

104TH CONGRESS  
2D SESSION

# H. R. 2940

To amend the Deepwater Port Act of 1974.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 1996

Mr. HAYES (for himself, Mr. TAUZIN, Mr. BAKER of Louisiana, Mr. JEFFERSON, and Mr. MCCRERY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Deepwater Port Act of 1974.

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 “Deepwater Port Mod-  
5 ernization Act”.

6 **SEC. 2. DECLARATION OF POLICY.**

7 Section 2(a) of the Deepwater Port Act of 1974 (33  
8 U.S.C. 1501(a)) is amended—

9 (1) by striking “and” at the end of paragraph  
10 (3);

1           (2) by striking the period at the end of para-  
2 graph (4) and inserting a semicolon; and

3           (3) by inserting at the end the following:

4           “(5) promote the construction and operation of  
5 deepwater ports as a safe and effective means of im-  
6 porting oil into the United States and transporting  
7 oil from the outer continental shelf while minimizing  
8 tanker traffic and the risks attendant thereto and  
9 assure that the regulation of deepwater ports is not  
10 more burdensome or stringent than that applicable  
11 to persons engaged in at-sea vessel-to-vessel oil  
12 transfers;

13           “(6) recognize that deepwater ports are gen-  
14 erally subject to effective competition from alter-  
15 native transportation modes and eliminate, for as  
16 long as a port remains subject to effective competi-  
17 tion, unnecessary Federal regulatory oversight or in-  
18 volvement in the ports’ business and economic deci-  
19 sions;

20           “(7) promote innovation, flexibility, and effi-  
21 ciency in the management and operation of deep-  
22 water ports by assuring that they are not subject to  
23 duplicative, unnecessary or overly burdensome Fed-  
24 eral regulations or license provisions;

1           “(8) promote oil production on the outer con-  
2           tinental shelf by affording an economic and safe  
3           means of transportation of outer continental shelf oil  
4           to the United States mainland; and

5           “(9) clarify authority of the States to assess  
6           costs and fees on deepwater ports and associated on-  
7           shore facilities.”.

8   **SEC. 3. DEFINITIONS.**

9           (a) ANTITRUST LAWS.—Section 3 of the Deepwater  
10 Port Act of 1974 (33 U.S.C. 1502) is amended—

11           (1) by striking paragraph (3); and

12           (2) by redesignating paragraphs (4) through  
13           (19) as paragraphs (3) through (18), respectively.

14           (b) DEEPWATER PORT.—The first sentence of sec-  
15 tion 3(9) of such Act, as redesignated by subsection (a),  
16 is amended by striking “such structures,” and all that fol-  
17 lows through “section 23.” and inserting the following:  
18 “structures, located beyond the territorial sea and off the  
19 coast of the United States and which are used or intended  
20 for use as a port or terminal for the transportation, stor-  
21 age, and further handling of oil for transportation to any  
22 State, except as otherwise provided in section 23, and for  
23 other uses not inconsistent with the purposes of this Act,  
24 including transportation of oil from the United States,  
25 outer continental shelf.”.

1 **SEC. 4. LICENSES.**

2 (a) **ELIMINATION OF UTILIZATION RESTRICTIONS.**—

3 Section 4(a) of the Deepwater Port Act of 1974 (33  
4 U.S.C. 1503(a)) is amended by striking the last sentence.

5 (b) **ELIMINATION OF PRECONDITION TO LICENS-**  
6 **ING.**—Section 4(c) of such Act is amended—

7 (1) by striking paragraph (7); and

8 (2) by redesignating paragraphs (8), (9), and  
9 (10) as paragraphs (7), (8), and (9), respectively.

10 (c) **CONDITIONS PRESCRIBED BY SECRETARY.**—Sec-

11 tion 4(e)(1) of such Act is amended by striking the first  
12 sentence and inserting the following: “In issuing a license  
13 for the ownership, construction, and operation of a deep-  
14 water port, the Secretary shall prescribe only those condi-  
15 tions which the Secretary deems necessary to carry out  
16 the provisions of this Act or which are otherwise required  
17 by any Federal department or agency pursuant to the  
18 terms of this Act. Such conditions may include reasonable  
19 and appropriate environmental monitoring requirements if  
20 such requirements are directly related to reasonably an-  
21 ticipated environmental impacts from the port and, in the  
22 absence of data demonstrating a clear need for continued  
23 monitoring, do not extend beyond 3 years from the date  
24 of commencement of operations. To the maximum extent  
25 possible, conditions required to carry out the provisions  
26 of this Act shall be addressed in license conditions rather

1 than by regulation and, to the maximum extent possible,  
2 the license shall allow a deepwater port's operating proce-  
3 dures to be stated in an operations manual, approved by  
4 the Coast Guard, in accordance with section 10(a) of this  
5 Act, rather than in detailed and specific license conditions  
6 or regulations. Amendments of a license or operations  
7 manual shall not be considered rulemakings or adjudica-  
8 tions within the meaning of chapter 5 of title 5, United  
9 States Code, relating to administrative procedure, and  
10 may be accomplished in accordance with such informal  
11 procedures as the Secretary determines appropriate given  
12 the issues involved.”.

13 (d) ELIMINATION OF RESTRICTION ON TRANS-  
14 FERS.—Section 4(e)(2) of such Act is amended by striking  
15 “(A) there will be no substantial change from the plans,  
16 operational systems, and methods, procedures, and safe-  
17 guards set forth in his application, as approved, without  
18 prior approval in writing from the Secretary; and (B)”.

19 (e) FINDINGS REQUIRED FOR TRANSFERS.—Section  
20 4(f) of such Act is amended to read as follows:

21 “(f) The Secretary may amend, transfer, or reinstate  
22 a license issued under this Act if the Secretary finds that  
23 the amendment, transfer, or reinstatement is consistent  
24 with the purposes of this Act.”.

1 **SEC. 5. PROCEDURE.**

2 Section 5(h)(2) of the Deepwater Port Act of 1974  
3 (33 U.S.C. 1504(h)(2)) is amended by inserting before the  
4 last sentence the following: “Any fees assessed under this  
5 paragraph upon or incurred by a licensee for environ-  
6 mental monitoring required by an adjacent coastal State  
7 shall not be considered reasonable within the meaning of  
8 this section unless the environmental monitoring required  
9 conforms to the criteria specified in section 4(e)(1) of this  
10 Act.”.

11 **SEC. 6. ANTITRUST REVIEW.**

12 Section 7 of the Deepwater Port Act of 1974 (33  
13 U.S.C. 1506) is repealed.

14 **SEC. 7. OPERATION.**

15 (a) AS COMMON CARRIER.—Section 8(a) of the  
16 Deepwater Port Act of 1974 (33 U.S.C. 1507(a)) is  
17 amended by inserting after “subtitle IV of title 49, United  
18 States Code,” the following: “and shall accept, transport,  
19 or convey without discrimination all oil delivered to the  
20 deepwater port with respect to which its license is issued,”.

21 (b) CONFORMING AMENDMENT.—Section 8(b) of  
22 such Act is amended by striking the first sentence and  
23 the first 3 words of the second sentence and inserting the  
24 following: “A licensee is not discriminating under this sec-  
25 tion and”.

1 **SEC. 8. MARINE ENVIRONMENTAL PROTECTION AND NAVI-**  
2 **GATIONAL SAFETY.**

3 Section 10(a) of the Deepwater Port Act of 1974 (33  
4 U.S.C. 1509(a)) is amended by striking “shall prescribe”  
5 and all that follows through the period at the end and  
6 inserting the following: “shall publish guidance regarding  
7 preparation by a licensee of an operations manual, which  
8 shall address facility description, tanker navigation proce-  
9 dures, cargo transfer procedures, safety and fire protec-  
10 tion, maintenance procedures and emergency drills. A li-  
11 censee’s operations manual, and proposed changes to the  
12 operations manual, shall be reviewed and approved by the  
13 Coast Guard. Compliance by a licensee with its operations  
14 manual shall constitute compliance with all governmental  
15 requirements applicable to the subjects addressed in the  
16 operations manual.”.

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