

Union Calendar No. 25

110TH CONGRESS
1ST SESSION

H. R. 802

[Report No. 110-54]

To amend the Act to Prevent Pollution from ships to implement MARPOL Annex VI.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2007

Mr. OBERSTAR (for himself and Mr. CUMMINGS) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

MARCH 20, 2007

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on February 5, 2007]

A BILL

To amend the Act to Prevent Pollution from ships to implement MARPOL Annex VI.

- 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 “Maritime Pollution Pre-*
- 5 *vention Act of 2007”.*

1 **SEC. 2. REFERENCES.**

2 *Wherever in this Act an amendment or repeal is ex-*
 3 *pressed in terms of an amendment to or a repeal of a section*
 4 *or other provision, the reference shall be considered to be*
 5 *made to a section or other provision of the Act to Prevent*
 6 *Pollution from Ships (33 U.S.C. 1901 et seq.).*

7 **SEC. 3. DEFINITIONS.**

8 *Section 2(a) (33 U.S.C. 1901(a)) is amended—*

9 *(1) by redesignating the paragraphs (1) through*
 10 *(12) as paragraphs (2) through (13), respectively;*

11 *(2) by inserting before paragraph (2) (as so re-*
 12 *designated) the following:*

13 *“(1) ‘Administrator’ means the Administrator of*
 14 *the Environmental Protection Agency.”;*

15 *(3) in paragraph (5) (as so redesignated) by*
 16 *striking “and V” and inserting “V, and VI”;*

17 *(4) in paragraph (6) (as so redesignated) by*
 18 *striking “‘discharge’ and ‘garbage’ and ‘harmful sub-*
 19 *stance’ and ‘incident’” and inserting “‘discharge’,*
 20 *‘emission’, ‘garbage’, ‘harmful substance’, and ‘inci-*
 21 *dent’”;* and

22 *(5) by redesignating paragraphs (7) through (13)*
 23 *(as redesignated) as paragraphs (8) through (14), re-*
 24 *spectively, and inserting after paragraph (6) (as re-*
 25 *designated) the following:*

1 “(7) ‘navigable waters’ includes the territorial
 2 sea of the United States (as defined in Presidential
 3 Proclamation 5928 of December 27, 1988) and the in-
 4 ternal waters of the United States;”.

5 **SEC. 4. APPLICABILITY.**

6 Section 3 (33 U.S.C. 1902) is amended—

7 (1) in subsection (a)—

8 (A) by striking “and” at the end of para-
 9 graph (3);

10 (B) by striking the period at the end of
 11 paragraph (4) and inserting “; and”; and

12 (C) by adding at the end the following:

13 “(5) with respect to Annex VI to the Convention,
 14 and other than with respect to a ship referred to in
 15 paragraph (1)—

16 “(A) to a ship that is in the navigable wa-
 17 ters of the United States;

18 “(B) to a ship that is bound for, or depart-
 19 ing from, a port, shipyard, offshore terminal, or
 20 the internal waters of the United States, and is
 21 in—

22 “(i) an emission control area des-
 23 ignated pursuant to section 4; or

24 “(ii) any other area that the Adminis-
 25 trator, in consultation with the Secretary,

1 *has designated by order as being an area*
2 *from which emissions from ships are of con-*
3 *cern with respect to protection of public*
4 *health, welfare, or the environment;*

5 “(C) *to a ship that is entitled to fly the flag*
6 *of, or operating under the authority of, a party*
7 *to Annex VI, and is in—*

8 “(i) *an emission control area des-*
9 *ignated under section 4; or*

10 “(ii) *any other area that the Adminis-*
11 *trator, in consultation with the Secretary,*
12 *has designated by order as being an area*
13 *from which emissions from ships are of con-*
14 *cern with respect to protection of public*
15 *health, welfare, or the environment; and*

16 “(D) *to the extent consistent with inter-*
17 *national law, to any other ship that is in—*

18 “(i) *the exclusive economic zone of the*
19 *United States;*

20 “(ii) *an emission control area des-*
21 *ignated under section 4; or*

22 “(iii) *any other area that the Adminis-*
23 *trator, in consultation with the Secretary,*
24 *has designated by order as being an area*
25 *from which emissions from ships are of con-*

1 cern with respect to protection of public
2 health, welfare, or the environment.”;

3 (2) in subsection (b)(1) by inserting “or (3)”
4 after “paragraph (2)”;

5 (3) in subsection (b) by adding at the end the
6 following:

7 “(3) With respect to Annex VI the Administrator, or
8 the Secretary, as relevant to their authorities pursuant to
9 this Act, may determine that some or all of the requirements
10 under this Act shall apply to one or more classes of public
11 vessels, except that such a determination by the Adminis-
12 trator shall have no effect unless the head of the Department
13 or agency under which the vessels operate concurs in the
14 determination. This paragraph does not apply during time
15 of war or during a declared national emergency.”;

16 (4) by redesignating subsections (c) through (g)
17 as subsections (d) through (h), respectively, and in-
18 serting after subsection (b) the following:

19 “(c) *APPLICATION TO OTHER PERSONS.*—This Act
20 shall apply to all persons to the extent necessary to ensure
21 compliance with Annex VI to the Convention.”; and

22 (5) in subsection (e), as redesignated—

23 (A) by inserting “or the Administrator, con-
24 sistent with section 4 of this Act,” after “Sec-
25 retary”;

1 (B) by striking “of section (3)” and insert-
 2 ing “of this section”; and

3 (C) by striking “Protocol, including regula-
 4 tions conforming to and giving effect to the re-
 5 quirements of Annex V” and inserting “Protocol
 6 (or the applicable Annex), including regulations
 7 conforming to and giving effect to the require-
 8 ments of Annex V and Annex VI”.

9 **SEC. 5. ADMINISTRATION AND ENFORCEMENT.**

10 Section 4 (33 U.S.C. 1903) is amended—

11 (1) by redesignating subsections (b) and (c) as
 12 subsections (c) and (d), respectively, and inserting
 13 after subsection (a) the following:

14 “(b) *DUTY OF THE ADMINISTRATOR.*—In addition to
 15 other duties specified in this Act, the Administrator and
 16 the Secretary, respectively, shall have the following duties
 17 and authorities:

18 “(1) The Administrator shall, and no other per-
 19 son may, issue Engine International Air Pollution
 20 Prevention certificates in accordance with Annex VI
 21 and the International Maritime Organization’s Tech-
 22 nical Code on Control of Emissions of Nitrogen Ox-
 23 ides from Marine Diesel Engines, on behalf of the
 24 United States for a vessel of the United States as that
 25 term is defined in section 116 of title 46, United

1 *States Code. The issuance of Engine International*
2 *Air Pollution Prevention certificates shall be con-*
3 *sistent with any applicable requirements of the Clean*
4 *Air Act or regulations prescribed under that Act.*

5 “(2) *The Administrator shall have authority to*
6 *administer regulations 12, 13, 14, 15, 16, 17, 18, and*
7 *19 of Annex VI to the Convention.*

8 “(3) *The Secretary and the Administrator shall*
9 *coordinate on the administration and enforcement of*
10 *Annex VI to the Convention.*”;

11 (2) *in subsection (c), as redesignated, by redesign-*
12 *ating paragraph (2) as paragraph (4), and insert-*
13 *ing after paragraph (1) the following:*

14 “(2) *In addition to the authority the Secretary has to*
15 *prescribe regulations under this Act, the Administrator*
16 *shall also prescribe any necessary or desired regulations to*
17 *carry out the provisions of regulations 12, 13, 14, 15, 16,*
18 *17, 18, and 19 of Annex VI to the Convention.*

19 “(3) *In prescribing any regulations under this section,*
20 *the Secretary and the Administrator shall consult with each*
21 *other, and with respect to regulation 19, with the Secretary*
22 *of the Interior.*”; and

23 (3) *by adding at the end of subsection (c), as re-*
24 *designated, the following:*

1 “(5) No standard issued by any person or Federal au-
 2 thority, with respect to emissions from tank vessels subject
 3 to regulation 15 of Annex VI to the Convention, shall be
 4 effective until 6 months after the required notification to
 5 the International Maritime Organization by the Sec-
 6 retary.”.

7 **SEC. 6. CERTIFICATES.**

8 Section 5 (33 U.S.C. 1904) is amended—

9 (1) in subsection (a) by striking “The Secretary”
 10 and inserting “Except as provided in section 4(b)(1),
 11 the Secretary”;

12 (2) in subsection (b) by striking “Secretary
 13 under the authority of the MARPOL protocol.” and
 14 inserting “Secretary or the Administrator under the
 15 authority of this Act.”; and

16 (3) in subsection (e) by striking “environment.”
 17 and inserting “environment or the public health and
 18 welfare.”.

19 **SEC. 7. RECEPTION FACILITIES.**

20 Section 6 (33 U.S.C. 1905) is amended—

21 (1) in subsection (a) by adding at the end the
 22 following:

23 “(3) The Secretary or the Administrator, after con-
 24 sulting with appropriate Federal agencies, shall prescribe
 25 regulations setting criteria for determining the adequacy of

1 reception facilities for receiving ozone depleting substances,
2 equipment containing such substances, and exhaust gas
3 cleaning residues at a port or terminal, and stating any
4 additional measures and requirements as are appropriate
5 to ensure such adequacy. Persons in charge of ports and
6 terminals shall provide reception facilities, or ensure that
7 reception facilities are available, in accordance with those
8 regulations. The Secretary or the Administrator may pre-
9 scribe regulations to certify, and may issue certificates to
10 the effect, that a port's or terminal's facilities for receiving
11 ozone depleting substances, equipment containing such sub-
12 stances, and exhaust gas cleaning residues from ships are
13 adequate.”;

14 (2) in subsection (b) by inserting “or the Admin-
15 istrator” after “Secretary”;

16 (3) in subsection (e) by striking paragraph (2)
17 and inserting the following:

18 “(2) The Secretary may deny the entry of a ship to
19 a port or terminal required by the MARPOL Protocol, this
20 Act, or regulations prescribed under this section relating to
21 the provision of adequate reception facilities for garbage,
22 ozone depleting substances, equipment containing those sub-
23 stances, or exhaust gas cleaning residues, if the port or ter-
24 minal is not in compliance with the MARPOL Protocol,
25 this Act, or those regulations.”;

1 (4) in subsection (f)(1) by striking “Secretary
2 is” and inserting “Secretary and the Administrator
3 are”; and

4 (5) in subsection (f)(2) by striking “(A)”.

5 **SEC. 8. INSPECTIONS.**

6 Section 8(f) (33 U.S.C. 1907(f)) is amended to read
7 as follows:

8 “(f)(1) The Secretary may inspect a ship to which this
9 Act applies as provided under section 3(a)(5), to verify
10 whether the ship is in compliance with Annex VI to the
11 Convention and this Act.

12 “(2) If an inspection under this subsection or any
13 other information indicates that a violation has occurred,
14 the Secretary, or the Administrator in a matter referred
15 by the Secretary, may undertake enforcement action under
16 this section.

17 “(3) Notwithstanding subsection (b) and paragraph
18 (2) of this subsection, the Administrator shall have all of
19 the authorities of the Secretary, as specified in subsection
20 (b) of this section, for the purposes of enforcing regulations
21 17 and 18 of Annex VI to the Convention to the extent that
22 shoreside violations are the subject of the action and in any
23 other matter referred to the Administrator by the Sec-
24 retary.”.

1 **SEC. 9. AMENDMENTS TO THE PROTOCOL.**

2 Section 10(b) (33 U.S.C. 1909(b)) is amended by in-
 3 serting “or the Administrator as provided for in this Act,”
 4 after “Secretary,”.

5 **SEC. 10. PENALTIES.**

6 Section 9 (33 U.S.C. 1908) is amended—

7 (1) by striking “Protocol,” each place it appears
 8 and inserting “Protocol,”;

9 (2) in subsection (b)—

10 (A) by inserting “, or the Administrator as
 11 provided for in this Act” after “Secretary” the
 12 first place it appears;

13 (B) in paragraph (2), by inserting “, or the
 14 Administrator as provided for in this Act,” after
 15 “Secretary”; and

16 (C) in the matter after paragraph (2)—

17 (i) by inserting “, or the Adminis-
 18 trator as provided for in this Act” after
 19 “Secretary” the first place it appears; and

20 (ii) by inserting “, or the Adminis-
 21 trator as provided for in this Act,” after
 22 “Secretary” the second and third places it
 23 appears;

24 (3) in subsection (c), by inserting “, or the Ad-
 25 ministrator as provided for in this Act,” after “Sec-
 26 retary” each place it appears; and

1 (4) in subsection (f), by inserting “, or the Ad-
2 ministrators as provided for in this Act” after “Sec-
3 retary” the first place appears.

4 **SEC. 11. EFFECT ON OTHER LAWS.**

5 Section 15 (33 U.S.C. 1911) is amended to read as
6 follows:

7 **“SEC. 15. EFFECT ON OTHER LAWS.**

8 “Authorities, requirements, and remedies of this Act
9 supplement and neither amend nor repeal any other au-
10 thorities, requirements, or remedies conferred by any other
11 provision of law. Nothing in this Act shall limit, deny,
12 amend, modify, or repeal any other authority, requirement,
13 or remedy available to the United States or any other per-
14 son, except as expressly provided in this Act.”.

Amend the title so as to read: “A bill to amend the
Act to Prevent Pollution from Ships to implement
MARPOL Annex VI.”.

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