

112TH CONGRESS
1ST SESSION

H. R. 3426

To amend the Federal Water Pollution Control Act to require the closure of oil storage and processing facilities that have spilled oil multiple times near residential neighborhoods, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2011

Mr. CONNOLLY of Virginia introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act to require the closure of oil storage and processing facilities that have spilled oil multiple times near residential neighborhoods, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Neighbor-
5 hoods from Oil Pollution Act of 2011”.

1 **SEC. 2. OIL STORAGE AND PROCESSING FACILITIES.**

2 Section 311 of the Federal Water Pollution Control
3 Act (33 U.S.C. 1321) is amended by adding at the end
4 the following:

5 “(s) OIL STORAGE AND PROCESSING FACILITIES.—

6 “(1) CLOSURE.—Not later than 6 months after
7 the date of enactment of the Protecting Neighbor-
8 hoods from Oil Pollution Act of 2011, the Adminis-
9 trator shall issue final regulations requiring an
10 owner or operator of an oil storage or processing fa-
11 cility to permanently close the oil storage or proc-
12 essing facility if one or both of the following condi-
13 tions apply:

14 “(A) The oil storage or processing facility
15 is located within 1 mile of 100 or more residen-
16 tial units, and 2 or more covered discharges
17 occur at the oil storage or processing facility
18 within any 10-year period.

19 “(B) The oil storage or processing facility
20 is the source of groundwater contamination af-
21 fecting 100 or more residential units.

22 “(2) REGULATIONS.—The Administrator shall
23 include in regulations issued under paragraph (1)
24 the following:

25 “(A) A definition of the term ‘permanently
26 close’, to include requirements that—

1 “(i) all liquid and sludge are removed
2 from each container and connecting line
3 associated with the oil storage or proc-
4 essing facility;

5 “(ii) all connecting lines and piping
6 associated with the oil storage or proc-
7 essing facility are disconnected from each
8 such container and blanked off, all valves
9 (except for ventilation valves) are closed
10 and locked, and conspicuous signs are
11 posted on each such container stating that
12 it is a permanently closed container and
13 noting the date of closure; and

14 “(iii) all other applicable Federal laws
15 and regulations are followed with respect
16 to clean up and remediation of any other
17 contamination at, or originating from, the
18 oil storage or processing facility.

19 “(B) Any additional closure and post-clo-
20 sure requirements the Administrator determines
21 appropriate.

22 “(C) A requirement that closure of an oil
23 storage or processing facility be completed by
24 one of the following deadlines, as applicable:

1 “(i) Not later than 1 year after the
2 date of enactment of the Protecting Neigh-
3 borhoods from Oil Pollution Act of 2011,
4 in the case of an oil storage or processing
5 facility at which 2 or more covered dis-
6 charges have occurred on or before such
7 date of enactment.

8 “(ii) Not later than 1 year after the
9 date on which a second covered discharge
10 occurs at the oil storage or processing fa-
11 cility within any 10-year period, in the case
12 of any oil storage or processing facility not
13 described in clause (i).

14 “(iii) Not later than 1 year after the
15 date on which the Administrator deter-
16 mines that the oil storage or processing fa-
17 cility is the source of groundwater con-
18 tamination affecting 100 or more residen-
19 tial units.

20 “(D) Any other requirements the Adminis-
21 trator determines appropriate.

22 “(3) PROHIBITED EXEMPTIONS.—The Adminis-
23 trator may not include in regulations issued under
24 paragraph (1) exemptions to any of the require-
25 ments of this subsection for covered discharges re-

1 sulting from an act of God, an act of war, or neg-
2 ligence on the part of the United States Govern-
3 ment.

4 “(4) WAIVER AND EXTENSION AUTHORITY.—
5 The Administrator may waive the requirement for
6 closure of an oil storage or processing facility under
7 this subsection, or grant an extension of the deadline
8 for such closure, if the Administrator determines
9 that the owner or operator of the facility has taken
10 or is taking all practicable steps to remediate the
11 condition requiring closure under paragraph (1).

12 “(5) HEALTH AND WELFARE AUTHORITY.—A
13 condition requiring closure under paragraph (1)
14 shall be considered to be—

15 “(A) a substantial threat to the public
16 health or welfare of the United States for the
17 purposes of subsections (c) and (e); and

18 “(B) an imminent and substantial
19 endangerment to the health of persons or to the
20 welfare of persons for the purposes of section
21 504.

22 “(6) DEFINITIONS.—For the purposes of this
23 subsection, the following definitions apply:

1 “(A) COVERED DISCHARGE.—The term
2 ‘covered discharge’ means a discharge of oil
3 greater than 40 gallons from any source.

4 “(B) OIL STORAGE OR PROCESSING FACIL-
5 ITY.—The term ‘oil storage or processing facil-
6 ity’ means any structure, group of structures,
7 equipment, or device, including any associated
8 property, that is used for producing, storing,
9 handling, transferring, processing, or trans-
10 porting oil.

11 “(7) RULE OF CONSTRUCTION.—Nothing in
12 this subsection shall be construed to restrict any
13 other Federal or State authority regarding the reme-
14 diation of, or other response to, a covered dis-
15 charge.”.

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