I would hope that as we move forward, we can address the concerns of the highway user community and ensure that this legislation is not used to preclude challenges to toll discount programs.

With that, I reserve the balance of my time.

Mr. CRAWFORD. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York (Mr. GRIMM), the sponsor of this bill.

Mr. GRIMM. Mr. Speaker, I thank the gentleman from Arkansas.

Just to clarify the record, this bill, which I stand in strong support of—but actually before that, let me just say that I want to thank my colleague and friend, GREG MEEKS, for all of his work on this. It was a true bipartisan effort. But this bill, all it does is clarify what is already allowed by law. So to say that it is overly broad, it's almost ridiculous because again, all this does is clarify what is already allowed by law. States and cities already have. There were challenges in court that have failed, and the purpose of this legislation is to make sure that those frivolous challenges do not continue to go forward.

The Residential and Commuter Toll Fairness Act, I feel it is vital to toll discount programs, specifically for my constituents, but for all of New York and throughout this country.

I would like to also thank Chairman MICA, who traveled to my district, to Staten Island, for moving this bill forward and for seeing firsthand in Staten Island the devastating effects and the impacts that tolls can have.

Again, this bill, all it does is continue to clarify and allow the States and municipal governments to offer the discounted toll rates to residents for trips taken on roads, bridges, rail, bus, ferry, and other transportation systems.

I introduced the legislation for one purpose: it was in response to a 2009 case in which the U.S. Court of Appeals for the Second Circuit questioned the constitutionality of discounts for residents of towns bordering the New York Thruway. In New York, we simply can't afford to lose our discounts.

The majority of my district in New York City is an island; it's Staten Island. And the only way to drive on or off the island is to cross a bridge and pay a toll, something many of my constituents do often as part of their daily commute. Without a discount, it costs $13 to cross the Verrazano Bridge. Yes, I said $13 without the Staten Island residential EZ-Pass discount. On the other side of Staten Island, going to New Jersey, the cash tolls on three bridges have just gone up to $12, and that amount is slated to go up in 2015 to $15. That's without the residential discount.

□ 1930

On Staten Island, we have fought long and hard to reach an agreement on residential toll discounts, which is why this legislation is crucial to making sure we protect those new rates.

The Residential Commuter Toll Fairness Act provides clarification only of the existing authority of local governments to issue or grant transportation toll, user fee or fare discount programs based on residential status. It also provides congressional authorization for discount programs. Passage of H.R. 897 is nothing more than clarification of what can already be done, and I ask for the strong support of my colleagues.

Mr. LARSEN of Washington. Mr. Speaker, I yield myself such time as I may consume.

First, I would just like to enter in the RECORD a letter from the American Highway Users Alliance dated August 1 expressing concerns about the legislation.

AMERICAN HIGHWAY USERS ALLIANCE,
August 1, 2012.

DEAR MEMBER OF CONGRESS: This afternoon, under suspension of the rules, the House will consider HR 897, the Residential and Commuter Toll Fairness Act of 2011, sponsored by New York City Representatives Grimm and Meeks. We write to express serious concerns about this bill.

We are on record in support of greater tolling accountability and fairness for commuters. For example, we have endorsed HR 3684, the Commuter Protection Act, also authored by Congressman Grimm. We share particular concerns about the high costs of tolling for New York City residents. However the provisions of HR 897 are not narrowly constructed for New York's specific problems and have unintended consequences for other toll-payers throughout the country.

HR 897 broadly authorizes local tolling discount programs. If this bill were narrowly constructed to apply to places like Staten Island, New York; where residents are only able to access their homes and businesses via tolled bridges, our concerns would be minimal. But HR 897 allows my State or local jurisdiction to charge discriminatory toll rates for non-residents, even on the National Highway System, and regardless of circumstance or impact on interstate commerce.

In effect, this bill could actually encourage more tolls for all and higher tolls for selected users, authorizing locally popular tolling schemes that, in effect, overcharge interstate and long distance travelers who have no vote at the local ballot box.

If States and local governments widely adopt the practice of tolling non-residents to pay higher rates than locals, it could sharply increase the costs of interstate tourism and freight. These are national concerns requiring caution from Congress. The federal government has an obligation to regulate interstate commerce. As such, HR 897 should be revised to ensure that interstate and non-local traffic is not treated unfairly, by State and local tolling authorities.

Sincerely,

GREGORY M. COHEN,
President & CEO.

Second, I think the gentleman from New York makes a compelling case for why the bill should be more narrowly focused.

And third, Mr. Speaker, I may say things on the floor that people disagree with, but I do save my almost ridiculous statements for off the floor and not the floor of the House.

I yield back the balance of my time.

Mr. CRAWFORD. Mr. Speaker, I urge my colleagues to join me in supporting this important legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. CRAWFORD) that the House suspend the rules and pass the bill, H.R. 897.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MILLE LACS LAKE FREEDOM TO FISH ACT OF 2012

Mr. CRAVAACK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5797) to amend title 46, United States Code, with respect to Mille Lacs Lake, Minnesota, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mille Lacs Lake Freedom To Fish Act of 2012''.

SEC. 2. MILLE LACS LAKE, MINNESOTA.

Notwithstanding any other provision of law, the owner or operator of a vessel operating on Mille Lacs Lake, Minnesota, shall not, with respect to such vessel, be subject to any Federal requirement under subtitle II of title 46, United States Code, relating to licensing or vessel inspection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. CRAVAACK) and the gentleman from Washington (Mr. LARSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota.

GENERAL LEAVE

Mr. CRAVAACK. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous materials on H.R. 5797.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. CRAVAACK. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, in March 2010, the U.S. Coast Guard ruled that Mille Lacs Lake was a federally navigable body of water based on historical interstate commerce.

Specifically, the Coast Guard justified their actions by using a U.S. Army Corps of Engineers determination from 1981 that said because lumberjacks in the 1800s floated logs on Mille Lacs Lake and down the Rum River, Mille Lacs Lake should now be made a federally navigable water body. Currently, the Rum River is dammed in three places, and the same Corps of Engineers report said that the dams prohibit through navigation. In addition,

two previous Army Corps determinations in 1931 and 1974 also considered the river nonnavigable.

I would like to submit the U.S. Coast Guard determination for the RECORD.

MEMORANDUM

From: D. L. Nichols, CAPT, USCG, CGD Eight (dl).
To: S. L. Hudson, CAPT, USCG, CG Sector Upper Mississippi River (s).
Subj: Navigability Determination for Mille Lacs Lake, Minnesota.
Ref: (a) 33 C.F.R. §2.36; (b) 33 C.F.R. §3.40–1; (c) 33 C.F.R. §3.45–1.

1. For the purpose of determining its jurisdictional authority, the Coast Guard has determined that Mille Lacs Lake is a ''navigable waterway of the United States.''

2. The geographic boundary between the Eighth Coast Guard District and the Ninth Coast Guard District currently runs through Mille Lacs Lake. This navigability determination is for the entirety of Mille Lacs Lake. The Ninth District Legal Staff has reviewed and agrees with this determination.

3. No federal statute addresses the navigability of Mille Lacs Lake, and no federal court has determined the navigability of the waterway. Furthermore, Mille Lacs Lake is not subject to tidal influence. This navigability determination is based on the historical use of the waterway. Specifically, Mille Lacs Lake has been used, in connection with other waters, as a highway for substantial interstate or foreign commerce.

4. Navigability determinations are administrative findings based on the criteria set forth in 33 C.F.R. 2.36. The precise definitions of ''navigable waters of the United States'' and ''navigability'' are dependent ultimately on judicial interpretation and cannot be made conclusively by administrative agencies.

5. This opinion solely represents the opinion of the Coast Guard as to the extent of its own jurisdiction to enforce laws and regulations, and does not represent an opinion as to the extent of the jurisdiction of the United States or any of its agencies.

———

MEMORANDUM

From: CGD Eight.
To: File.
Subj: Legal Support for Navigability Determination for Mille Lacs Lake, Minnesota.
Ref: (a) CGD Eight (dl) memo of 3 March 2010, Navigability Determination for Mille Lacs Lake, Minnesota; (b) 33 C.F.R. §2.36; (c) 33 C.F.R. §3.40–1; (d) 33 C.F.R. §3.45–1.

1. Purpose. This memorandum documents the legal basis for the Coast Guard's determination of navigability in ref (a).

2. Discussion.

a. Internal waterways of the United States not subject to tidal influence are ''navigable waters of the United States'' if they ''[a]re or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage.'' 33 C.F.R. §2.36(a)(3)(i)(emphasis added). The test is one of historic navigability. *U.S.* v. *Harrell*, 926 F.2d 1036 (11th Cir. 1991). In 1921 the Supreme Court discussed the issue of obstructions by stating that a waterway ''capable of carrying commerce among the states is within the power of Congress to preserve for purposes of future transportation, even though it . . . be incapable of such use according to present methods, either by reason of changed conditions or because of artificial obstructions.'' *Economy Light & Power Co.* v. *U.S.*, 256 U.S. 113, 122 (1921); see also *U.S.* v. *Appalachian Power Co.*, 311 U.S. 377, 408 (''When once found navigable, a waterway remains so.''). When logs are floated on a waterway in interstate commerce, the waterway is a highway for interstate commerce. See id. at 405; *Wisconsin Public Service Corp.* v. *Federal Power commission*, 147 F.2d 743 (7th Cir. 1945); *United States* v. *Underwood*, 344 F. Supp. 486, 490 (M.D. Fla. 1972).

B. In April 1981 the ACOE conducted an historical analysis of commerce on Mille Lacs Lake and the Run River in Minnesota. See encl. (1). Historical accounts in the document reveal a history of interstate commerce on Mille Lacs Lake. Specifically, Mille Lacs Lake was ''used in the transportation of logs'' from 1848 to 1904, and evidence shows that at least a portion of the logs floated were transported to markets outside of the state. Encl (1) at 5.

3. Conclusion. Mille Lacs Lake has been used in the past as a highway for interstate commerce. The Coast Guard thus determines that Mille Lacs Lake is a ''navigable water of the United States'' and the Coast Guard may properly enforce applicable federal law on this waterway.

Enclosure: Army Corps of Engineers (ACOE) memo of 2 April 1981: Navigability Determination for Mille Lacs Lake and Rum River, Minnesota

Now the U.S. Coast Guard is forcing all Mille Lacs Lake fishing guides to spend time and money to obtain a Federal boating license. This license and associated costs can run well over $2,000, and according to testimony by the U.S. Coast Guard in the Transportation and Infrastructure Committee, they have to travel to Toledo, Ohio, or St. Louis, Missouri, in order to apply for these licenses in person and to take the tests.

This new U.S. Coast Guard regulation is killing jobs by making it impractical for some fishing guides to even stay in business and making it even more expensive for tourists to hire their services.

The Mille Lacs Lake Freedom to Fish Act removes this burdensome, administrative overreach from the U.S. Coast Guard and restores to the State of Minnesota the original authority to permit and inspect vessels.

I truly appreciate all the Coast Guard does, I truly do. But the State of Minnesota already patrols Mille Lacs Lake quite well and the Coast Guard's authority over the lake is an unwanted intrusion. It's duplicative, and it's currently nonexistent. This would be a new area of jurisdiction for the Coast Guard requiring additional assets and manpower.

The State has rules and inspection procedures in place to keep its residents safe and has been doing so for as long as anybody can remember. The State is perfectly capable of enforcing boating laws on Mille Lacs Lake, and ultimately Mille Lacs Lake belongs to Minnesotans and should not be controlled by the Federal Government.

We heard from the U.S. Coast Guard on the issue in a Coast Guard Subcommittee hearing on May 24, 2011. Rear Admiral Kevin Cook and Deputy JAG Calvin Lederer testified about the burden this would impose on Minnesota fishing guides. Additionally, they were unable to provide adequate justification for the navigability determination beyond the Army Corps report.

My legislation would stop fishing guides from being forced to spend over $2,000 on obtaining a fishing license they simply just don't need. Ultimately, it will allow Minnesotans to focus on what is most important—enjoying one of Minnesota's most beautiful lakes.

This has been fully vetted by the Mille Lacs Band of Ojibwe and National Association of State Boating Law Administrators. This legislation is also supported by the Minnesota Department of Labor and Industry, fishing guides and resort owners, Minnesota Anglers for Habitat and Minnesota Outdoor Heritage Alliance.

I would like to submit for the RECORD a letter of support from the Minnesota Outdoor Heritage Alliance.

MINNESOTA OUTDOOR
HERITAGE ALLIANCE,
June 31, 2012.

REPRESENTATIVE CRAVAACK: As president of the Minnesota Outdoor Heritage Alliance (MOHA), I am always interested in legislation that preserves our constitutional right to hunt and fish, improves sportsmen recruitment and retention or increases the economic viability of these pursuits for Minnesota's sportsmen and women. Because of these organizational goals, I am submitting this letter in favor of the Mille Lacs Freedom to Fish (HR 5797) legislation. Since many Minnesota guides are small, family owned concerns that have been in business for many years, additional regulations and fees are not only unnecessary but also cost prohibitive and dangerous to our time honored way of guiding and fishing. Moving this legislation forward will address these concerns and update the laws in a way that is not only safe but beneficial for our fishing industry and our fishing license holders.

Sincerely,

TIM SPRECK,
MOHA President.

Senator KLOBUCHAR also introduced companion legislation that has been cosponsored by Senator FRANKEN. In the committee markup, Representative TIM WALZ and Ranking Member RAHALL lent their support as well, making this truly a bipartisan and bicameral piece of legislation.

I'd like to thank Geoff Gosselin and John Rayfield of the Coast Guard Subcommittee staff for their working with me on the language of this amendment, as well as Tom Dillon from legislative counsel. I would also like to thank Joel Amato, the chief boiler inspector from the Minnesota Department of Labor and Industry for providing his guidance and expertise, as well as Mr. Kim Elverum from the Minnesota Department of Natural Resources, and George Nitti of Nitti's Hunters Point Resort.

Although the text of this bill is short, a lot of work went into making sure that this accomplishes the goals of restoring jurisdiction to Minnesota.

I reserve the balance of my time.

Mr. LARSEN of Washington. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, H.R. 5797 exempts the owners and operators of small passenger vessels operating on Mille Lacs

Lake in central Minnesota from U.S. Coast Guard licensing and inspection requirements.

This bill provides rather narrow regulatory relief. However, because this bill was rushed to legislation, to markup without first having a hearing on the bill itself or having the Subcommittee on Coast Guard and Maritime Transportation consider the specific bill, no one can say for sure what consequences might arise in the future. My concerns are somewhat allayed by learning the State of Minnesota has an adequate program to regulate vessels operating on its inland lakes, including Mille Lacs.

Nonetheless, the Coast Guard has expressed concerns that the limitations imposed on its vessel safety authorities by this bill could create uncertainty and some confusion among the boating public, especially regarding marine casualty investigations and maritime liability.

Notwithstanding these objections, and because the bill, as reported, would no longer vacate the Coast Guard's 2010 determination that Mille Lacs Lake is navigable, I do not object to the bill moving forward today.

With that, I yield back the balance of my time.

Mr. CRAVAACK. I thank my respected colleague for his kind remarks, and I ask my colleagues to join me in supporting this important legislation to Minnesota.

I yield back the balance of my time, as well.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. CRAVAACK) that the House suspend the rules and pass the bill, H.R. 5797, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: ''A bill to exempt the owners and operators of vessels operating on Mille Lacs Lake, Minnesota, from certain Federal requirements.''.

A motion to reconsider was laid on the table.

□ 1940

FARMERS UNDERTAKE ENVIRONMENTAL LAND STEWARDSHIP ACT

Mr. CRAWFORD. Mr. Speaker, I move to suspend the rules and pass 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, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Farmers Undertake Environmental Land Stewardship Act'' or the ''FUELS Act''.

SEC. 2. APPLICABILITY OF SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE.

(a) IN GENERAL.—The Administrator, in implementing the Spill Prevention, Control, and Countermeasure rule with respect to any farm, shall—

(1) require certification of compliance with such rule by—

(A) a professional engineer for a farm with—

(i) an individual tank with an aboveground storage capacity greater than 10,000 gallons;

(ii) an aggregate aboveground storage capacity greater than or equal to 42,000 gallons; or

(iii) a history that includes a spill, as determined by the Administrator; or

(B) the owner or operator of the farm (via self-certification) for a farm with—

(i) an aggregate aboveground storage capacity greater than 10,000 gallons but less than 42,000 gallons; and

(ii) no history of spills, as determined by the Administrator; and

(2) exempt from all requirements of such rule any farm—

(A) with an aggregate aboveground storage capacity of less than or equal to 10,000 gallons; and

(B) no history of spills, as determined by the Administrator.

(b) CALCULATION OF AGGREGATE ABOVEGROUND STORAGE CAPACITY.—For the purposes of subsection (a), the aggregate aboveground storage capacity of a farm excludes all containers on separate parcels that have a capacity that is less than 1,320 gallons.

SEC. 3. DEFINITIONS.

In this Act, the following terms apply:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) FARM.—The term ''farm'' has the meaning given such term in section 112.2 of title 40, Code of Federal Regulations.

(3) GALLON.—The term ''gallon'' refers to a United States liquid gallon.

(4) SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE.—The term ''Spill Prevention, Control, and Countermeasure rule'' means the regulation promulgated by the Environmental Protection Agency under part 112 of title 40, Code of Federal Regulations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. CRAWFORD) and the gentleman from Iowa (Mr. BOSWELL) each will control 20 minutes.

The Chair recognizes the gentleman from Arkansas.

GENERAL LEAVE

Mr. CRAWFORD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on H.R. 3158.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. CRAWFORD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I'd like to thank Members from both parties who joined in cosponsoring this bipartisan bill that will provide regulatory relief to our family farmers, in particular, my colleague, Mr. BOSWELL. Thank you very much.

The EPA-mandated Oil Spill Prevention, Control and Countermeasure program, or SPCC, requires that oil storage facilities with a capacity of over 1,320 gallons make costly infrastructure modifications 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. In some cases, compliance costs could reach higher than $60,000 for a single farmer in my district.

The SPCC program dates back to 1973, shortly after the Clean Water Act was signed into law. In the last decade, it has strictly come down on agriculture, and the rules have been amended, delayed, and extended dozens of times, creating enormous confusion in the farming community. On top of that, the EPA has failed to engage in effective outreach to producers and cooperatives on SPCC application.

In 2009, the EPA lifted a 2006 rule that suspended compliance requirements for small farms with oil storage of 10,000 gallons or less. The rule applies to more than just fuel. In fact, it applies to hydraulic oil, adjuvant oil, crop oil, vegetable oil, and even animal fat. It was scheduled to go into effect this past November.

Last summer, I headed up an effort to send a bipartisan letter with over 100 cosigners to EPA Administrator Lisa Jackson highlighting problems with the program and requesting a permanent fix. At the very least, I requested a delay so farmers impacted by last year's natural disasters would have more time to comply. The EPA responded only a few weeks before the November deadline and issued a statement saying they would not begin enforcement until May of 2013. While we were thankful for the delay, this action still didn't do anything to fix the burden on small farms. It just kicked the can down the road.

The FUELS Act is simple. It revises the SPCC regulations to be reflective of a producer's spill risk and financial resources. The exemption level would be adjusted upward from an unworkable 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 storage facilities exceed the exemption level. To add another layer of environmental protection, the producer must be able to demonstrate that he or she has no history of oil spills.

Mr. Speaker, this legislation is necessary because the existing regulations are not only burdensome to small farmers; they're unenforceable. According to USDA, the current regulations would bring more than 70 percent of farms into the SPCC regulatory net.