

110TH CONGRESS
2D SESSION

S. 2766

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 and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean Boating Act of
5 2008”.

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

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

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

16 **SEC. 3. DEFINITION.**

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

20 “(25) RECREATIONAL VESSEL.—

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

23 “(i) manufactured or used primarily
 24 for pleasure; or

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

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

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

5 “(ii) carries paying passengers.”.

6 **SEC. 4. MANAGEMENT PRACTICES FOR RECREATIONAL**
7 **VESSELS.**

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

11 “(o) MANAGEMENT PRACTICES FOR RECREATIONAL
12 VESSELS.—

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

16 “(A) incidental to the normal operation of
17 the vessel; and

18 “(B) exempt from permitting requirements
19 under section 402(r).

20 “(2) DETERMINATION OF DISCHARGES SUB-
21 JECT TO MANAGEMENT PRACTICES.—

22 “(A) DETERMINATION.—

23 “(i) IN GENERAL.—The Adminis-
24 trator, in consultation with the Secretary
25 of the department in which the Coast

1 Guard is operating, the Secretary of Com-
2 merce, and interested States, shall deter-
3 mine the discharges incidental to the nor-
4 mal operation of a recreational vessel for
5 which it is reasonable and practicable to
6 develop management practices to mitigate
7 adverse impacts on the waters of the
8 United States.

9 “(ii) PROMULGATION.—The Adminis-
10 trator shall promulgate the determinations
11 under clause (i) in accordance with section
12 553 of title 5, United States Code.

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

19 “(B) CONSIDERATIONS.—In making a de-
20 termination under subparagraph (A), the Ad-
21 ministrator shall consider—

22 “(i) the nature of the discharge;

23 “(ii) the environmental effects of the
24 discharge;

1 “(iii) the practicability of using a
2 management practice;

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

7 “(v) applicable Federal and State law;

8 “(vi) applicable international stand-
9 ards; and

10 “(vii) the economic costs of the use of
11 the management practice.

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

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

17 “(ii) every 5 years thereafter—

18 “(I) review the determinations;

19 and

20 “(II) if necessary, revise the de-
21 terminations based on any new infor-
22 mation available to the Administrator.

23 “(3) PERFORMANCE STANDARDS FOR MANAGE-
24 MENT PRACTICES.—

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

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

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

19 “(i) distinguish among classes, types,
20 and sizes of vessels;

21 “(ii) distinguish between new and ex-
22 isting vessels; and

23 “(iii) provide for a waiver of the appli-
24 cability of the standards as necessary or

appropriate to a particular class, type, age,
or size of vessel.

“(D) TIMING.—The Administrator shall—

“(i) promulgate standards of performance for a management practice under subparagraph (A) not later than 1 year after the date of a determination under paragraph (2) that the management practice is reasonable and practicable; and

“(ii) every 5 years thereafter—

“(I) review the standards; and

“(II) if necessary, revise the standards, in accordance with subparagraph (B) and based on any new information available to the Administrator.

“(4) REGULATIONS FOR THE USE OF MANAGEMENT PRACTICES.—

“(A) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall promulgate such regulations governing the design, construction, installation, and use of management practices for recreational vessels as are necessary to meet the

standards of performance promulgated under paragraph (3).

“(B) REGULATIONS.—

“(i) IN GENERAL.—The Secretary shall promulgate the regulations under this paragraph as soon as practicable after the Administrator promulgates standards with respect to the practice under paragraph (3), but not later than 1 year after the date on which the Administrator promulgates the standards.

“(ii) EFFECTIVE DATE.—The regulations promulgated by the Secretary under this paragraph shall be effective upon promulgation unless another effective date is specified in the regulations.

“(iii) CONSIDERATION OF TIME.—In determining the effective date of a regulation promulgated under this paragraph, the Secretary shall consider the period of time necessary to communicate the existence of the regulation to persons affected by the regulation.

“(5) EFFECT OF OTHER LAWS.—This subsection shall not affect the application of section 311

1 to discharges incidental to the normal operation of
2 a recreational vessel.

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

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