

Calendar No. 832

110TH CONGRESS
2D SESSION

S. 2766

[Report No. 110-398]

To amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2008

Mr. NELSON of Florida (for himself, Mrs. BOXER, Mr. REED, Mr. WHITEHOUSE, Mr. ISAKSON, Mr. VITTER, Mr. CARDIN, Ms. MIKULSKI, Mr. BURR, Ms. SNOWE, Mr. CRAPO, Mr. CHAMBLISS, Mr. COCHRAN, Ms. COLLINS, Mr. LEVIN, Mr. VOINOVICH, Ms. STABENOW, Mr. CRAIG, Mrs. DOLE, Mrs. FEINSTEIN, Mr. CORKER, Mr. BAYH, Mr. COLEMAN, Ms. LANDRIEU, Mr. SPECTER, Mr. KOHL, Mr. WICKER, Mr. DODD, Mr. CARPER, Mr. BOND, Mr. BROWN, Mr. WEBB, Mr. BUNNING, Ms. KLOBUCHAR, Mr. SCHUMER, Mr. MARTINEZ, Mr. LUGAR, Mr. KERRY, and Mr. ALLARD) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JUNE 23, 2008

Reported by Mrs. BOXER, without amendment

A BILL

To amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Clean Boating Act of
3 2008”.

4 **SEC. 2. DISCHARGES INCIDENTAL TO THE NORMAL OPER-**
5 **ATION OF RECREATIONAL VESSELS.**

6 Section 402 of the Federal Water Pollution Control
7 Act (33 U.S.C. 1342) is amended by adding at the end
8 the following:

9 “(r) DISCHARGES INCIDENTAL TO THE NORMAL OP-
10 ERATION OF RECREATIONAL VESSELS.—No permit shall
11 be required under this Act by the Administrator (or a
12 State, in the case of a permit program approved under
13 subsection (b)) for the discharge of any graywater, bilge
14 water, cooling water, weather deck runoff, oil water sepa-
15 rator effluent, or effluent from properly functioning ma-
16 rine engines, or any other discharge that is incidental to
17 the normal operation of a vessel, if the discharge is from
18 a recreational vessel.”.

19 **SEC. 3. DEFINITION.**

20 Section 502 of the Federal Water Pollution Control
21 Act (33 U.S.C. 1362) is amended by adding at the end
22 the following:

23 “(25) RECREATIONAL VESSEL.—

24 “(A) IN GENERAL.—The term ‘recreational
25 vessel’ means any vessel that is—

1 “(i) manufactured or used primarily
2 for pleasure; or

3 “(ii) leased, rented, or chartered to a
4 person for the pleasure of that person.

5 “(B) EXCLUSION.—The term ‘recreational
6 vessel’ does not include a vessel that is subject
7 to Coast Guard inspection and that—

8 “(i) is engaged in commercial use; or

9 “(ii) carries paying passengers.”.

10 **SEC. 4. MANAGEMENT PRACTICES FOR RECREATIONAL**
11 **VESSELS.**

12 Section 312 of the Federal Water Pollution Control
13 Act (33 U.S.C. 1322) is amended by adding at the end
14 the following:

15 “(o) MANAGEMENT PRACTICES FOR RECREATIONAL
16 VESSELS.—

17 “(1) APPLICABILITY.—This subsection applies
18 to any discharge, other than a discharge of sewage,
19 from a recreational vessel that is—

20 “(A) incidental to the normal operation of
21 the vessel; and

22 “(B) exempt from permitting requirements
23 under section 402(r).

24 “(2) DETERMINATION OF DISCHARGES SUB-
25 JECT TO MANAGEMENT PRACTICES.—

1 “(A) DETERMINATION.—

2 “(i) IN GENERAL.—The Adminis-
3 trator, in consultation with the Secretary
4 of the department in which the Coast
5 Guard is operating, the Secretary of Com-
6 merce, and interested States, shall deter-
7 mine the discharges incidental to the nor-
8 mal operation of a recreational vessel for
9 which it is reasonable and practicable to
10 develop management practices to mitigate
11 adverse impacts on the waters of the
12 United States.

13 “(ii) PROMULGATION.—The Adminis-
14 trator shall promulgate the determinations
15 under clause (i) in accordance with section
16 553 of title 5, United States Code.

17 “(iii) MANAGEMENT PRACTICES.—The
18 Administrator shall develop management
19 practices for recreational vessels in any
20 case in which the Administrator deter-
21 mines that the use of those practices is
22 reasonable and practicable.

23 “(B) CONSIDERATIONS.—In making a de-
24 termination under subparagraph (A), the Ad-
25 ministrator shall consider—

1 “(i) the nature of the discharge;

2 “(ii) the environmental effects of the
3 discharge;

4 “(iii) the practicability of using a
5 management practice;

6 “(iv) the effect that the use of a man-
7 agement practice would have on the oper-
8 ation, operational capability, or safety of
9 the vessel;

10 “(v) applicable Federal and State law;

11 “(vi) applicable international stand-
12 ards; and

13 “(vii) the economic costs of the use of
14 the management practice.

15 “(C) TIMING.—The Administrator shall—

16 “(i) make the initial determinations
17 under subparagraph (A) not later than 1
18 year after the date of enactment of this
19 subsection; and

20 “(ii) every 5 years thereafter—

21 “(I) review the determinations;
22 and

23 “(II) if necessary, revise the de-
24 terminations based on any new infor-
25 mation available to the Administrator.

1 “(3) PERFORMANCE STANDARDS FOR MANAGE-
2 MENT PRACTICES.—

3 “(A) IN GENERAL.—For each discharge
4 for which a management practice is developed
5 under paragraph (2), the Administrator, in con-
6 sultation with the Secretary of the department
7 in which the Coast Guard is operating, the Sec-
8 retary of Commerce, other interested Federal
9 agencies, and interested States, shall promul-
10 gate, in accordance with section 553 of title 5,
11 United States Code, Federal standards of per-
12 formance for each management practice re-
13 quired with respect to the discharge.

14 “(B) CONSIDERATIONS.—In promulgating
15 standards under this paragraph, the Adminis-
16 trator shall take into account the considerations
17 described in paragraph (2)(B).

18 “(C) CLASSES, TYPES, AND SIZES OF VES-
19 SELS.—The standards promulgated under this
20 paragraph may—

21 “(i) distinguish among classes, types,
22 and sizes of vessels;

23 “(ii) distinguish between new and ex-
24 isting vessels; and

1 “(iii) provide for a waiver of the appli-
2 cability of the standards as necessary or
3 appropriate to a particular class, type, age,
4 or size of vessel.

5 “(D) TIMING.—The Administrator shall—

6 “(i) promulgate standards of perform-
7 ance for a management practice under
8 subparagraph (A) not later than 1 year
9 after the date of a determination under
10 paragraph (2) that the management prac-
11 tice is reasonable and practicable; and

12 “(ii) every 5 years thereafter—

13 “(I) review the standards; and

14 “(II) if necessary, revise the
15 standards, in accordance with sub-
16 paragraph (B) and based on any new
17 information available to the Adminis-
18 trator.

19 “(4) REGULATIONS FOR THE USE OF MANAGE-
20 MENT PRACTICES.—

21 “(A) IN GENERAL.—The Secretary of the
22 department in which the Coast Guard is oper-
23 ating shall promulgate such regulations gov-
24 erning the design, construction, installation,
25 and use of management practices for rec-

1 reational vessels as are necessary to meet the
2 standards of performance promulgated under
3 paragraph (3).

4 “(B) REGULATIONS.—

5 “(i) IN GENERAL.—The Secretary
6 shall promulgate the regulations under this
7 paragraph as soon as practicable after the
8 Administrator promulgates standards with
9 respect to the practice under paragraph
10 (3), but not later than 1 year after the
11 date on which the Administrator promul-
12 gates the standards.

13 “(ii) EFFECTIVE DATE.—The regula-
14 tions promulgated by the Secretary under
15 this paragraph shall be effective upon pro-
16 mulgation unless another effective date is
17 specified in the regulations.

18 “(iii) CONSIDERATION OF TIME.—In
19 determining the effective date of a regula-
20 tion promulgated under this paragraph,
21 the Secretary shall consider the period of
22 time necessary to communicate the exist-
23 ence of the regulation to persons affected
24 by the regulation.

1 “(5) EFFECT OF OTHER LAWS.—This sub-
2 section shall not affect the application of section 311
3 to discharges incidental to the normal operation of
4 a recreational vessel.

5 “(6) PROHIBITION RELATING TO REC-
6 REATIONAL VESSELS.—After the effective date of
7 the regulations promulgated by the Secretary of the
8 department in which the Coast Guard is operating
9 under paragraph (4), the owner or operator of a rec-
10 reational vessel shall neither operate in nor dis-
11 charge any discharge incidental to the normal oper-
12 ation of the vessel into, the waters of the United
13 States or the waters of the contiguous zone, if the
14 owner or operator of the vessel is not using any ap-
15 plicable management practice meeting standards es-
16 tablished under this subsection.”.

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