narragansett Bay where oil was discharged by the WORLD PRODIGY; the Houston Ship Channel where oil was discharged by the RACHEL B; the Delaware River, where oil was discharged by the PRESIDENTE **[, RIVERA]** RIVERA and the T/V ATHOS I; and Huntington Beach, California, where oil was discharged by the AMERICAN TRADER.

\* \* \* \* \*

**SEC. 7002. SUBMERGED OIL PROGRAM.**

(a) PROGRAM.—

(1) ESTABLISHMENT.—*The Undersecretary of Commerce for Oceans and Atmosphere, in conjunction with the Commandant of the Coast Guard, shall establish a program to detect, monitor, and evaluate the environmental effects of submerged oil. Such program shall include the following elements:*

(A) *The development of methods to remove, disperse or otherwise diminish the persistence of submerged oil.*

(B) *The development of improved models and capacities for predicting the environmental fate, transport, and effects of submerged oil.*

(C) *The development of techniques to detect and monitor submerged oil.*

(2) REPORT.—*The Secretary of Commerce shall, no later than 3 years after the date of the enactment of the Delaware River Protection Act of 2005, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate a report on the activities carried out under this subsection and activities proposed to be carried out under this subsection.*

(3) FUNDING.—*There is authorized to be appropriated to the Secretary of Commerce \$1,000,000 for each of fiscal years 2006 through 2010 to carry out this subsection.*

(b) DEMONSTRATION PROJECT.—

(1) REMOVAL OF SUBMERGED OIL.—*The Commandant of the Coast Guard, in conjunction with the Undersecretary of Commerce for Oceans and Atmosphere, shall conduct a demonstration project for the purpose of developing and demonstrating technologies and management practices to remove submerged oil from the Delaware River and other navigable waters.*

(2) FUNDING.—*There is authorized to be appropriated to the Commandant of the Coast Guard \$2,000,000 for each of fiscal years 2006 through 2010 to carry out this subsection.*

\* \* \* \* \*

**MARITIME TRANSPORTATION SECURITY ACT OF 2002**

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) \* \* \*

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

\* \* \* \* \*

TITLE IV—OMNIBUS MARITIME IMPROVEMENTS

Sec. 401. Short title.

\* \* \* \* \*

**【Sec. 407. Lower Columbia River maritime fire and safety activities.】**

*Sec. 407. Maritime fire and safety activities.*

\* \* \* \* \*

**TITLE IV—OMNIBUS MARITIME  
IMPROVEMENTS**

\* \* \* \* \*

**SEC. 407. [LOWER COLUMBIA RIVER] MARITIME FIRE AND SAFETY  
ACTIVITIES.**

There is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating **【\$987,400】** *\$1,500,000* for fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by nonprofit organizations that act in cooperation with the Coast Guard, to remain available until expended. Organizations receiving appropriated funds must have a multiyear record of spill and marine fire response in Federal navigable waterways. Federal funds shall not exceed 25 percent of such an organization's total budget.

\* \* \* \* \*

